

This Scottish Statutory Instrument has been made in consequence of defects in S.S.I. 2003/382 and is being issued free of charge to all known recipients of that Instrument

SCOTTISH STATUTORY INSTRUMENTS

2003 No. 493

FOOD

The Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (Scotland) Amendment Regulations 2003

<i>Made</i>	- - - -	<i>8th October 2003</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th October 2003</i>
<i>Coming into force</i>	- -	<i>9th October 2003</i>

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (Scotland) Amendment Regulations 2003 and shall come into force on 9th October 2003.

(2) These Regulations extend to Scotland only.

Amendment of the Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (Scotland) Regulations 2003

2.—(1) The Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (Scotland) Regulations 2003⁽²⁾ are amended in accordance with the following provisions of this regulation.

(2) In regulation 3 (Prohibition on import)—

- (a) in paragraph (1)(a) “, 3.1” shall be omitted;
- (b) for paragraph (1)(b) there shall be substituted—

(1) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46) (“the 1998 Act”), Schedule 8, paragraph 15(3). The functions conferred on a Minister of the Crown under section 2(2) of the 1972 Act, in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(2) S.S.I. 2003/382.

- “(b) where those products are the subject of sampling and analysis by an authorised officer of the food authority under regulation 5(3)(b) they are found not to contain Sudan red 1 (CAS No 842-07-9).”; and
- (c) in paragraph (3) after “(1)” there shall be inserted “(a)”.
- (3) In regulation 4(1) (Prohibition on placing on the market) for “(CAS Nr 842-07-9)” there shall be substituted “(CAS No 842-07-9)”.
- (4) In regulation 5(3)(a) (Enforcement) “2.1 and ” shall be omitted.
- (5) In regulation 6 (Application of various provisions of the Food Safety Act 1990 and sampling and analysis)–
 - (a) in paragraph (2)(b) for “4(2)(b)” there shall be substituted “5(2)(b)”;
 - (b) for paragraph (3) there shall be substituted–
 - (3) Section 30 (analysis etc. of samples) shall apply for the purposes of these Regulations with the modification that in subsection (1) for “An authorised officer of an enforcement authority who has procured a sample under section 29 above” there shall be substituted “An authorised officer of a food authority who has procured a sample under section 29 above as applied for the purposes of the Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (Scotland) Regulations 2003 by regulation 6(2) thereof.”.
- (6) In regulation 7 (Destruction of illegal hot chilli or hot chilli products)–
 - (a) in paragraph (1) for “have been imported in contravention of” there shall be substituted “contravene the conditions for import contained in”;
 - (b) in paragraph (8) for “(6)” there shall be substituted “(7)”;
 - (c) paragraph (10) shall be omitted.
- (7) After regulation 7 (Destruction of illegal hot chilli or hot chilli products) there shall be inserted–

“Costs of analysis, storage and destruction

8. The importer or food business operator responsible for the hot chilli or hot chilli product concerned shall pay on demand the costs incurred in respect of the analysis, storage and destruction of any product pursuant to regulations 3 and 7.”.

St Andrew’s House, Edinburgh
8th October 2003

MALCOLM CHISHOLM
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, amend the Food (Hot Chilli and Hot Chilli Products) (Emergency Control) (Scotland) Regulations 2003 ([S.S.I. 2003/382](#)) (“the principal Regulations”). The amendments are made in consequence of defects in the principal Regulations. The principal Regulations implemented Commission Decision [2003/460/EC](#) on emergency measures regarding hot chilli and hot chilli products (O.J. No. L 154, 21.6.03, p.114) as corrected by a corrigendum published on 25th July 2003 (O.J. No. L 186, 25.7.03, p.47) (“the Commission Decision”).

Regulation 2(2) provides that imports of hot chilli and hot chilli products need not comply with Article 3.1 of the Commission Decision but where subjected to sampling and analysis by the food authority on presentation for importation they may not be imported where they are found to contain Sudan red 1 (CAS No 842-07-9).

Regulation 2(4) clarifies that the documentary checks to be carried out by food authorities are as set out in Article 2.2 of the Commission Decision.

Regulations 2(3), 2(5) and 2(6) correct typographical errors in Regulations 4, 6 and 7 of the principal Regulations respectively.

Regulation 2(7) makes provision for the payment of the cost of analysis, storage and destruction of hot chilli and hot chilli products required by these Regulations.

This instrument is being issued free of charge to all known recipients of the principal Regulations. No Regulatory Impact Assessment has been prepared in respect of these Regulations.