

SCHEDULE 3

Regulations 5 2(1), and 8

PART I

1. Save as may be otherwise specified elsewhere in this Schedule—

- (a) an importer shall ensure that, as soon as possible after arrival at the authorised place of entry and such examination as may be carried out by an officer of Customs and Excise, any consignment of imported nuts, nut products, dried figs, dried fig products or any of them is taken to a designated place;
- (b) no person (other than an authorised officer or a person authorised in writing by an authorised officer) shall remove any consignment of imported nuts, nut products, dried figs, dried fig products or any of them from a designated place.

2.—(1) After the arrival of a consignment of imported nuts, nut products, dried figs, dried fig products or any of them at a designated place an authorised officer shall carry out a primary inspection (that is to say, an inspection of any document accompanying the consignment of imported nuts, nut products, dried figs, dried fig products or any of them and, at the option of the authorised officer, such inspection of that consignment as may be carried out without opening any closed container).

(2) After that primary inspection an authorised officer shall either—

- (a) unconditionally authorise the importer in writing to remove the consignment, or
- (b) arrange the carrying out of further inspection of the consignment in accordance with paragraph 3 below.

3.—(1) For the purpose of further inspection under this paragraph an authorised officer may, to such extent as is reasonable and within such time as is reasonable—

- (a) remove any imported nuts, nut products, dried figs, dried fig products or any of them from a designated place,
- (b) open any container of imported nuts, nut products, dried figs, dried fig products or any of them,
- (c) take samples of imported nuts, nut products, dried figs, dried fig products or any of them, in accordance with the regime set out in Schedule 4,
- (d) test samples of imported nuts, nut products, dried figs, dried fig products or any of them,
- (e) arrange, by agreement with any other person, for samples of imported nuts, nut products, dried figs, dried fig products or any of them to be tested and analysed by that other person with methods which fall within the performance parameters laid down in paragraph 5 of Schedule 4.

(2) If upon such further inspection an authorised officer finds that any of the consignment of imported nuts, nut products, dried figs, dried fig products or any of them has a level of total aflatoxins of—

- (a) more than 10 micrograms per kilogram, he shall give notice to the importer in writing requiring the importer (at the importer's expense and as the importer shall decide)—
 - (i) to return the consignment to the consignor, or
 - (ii) to use the consignment for a purpose other than human consumption, or
 - (iii) to destroy the consignment;

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- (b) not more than 10 micrograms per kilogram but more than 4 micrograms per kilogram, he shall give notice to the importer in writing requiring the importer (at the importer's expense and as the importer shall decide)—
 - (i) to give a written undertaking to process the consignment to ensure compliance with regulation 7 before a consumer sale takes place, or
 - (ii) to return the consignment to the consignor, or
 - (iii) to use the consignment for a purpose other than human consumption, or
 - (iv) to destroy the consignment.

(3) If upon such further inspection an authorised officer does not make the finding described in sub-paragraph (2) above, he shall unconditionally authorise the importer in writing to remove the consignment.

(4) An authorised officer may unconditionally authorise an importer in writing to remove a consignment notwithstanding that further inspection of that consignment has not been completed.

4.—(1) Where notice is given to an importer under paragraph 3(2) above that a consignment of imported nuts, nut products, dried figs, dried fig products or any of them must be dealt with in accordance with that paragraph, such notice shall—

- (a) specify the grounds on which it is based;
- (b) inform the importer that the consignment may be disposed of or destroyed by an authorised officer so that it cannot be used for human consumption, unless—
 - (i) within the time specified in sub-paragraph (2) below the importer gives to an authorised officer a written undertaking either to comply with the requirement to deal with the consignment as specified in the notice or to try to prove to a magistrates' court that the decision of an authorised officer under paragraph 3(2) above was incorrect; or
 - (ii) the authorised officer rescinds the notice.

(2) The time within which the importer may be required to give an undertaking under sub-paragraph (1)(b)(i) above shall be the time specified in the notice under paragraph 3(2) above, being not earlier than the end of the third working day after the notice is received.

(3) If within the time specified in sub-paragraph (2) above an authorised officer has not received any such written undertaking as is described in the notice, or if within that time he has received such written undertaking but the undertaking has not been carried out within thirty days of its receipt by him, an authorised officer may cause the consignment to be disposed of or destroyed by such means and in such manner as to prevent it from being used for human consumption in Great Britain.

(4) If within the time specified in sub-paragraph (2) above an authorised officer has received a written undertaking in accordance with sub-paragraph (1)(b)(i) above that the importer will try to prove to a magistrates' court that the decision of the authorised officer was incorrect, an authorised officer shall—

- (a) apply, by way of complaint to a justice of the peace made no later than the end of the next working day after receipt of the undertaking, for an order of a magistrates' court under paragraph 5 below,
- (b) authorise the importer to remove from the designated place such samples of nuts, nut products, dried figs, dried fig products or any of them as the importer may reasonably require for the purpose of evidence before the magistrates' court, and
- (c) make available to the importer such information (in relation to any further inspection which has taken place under paragraph 3 above) as the importer may reasonably require for the purpose of evidence before the magistrates' court.

5. Where, in pursuance of paragraph 4 above, an application is made for an order of a magistrates' court—

- (a) if the magistrates' court is satisfied that the importer has failed to prove that the decision of the authorised officer (under paragraph 3(2) above) was incorrect, the court shall order the consignment to be disposed of or destroyed under the supervision of an authorised officer by such means and in such manner as to prevent it from being used for human consumption in Great Britain;
- (b) if the magistrates' court is satisfied that the importer has proved that that decision was incorrect, the court shall order that the notice under paragraph 3(2) above shall no longer have effect and unconditionally authorise the importer to remove the consignment from the designated place.

6. An authorised officer may with the agreement of an officer of Customs and Excise carry out any inspection, or any part of an inspection, of a consignment of imported nuts, nut products, dried figs, dried fig products or any of them before the examination of the consignment by the officer of Customs and Excise has been completed and if, as a result of such an inspection, the authorised officer gives the importer unconditional authorisation in writing to remove the consignment, compliance on the part of the importer with paragraph 1(a) above shall not be required.

7. An authorised officer may, to such extent as is reasonable for the purpose of protection of human health, at any stage from the time when a consignment of imported nuts, nut products, dried figs, dried fig products or any of them reaches him for primary inspection under paragraph 2 above, do anything specified in paragraph 3(1)(a) to (e) above notwithstanding that he is not carrying out a further inspection under paragraph 3 above and may take such action as is reasonable in respect of the disposal or destruction of any nuts, nut products, dried figs, dried fig products or any of them which he has removed under this paragraph.

8.—(1) Where unconditional authorisation is given under this Part of this Schedule to an importer to remove from a designated place a consignment from which nuts, nut products, dried figs, dried fig products or any of them have been previously removed under paragraph 3(1), 4(4)(b) or 7 above, that authorisation shall relate to the remainder of that consignment.

(2) Where under paragraph 2(2)(b) above an authorised officer arranges the carrying out of a further inspection of a consignment from which nuts, nut products, dried figs, dried fig products or any of them have been previously removed under paragraph 7 above, that further inspection (and anything consequent on that further inspection) shall relate to the remainder of that consignment.

9. Where a notice under paragraph 3(2) above is in effect in relation to a consignment, an authorised officer may cause any consignment subsequently landed in Great Britain which contains any nuts, nut products, dried figs, dried fig products or any of them from that previously mentioned consignment, to be destroyed or disposed of by such means and in such manner as to prevent it from being used for human consumption in Great Britain.

10. In the application of this Schedule to Scotland, a reference to a justice of the peace or to the magistrates' court shall be a reference to the sheriff.

PART II

DEFERRED EXAMINATION

1.—(1) Where a consignment of imported nuts, nut products, dried figs, dried fig products or any of them is unloaded in the district of a port health authority or in the area of a food authority and after such examination as may be carried out by an officer of Customs and Excise has been completed—

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- (i) an authorised officer nevertheless considers it expedient (having regard to the nature of the container in which the consignment is imported) that any examination of the consignment for the purposes of these Regulations should be deferred until the consignment reaches a specified place of destination elsewhere in Great Britain; and
- (ii) the importer gives to the port health authority or food authority of the authorised place of entry an undertaking in writing that the container has been sealed and will not be opened until it reaches the place of destination specified in the undertaking,

the authorised officer shall, by the most expeditious means available, notify the receiving authority that the consignment (so described as to enable it to be identified) has not, by reason of the matters referred to in paragraph (i) above, been examined under these Regulations at the authorised place of entry and send them a copy of the undertaking referred to in paragraph (ii) above, and the receiving authority shall thereupon become responsible for the execution and enforcement of these Regulations in relation to that consignment.

(2) In sub-paragraph (1) above, “receiving authority” means a food authority or a port health authority within Great Britain in whose area or district is situated the place of destination of any consignment of imported nuts, nut products, dried figs, dried fig products or any of them.

2. Where a consignment of nuts, nut products, dried figs or dried fig products or any of them has been dealt with in accordance with paragraph 1 of this Part of this Schedule and save as may be otherwise specified elsewhere in this Schedule—

- (a) an importer shall ensure that, after arrival at the specified place of destination, the consignment of imported nuts, nut products, dried figs, dried fig products or any of them remains in that place;
- (b) no person (other than an authorised officer or a person authorised in writing by an authorised officer) shall remove any consignment of imported nuts, nut products, dried figs, dried fig products or any of them from that specified place.

3. For the purposes of this Part, paragraphs 2 to 10 of Part I of this Schedule shall apply to a consignment of imported nuts, nut products, dried figs, dried fig products or any of them having arrived at a specified place of destination as mentioned in paragraphs 1 and 2 above in the same way as if such a consignment were one having arrived at a designated place as mentioned in paragraph 1 of Part I of this Schedule.