

**2005 No. 538**

**FOOD**

**The Contaminants in Food Regulations  
(Northern Ireland) 2005**

*Made - - - - - 1st December 2005*

*Coming into operation 1st January 2006*

The Department of Health, Social Services and Public Safety<sup>(a)</sup>, makes the following Regulations in exercise of the powers conferred on it by Articles 15(1)(a), (e) and (f), 16(1) and (2), 25(1)(a) and (3), 26(3), 32(1) and (2)(b), (c) and (f) and 47(2) of the Food Safety (Northern Ireland) Order 1991<sup>(b)</sup>.

In accordance with Article 47(3A) of the said Order, it has had regard to relevant advice given by the Food Standards Agency.

As required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(c)</sup>, there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

**Citation and commencement**

1. These Regulations may be cited as the Contaminants in Food Regulations (Northern Ireland) 2005 and shall come into operation on 1st January 2006.

**Interpretation**

2.—(1) In these Regulations—

“authorised lettuce” means lettuce of the kind specified in point 1.3 of section 1 of Annex I to the Commission Regulation, which complies with the conditions of the derogation under Article 3b.2 of that Regulation in relation to the United Kingdom;

“authorised spinach” means spinach of the kind specified in point 1.1 of section 1 of Annex I to the Commission Regulation, which complies with the conditions of the derogation under Article 3b.1 of that Regulation in relation to the United Kingdom;

“the Commission Regulation” means Commission Regulation (EC) No. 466/2001 setting maximum levels for certain contaminants in foodstuffs<sup>(d)</sup> as corrected by a corrigendum published on 30th November 2001<sup>(e)</sup>, and as amended by Council Regulation (EC) No.

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(a) Formerly the Department of Health and Social Services; see S.I.1999/283 (N.I. 1) Article 3(6)  
(b) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28 and S.R. 2004 Nos. 482 and 505  
(c) O.J. No. L31, 1.2.2002, p. 1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (O.J. No. L245, 29.9.2003, p. 4)  
(d) O.J. No. L77, 16.3.2001, p. 1  
(e) O.J. No. L313, 30.11.2001, p. 60

2375/2001(a), Commission Regulation (EC) No. 221/2002(b), Commission Regulation (EC) No. 257/2002(c), Commission Regulation (EC) No. 472/2002(d) as corrected by a Corrigendum published on 23rd March 2002(e), Commission Regulation (EC) No. 563/2002(f) as corrected by a corrigendum published on 14th June 2002(g), Commission Regulation (EC) No. 1425/2003(h), Commission Regulation (EC) No. 2174/2003(i), Commission Regulation (EC) No. 242/2004(j), Commission Regulation (EC) No. 455/2004(k), Commission Regulation (EC) No. 655/2004(l), Commission Regulation (EC) No. 683/2004(m), Commission Regulation (EC) No.684/2004(n), Commission Regulation (EC) No. 78/2005(o), Commission Regulation (EC) No. 123/2005(p), Commission Regulation (EC) No. 208/2005(q) and Commission Regulation (EC) No.1822/2005(r);

“The Department” means the Department of Health Social Services and Public Safety;

“Directive 98/53/EC” means Commission Directive 98/53/EC laying down the sampling methods and the methods of analysis for the official control of the levels for certain contaminants in foodstuffs(s) as amended by Commission Directive 2002/27/EC(t), Commission Directive 2003/121/EC(u) and Commission Directive 2004/43/EC(v);

“Directive 2001/22/EC” means Commission Directive 2001/22/EC laying down the sampling methods and the methods of analysis for the official control of the levels of lead, cadmium, mercury and 3-MCPD in foodstuffs(w) as corrected by Commission Decision 2001/873/EC(x) and as amended by Commission Directive 2005/4/EC(y);

“Directive 2002/26/EC” means Commission Directive 2002/26/EC laying down the sampling methods and the methods of analysis for the official control of the levels of ochratoxin A in foodstuffs(z) as amended by Commission Directive 2004/43/EC and Commission Directive 2005/5/EC(aa);

“Directive 2002/69/EC” means Commission Directive 2002/69/EC laying down the sampling methods and the methods of analysis for the official control of dioxins and the determination of dioxin-like PCBs in foodstuffs(bb) as corrected by a corrigendum published on 20th September 2002(cc) and as amended by Commission Directive 2004/44/EC(dd);

“Directive 2003/78/EC” means Commission Directive 2003/78/EC laying down the sampling methods and the methods of analysis for the official control of the levels of patulin in foodstuffs(ee);

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- (a) O.J. No. L321, 6.12.2001, p. 1
  - (b) O.J. No. L37, 7.2.2002, p. 4
  - (c) O.J. No. L41, 13.2.2002, p. 12
  - (d) O.J. No. L75, 16.3.2002, p. 18
  - (e) O.J. No. L80, 23.3.2002, p. 42
  - (f) O.J. No. L86, 3.4.2002, p. 5
  - (g) O.J. No. L155, 14.6.2002, p. 63
  - (h) O.J. No. L203, 12.8.2003, p. 1
  - (i) O.J. No. L326, 13.12.2003, p. 12
  - (j) O.J. No. L42, 13.2.2004, p. 3
  - (k) O.J. No. L74, 12.3.2004, p. 11
  - (l) O.J. No. L104, 8.4.2004, p. 48
  - (m) O.J. No. L106, 15.4.2004, p. 3
  - (n) O.J. No. L106, 15.4.2004, p. 6
  - (o) O.J. No. L16, 20.1.2005, p. 43
  - (p) O.J. No. L25, 28.1.2005, p. 3
  - (q) O.J. No. L34, 8.2.2005, p. 3
  - (r) O.J. No. L293, 9.11.2005, p.11
  - (s) O.J. No. L201, 17.7.1998, p. 93
  - (t) O.J. No. L75, 16.3.2002, p. 44,
  - (u) O.J. No. L332, 19.12.2003, p. 38
  - (v) O.J. No. L113, 20.4.2004, p. 14
  - (w) O.J. No. L77, 16.3.2001, p. 14
  - (x) O.J. No. L325, 8.12.2001, p. 34
  - (y) O.J. No. L19, 21.1.2005, p. 50
  - (z) O.J. No. L75, 16.3.2002, p. 38
  - (aa) O.J. No. L27, 29.1.2005, p. 38
  - (bb) O.J. No. L209, 6.8.2002, p. 5
  - (cc) O.J. No. L252, 20.9.2002, p. 40
  - (dd) O.J. No. L113, 20.4.2004, p. 17
  - (ee) O.J. No. L203, 12.8.2003, p. 40

“Directive 2004/16/EC” means Commission Directive 2004/16/EC laying down the sampling methods and the methods of analysis for the official control of the levels of tin in canned foods(a);

“Directive 2005/10/EC” means Commission Directive 2005/10/EC laying down the sampling methods and the methods of analysis for the official control of the levels of benzo(a)pyrene in foodstuffs(b);

“the Order” means the Food Safety (Northern Ireland) Order 1991;

“Regulation 882/2004” means Regulation (EC) No. 882/2004 of the European Parliament and of the Council on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules(c).

(2) Other expressions used in these Regulations and in the Commission Regulation has the same meaning in these Regulations as it bears in the Commission Regulation.

### **Offences and penalties**

3.—(1) Subject to the transitional arrangements contained in the Community provisions specified in paragraph (2), a person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale if—

- (a) he places on the market any food (other than authorised lettuce or authorised spinach) which is covered by, but fails to meet the requirements of, Article 1.1, 2.1, 2.2 or 4.1 of the Commission Regulation, as read with Articles 1.2 and 4.3 of that Regulation; or
- (b) he contravenes Article 2.3, 4.2 or 4a of the Commission Regulation.

(2) The Community provisions mentioned in paragraph (1) are—

- (a) Article 7 of the Commission Regulation;
- (b) Article 2 of Commission Regulation (EC) No 655/2004 amending Regulation (EC) No 466/2001 as regards nitrate in foods for infants and young children;
- (c) Article 3 of Commission Regulation (EC) No 683/2004 amending Regulation (EC) No 466/2001 as regards aflatoxins and ochratoxin A in foods for infants and young children;
- (d) Article 2 of Commission Regulation (EC) No 123/2005 amending Regulation (EC) No 466/2001 as regards ochratoxin A;
- (e) Article 2 of Commission Regulation (EC) No 208/2005 amending the Regulation (EC) No 466/2001 as regards polycyclic aromatic hydrocarbons.

### **Enforcement**

4. Each district council shall execute and enforce these Regulations within its district.

### **Procurement and analysis of samples**

5.—(1) Where a sample is to be taken under Article 29(b) or (d) of the Order of a food specified in Annex I to the Commission Regulation, that sample shall be taken in accordance with the methods of taking samples described or referred to—

#### *Nitrate*

- (a) (subject to the requirement specified in column 3 of Section 1 of Annex I to the Commission Regulation(d)), in the Annex to Commission Directive 2002/63/EC establishing Community methods of sampling for the official control of pesticide

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(a) O.J. No. L42, 13.2.2004, p. 16

(b) O.J. No. L34, 8.2.2005, p. 15

(c) O.J. No. L165, 30.4.04, p. 1. The revised text of this Regulation is now set out in a Corrigendum (O.J. No. L191, 28.5.2004, p. 1)

(d) The requirement is that the minimum number of units required for a laboratory sample in such circumstances is 10

residues in and on products of plant and animal origin and repealing Directive 79/700/EEC(a), where the food concerned is of a description specified in Section 1 of Annex I to the Commission Regulation to the sampling of which that Directive applies pursuant to Article 1.3 of that Regulation;

*Aflatoxins*

- (b) in Annex I to Directive 98/53/EC, where the food concerned is of a description specified in Section 2 of Annex I to the Commission Regulation to the sampling of which that Directive applies pursuant to Article 1.3 of that Regulation;

*Ochratoxin A*

- (c) in Annex I to Directive 2002/26/EC, where the food concerned is of a description specified in Section 2 of Annex I to the Commission Regulation to the sampling of which that Directive applies pursuant to Article 1.3 of that Regulation;

*Patulin*

- (d) in Annex I to Directive 2003/78/EC, where the food concerned is of a description specified in Section 2 of Annex I to the Commission Regulation to the sampling of which that Directive applies pursuant to Article 1.3 of that Regulation;

*Lead, cadmium, mercury and 3-MCPD*

- (e) in Annex I to Directive 2001/22/EC, where the food concerned is of a description specified in Section 3 or 4 of Annex I to the Commission Regulation to the sampling of which that Directive applies pursuant to Article 1.3 of that Regulation;

*Dioxins and dioxin-like PCBs*

- (f) in Annex I to Directive 2002/69/EC, where the food concerned is of a description specified in Section 5 of Annex I to the Commission Regulation to the sampling of which that Directive applies pursuant to Article 1.3 of that Regulation;

*Tin*

- (g) in Annex I to Directive 2004/16/EC, where the food concerned is of a description specified in Section 6 of Annex I to the Commission Regulation to the sampling of which that Directive applies pursuant to Article 1.3 of that Regulation; and

*Benzo(a)pyrene*

- (h) in Annex I to Directive 2005/10/EC, where the food concerned is of a description specified in Section 7 of Annex I to the Commission Regulation to the sampling of which that Directive applies pursuant to Article 1.3 of that Regulation.

*Preparation and analysis of samples for aflatoxins*

(2) Where, pursuant to Article 29(b) or (d) of the Order as read with paragraph (1), an authorised officer has taken a sample of food of the description referred to in sub-paragraph (b) of that paragraph, and he has submitted that sample to be analysed pursuant to Article 30(1)(a) of the Order the person who analyses the sample shall ensure that—

- (a) the sample is prepared in accordance with—
  - (i) paragraphs 1.1, 2 and 3 of Annex II to Directive 98/53/EC, and
  - (ii) in the case of whole nuts, paragraph 1.2 of that Annex;

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(a) O.J. No. L187, 16.7.2002, p. 30

- (b) any analysis of the sample is carried out in accordance with methods of analysis which meet the criteria specified in paragraph 4.3 of Annex II to Directive 98/53/EC as read with the notes to that paragraph;
- (c) any analysis of the sample is carried out by a laboratory which has been designated in accordance with the requirements of Article 12.2 of Regulation 882/2004;
- (d) the reporting of the results of the analysis of that sample—
  - (i) makes use of the definitions in paragraph 4.1 of Annex II to Directive 98/53/EC, and
  - (ii) is in accordance with paragraph 4.4 of that Annex.

*Preparation and analysis of samples for lead, cadmium, mercury and 3-MPCD*

(3) Where, pursuant to Article 29(b) or (d) of the Order as read with paragraph (1), an authorised officer has taken a sample of food of the description referred to in sub-paragraph (e) of that paragraph, and he has submitted that sample to be analysed pursuant to Article 30(1)(a) of the Order the person who analyses the sample shall ensure that—

- (a) the sample is prepared in accordance with paragraphs 1 and 2 of Annex II to Directive 2001/22/EC as read, in the case of paragraph 2, with the note to that paragraph;
- (b) any analysis of the sample is carried out in accordance with methods of analysis which—
  - (i) in the case of analysis for lead (other than in wine), mercury or cadmium, meet the criteria specified in paragraph 3.3.1 (as read with paragraph 3.3.3) of Annex II to Directive 2001/22/EC,
  - (ii) in the case of analysis for lead in wine, comply with the second sub-paragraph of paragraph 3.2 of that Annex, and
  - (iii) in the case of analysis for 3-MCPD, meet the criteria specified in paragraph 3.3.2 (as read with paragraph 3.3.3) of that Annex and as read with the note to that paragraph;
- (c) any analysis of the sample is carried out by a laboratory which has been designated in accordance with the requirements of Article 12.2 of Regulation 882/2004;
- (d) any analysis of the sample is carried out in such a way as to comply with the first and third sub-paragraphs of paragraph 3.4 of Annex II to Directive 2001/22/EC as read in the case of the third sub-paragraph with the note to that sub-paragraph; and
- (e) the reporting of the results of the analysis of that sample—
  - (i) makes use of the definitions in paragraph 3.1 of Annex II to Directive 2001/22/EC as read with the note to that paragraph, and
  - (ii) is in accordance with the second and fourth sub-paragraphs of paragraph 3.4 and with paragraph 3.6 of that Annex.

*Preparation and analysis of samples for ochratoxin A*

(4) Where, pursuant to Article 29(b) or (d) of the Order as read with paragraph (1), an authorised officer has taken a sample of food of the description referred to in sub-paragraph (c) of that paragraph, and he has submitted that sample to be analysed pursuant to Article 30(1)(a) of the Order the person who analyses the sample shall ensure that—

- (a) the sample is prepared in accordance with paragraphs 1 to 3 of Annex II to Directive 2002/26/EC;
- (b) any analysis of the sample is carried out in accordance with methods of analysis which meet the criteria specified in paragraph 4.3 of Annex II to Directive 2002/26/EC;
- (c) any analysis of the sample is carried out by a laboratory which has been designated in accordance with the requirements of Article 12.2 of Regulation 882/2004; and
- (d) the reporting of the results of the analysis of that sample—
  - (i) makes use of the definitions in paragraph 4.1 of Annex II to Directive 2002/26/EC, and
  - (ii) is in accordance with paragraph 4.4 of that Annex.

*Preparation and analysis of samples for dioxins and dioxin-like PCBs*

(5) Where, pursuant to Article 29(b) or (d) of the Order as read with paragraph (1), an authorised officer has taken a sample of food of the description referred to in sub-paragraph (f) of that paragraph, and he has submitted that sample to be analysed pursuant to Article 30(1)(a) of the Order the person who analyses the sample shall ensure that—

- (a) the sample is prepared in accordance with paragraph 3 of Annex II to Directive 2002/69/EC, as read with paragraphs 1 and 2 of that Annex;
- (b) any analysis of the sample is carried out in accordance with methods of analysis which meet the criteria specified in paragraphs 5, 6 and 7 of Annex II to Directive 2002/69/EC, as read with paragraphs 1 and 2 of that Annex;
- (c) any analysis of the sample is carried out by a laboratory which—
  - (i) complies with the first four sub-paragraphs of paragraph 4 of Annex II to Directive 2002/69/EC, and
  - (ii) has been designated in accordance with the requirements of Article 12.2 of Regulation 882/2004; and
- (d) the reporting of the results of the analysis of that sample is in accordance with paragraph 8 of Annex II to Directive 2002/69/EC.

*Preparation and analysis of samples for patulin*

(6) Where, pursuant to Article 29(b) or (d) of the Order as read with paragraph (1), an authorised officer has taken a sample of food of the description referred to in sub-paragraph (d) of that paragraph, and he has submitted that sample to be analysed pursuant to Article 30(1)(a) of the Order the person who analyses the sample shall ensure that—

- (a) the sample is prepared in accordance with paragraphs 1 to 3 of Annex II to Directive 2003/78/EC;
- (b) any analysis of the sample is carried out in accordance with methods of analysis which meet the criteria specified in paragraph 4.3 of Annex II to Directive 2003/78/EC as read with the notes to that paragraph;
- (c) any analysis of the sample is carried out by a laboratory which has been designated in accordance with the requirements of Article 12.2 of Regulation 882/2004; and
- (d) the reporting of the results of the analysis of that sample—
  - (i) makes use of the definitions in paragraph 4.1 of Annex II to Directive 2003/78 /EC, and
  - (ii) is in accordance with paragraph 4.4 of that Annex.

*Preparation and analysis of samples for tin*

(7) Where, pursuant to Article 29(b) or (d) of the Order as read with paragraph (1), an authorised officer has taken a sample of food of the description referred to in sub-paragraph (g) of that paragraph, and he has submitted that sample to be analysed pursuant to Article 30(1)(a) of the Order the person who analyses the sample shall ensure that—

- (a) the sample is prepared in accordance with paragraphs 1 to 3, and that section of paragraph 4.6 headed “Sample preparation”, of Annex II to Directive 2004/16/EC;
- (b) any analysis of the sample is carried out in accordance with methods of analysis which meet the criteria specified in paragraphs 4.3 and 4.3.1 of Annex II to Directive 2004/16/EC;
- (c) any analysis of the sample is carried out by a laboratory which has been designated in accordance with the requirements of Article 12.2 of Regulation 882/2004 and complies with that section of paragraph 4.6 of Annex II to Directive 2004/16/EC headed “Internal quality control”; and
- (d) the reporting of the results of the analysis of that sample—
  - (i) makes use of the definitions in paragraph 4.1 of Annex II to Directive 2004/16/EC, and
  - (ii) is in accordance with paragraph 4.4 of that Annex.



*Preparation and analysis of samples for benzo(a)pyrene*

(8) Where, pursuant to Article 29(b) or (d) of the Order as read with paragraph (1), an authorised officer has taken a sample of food of the description referred to in sub-paragraph (h) of that paragraph and he has submitted that sample to be analysed pursuant to Article 30(1)(a) of the Order, the person who analyses the sample shall ensure that—

- (a) the sample is prepared in accordance with paragraphs 1 to 3 of Annex II to Directive 2005/10/EC;
- (b) any analysis of the sample is carried out in accordance with methods of analysis which meet the criteria specified in paragraphs 4.3 and 4.3.1 of Annex II to Directive 2005/10/EC;
- (c) any analysis of the sample is carried out by a laboratory which has been designated in accordance with the requirements of Article 12.2 of Regulation 882/2004 and complies with that section of paragraph 4.6 of Annex II to Directive 2005/10/EC headed “Internal quality control”; and
- (d) the reporting of the results of the analysis of that sample—
  - (i) makes use of the definitions in paragraph 4.1 of Annex II to Directive 2005/10/EC, and
  - (ii) is in accordance with paragraph 4.4 of that Annex.

**Application of various provisions of the Food Safety (Northern Ireland) Order 1991**

6.—(1) The following provisions of the Order shall apply for the purposes of these Regulations with the modification that any reference in them to the Order or Part thereof shall be construed as a reference to these Regulations—

- (a) Article 4 (presumptions that food intended for human consumption);
- (b) Article 19 (offences due to fault of another person);
- (c) Article 20 (defence of due diligence), as it applies for the purposes of Article 13 or 14;
- (d) Article 30(8) (which relates to documentary evidence);
- (e) Article 34(1) (obstruction etc. of officers);
- (f) Article 34(2), with the modification that the reference to “any such requirement as is mentioned in paragraph (1)(b)” shall be deemed to be a reference to any such requirement as is mentioned in Article 34(1)(b) as applied by sub-paragraph (e);
- (g) Article 36(1) (punishment of offences), in so far as it relates to offences under Article 34(1) as applied by sub-paragraph (e);
- (h) Article 36(2) and (3), insofar as it relates to offences under Article 34(2) as applied by sub-paragraph (f).

(2) Subject to paragraph (3), Article 8 of the Order (inspection and seizure of suspected food) shall apply for the purposes of these Regulations as if it read as follows—

“8.—(1) An authorised officer may at all reasonable times inspect any food intended for human consumption which has been placed on the market; and paragraphs (2) to (7) shall apply where, on such an inspection, it appears to the authorised officer that the placing on the market of any food contravenes regulation 3(1)(a) of the Contaminants in Food Regulations (Northern Ireland) 2005.

(2) The authorised officer may either—

- (a) give notice to the person in charge of the food that, until the notice is withdrawn, the food or any specified portion of it—
  - (i) is not to be used for human consumption, and
  - (ii) either is not to be removed or is to be removed to a place at which there are facilities to carry out the sampling required by Directive 98/53/EC, Directive 2001/22/EC, Directive 2002/26/EC, Directive 2002/69/EC, Directive 2003/78/EC, Directive 2004/16/EC or Directive 2005/10/EC, as appropriate; or
- (b) seize the food and remove it in order to have it dealt with by a justice of the peace.

(3) Where the authorised officer exercises the power conferred by paragraph (2)(a), he shall, as soon as is reasonably practicable and in any event within 21 days, determine

whether or not he is satisfied that the food complies with the requirements of regulation 3(1)(a) of the aforesaid Regulations, as appropriate and—

- (a) if he is so satisfied, shall forthwith withdraw the notice;
- (b) if he is not so satisfied, shall seize the food and remove it in order to have it dealt with by a justice of the peace.

(4) Where an authorised officer exercises the powers conferred by paragraph (2)(b) or (3)(b), he shall inform the person in charge of the food of his intention to have it dealt with by a justice of the peace and—

- (a) any person who under regulation 3(1)(a) of the aforesaid Regulations might be liable to a prosecution in respect of the food shall, if he attends before the justice of the peace by whom the food falls to be dealt with, be entitled to be heard and to call witnesses; and
- (b) that justice of the peace may, but need not, be a member of the court before which any person is proceeded against for an offence consisting of a contravention of regulation 3(1)(a) of the aforesaid Regulations in relation to that food.

(5) If it appears to a justice of the peace, on the basis of such evidence as he considers appropriate in the circumstances, that any food falling to be dealt with by him under this Article fails to comply with the requirements of regulation 3(1)(a) of the aforesaid Regulations he shall condemn the food and order—

- (a) the food to be destroyed or to be so disposed of as to prevent it from being used for human consumption; and
- (b) any expenses reasonably incurred in connection with the destruction or disposal to be defrayed by the owner of the food.

(6) If a notice under paragraph (2)(a) is withdrawn, or the justice of the peace by whom any food falls to be dealt with under this Article refuses to condemn it, the district council shall compensate the owner of the food for any depreciation in its value resulting from the action taken by the authorised officer.

(7) Any disputed question as to the right to or the amount of any compensation payable under paragraph (6) shall be determined by a single arbitrator appointed, failing agreement between the parties, by the Department.

(8) Any person who knowingly contravenes the requirements of a notice under paragraph (2)(a) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

(3) The expressions “placing on the market”, “Directive 98/53/EC”, “Directive 2001/22/EC”, “Directive 2002/26/EC”, “Directive 2002/69/EC”, “Directive 2003/78/EC”, “Directive 2004/16/EC” and “Directive 2005/10/EC” which are used in Article 8 of the Order so far as it applies for the purposes of these Regulations by virtue of paragraph (2), shall, for those purposes, bear the meanings that those expressions respectively bear in these Regulations.

## **Revocations**

7. The Contaminants in Food Regulations (Northern Ireland) 2004(a) and the Contaminants in Food (Amendment) Regulations (Northern Ireland) 2005(b) are hereby revoked.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 1st December 2005.

(L.S.)

*Deirdre Kenny*

A senior officer of the Department of Health, Social Services and Public Safety

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(a) S.R. 2004 No. 487  
(b) S.R. 2005 No. 199



## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and re-enact with changes the Contaminants in Food Regulations (Northern Ireland) 2004 (S.R. 2004 No. 487) as amended—

- (a) make provision for the execution and enforcement of Commission Regulation (EC) No. 466/2001 setting maximum levels for contaminants in foodstuffs (O.J. No. L77, 16.3.2001, p. 1, as corrected and amended) (“the Commission Regulation”); and
- (b) implement—
  - (i) Commission Directive 98/53/EC laying down the sampling methods and the methods of analysis for the official control of the levels for certain contaminant in foodstuffs (O.J. No. L201, 17.7.98, p. 93, as amended),
  - (ii) Commission Directive 2001/22/EC laying down the sampling methods and the methods of analysis for the official control of the levels of lead, cadmium, mercury and 3-MCPD in foodstuffs (O.J. No. L77, 16.3.2001, p. 14, as corrected and amended),
  - (iii) Commission Directive 2002/26/EC laying down the sampling methods and the methods of analysis for the official control of levels of ochratoxin A in foodstuffs (O.J. No. L75, 16.3.2002, p. 38 as amended),
  - (iv) Commission Directive 2002/69/EC laying down the sampling methods and the methods of analysis for the official control of dioxins and the determination of dioxin-like PCBs in foodstuffs (O.J. No. L209, 6.8.2002, p. 5, as corrected and amended),
  - (v) Commission Directive 2003/78/EC laying down the sampling methods and the methods of analysis for the official control of the levels of patulin in foodstuffs (O.J. No. L203, 12.8.2003, p. 40),
  - (vi) Commission Directive 2004/16/EC laying down the sampling methods and the methods of analysis for the official control of the levels of tin in canned foods (O.J. No. L42, 13.2.2004, p. 16), and
  - (vii) Commission Directive 2005/10/EC laying down the sampling methods and the methods of analysis for the official control of the levels of benzo(a)pyrene in foodstuffs (O.J. No. L34, 8.2.2005, p. 15).

The Regulations—

- (a) provide that it is an offence, (except in certain cases relating to food placed on the market before a date given in specified Community legislation)—
  - (i) to place on the market certain foods if they contain contaminants of any kind specified in the Commission Regulation at levels exceeding those specified (subject to a derogation applicable to certain types of lettuce and spinach),
  - (ii) to use food containing such contaminants at such levels as ingredients in the production of certain foods,
  - (iii) to mix foods which do not comply with the maximum levels referred to above with foods which do comply,
  - (iv) to mix foods to which the Commission Regulation relates and which are intended for direct consumption with foods to which the Commission Regulation relates and which are intended to be sorted or otherwise treated prior to consumption, or
  - (v) to detoxify by chemical treatment food not complying with the limits specified in the Commission Regulation (regulation 3);
- (b) specify the enforcement authorities (regulation 4);
- (c) prescribe requirements in relation to the methods of sampling and the analysis of samples of foods subject to the Commission Regulation (regulation 5); and
- (d) provide for the application of specified provisions of the Food Safety (Northern Ireland) Order 1991 for the purposes thereof (regulation 6).

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