
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 525

The Contaminants in Food (Scotland) Regulations 2004

Sampling, analysis and modification of section 29 of the Act

5.—(1) In its application to the taking of a sample of any food specified in Sections 1 to 6 of Annex I to the Commission Regulation, section 29 of the Act shall be modified so as to require the power to take samples under subsection (b) and (d) of that section to be exercised in accordance with the methods of taking samples described or referred to—

- (a) (subject to the requirement in relation to lettuce of the kind specified in point 1.3 or 1.4 of section 1 of Annex 1 to the Commission Regulation specified in column 3 of that Section) in the Annex to Commission Directive [2002/63/EC](#) establishing Community methods of sampling for the official control of pesticide residues in and on products of plant and animal origin and repealing Directive [79/700/EC](#)(1), 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 the Commission Regulation;
- (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 the Commission Regulation;
- (c) 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 the Commission Regulation;
- (d) 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 the Commission Regulation;
- (e) 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 the Commission Regulation;
- (f) 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 the Commission Regulation; and
- (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 the Commission Regulation.

(2) Where, pursuant to section 29(b) or (d) of the Act as modified by paragraph (1), an authorised officer has taken a sample of food to which paragraph (1)(b) applies, and that officer has submitted that sample to be analysed pursuant to section 30(1)(a) of the Act, 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;

- (b) any analysis of the sample is carried out in accordance with methods of analysis which—
 - (i) so far as practicable comply with paragraphs 1 and 2 of the Annex to Directive [85/591/EEC](#); and
 - (ii) 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 complies with Directive [93/99/EEC](#); and
- (d) the reporting of the results of the analysis of the 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.

(3) Where, pursuant to section 29(b) or (d) of the Act as modified by paragraph (1), an authorised officer has taken a sample of food to which paragraph (1)(c) applies, and that officer has submitted that sample to be analysed pursuant to section 30(1)(a) of the Act, 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) so far as practicable comply with paragraphs 1 and 2 of the Annex to Directive [85/591/EEC](#);
 - (ii) in the case of analysis for lead (other than in wine), mercury or cadmium, meet the criteria specified in paragraph 3.3.1 of Annex II to Directive [2001/22/EC](#);
 - (iii) in the case of analysis for lead in wine, comply with the second sub-paragraph of paragraph 3.2 of Annex II to Directive [2001/22/EC](#); and
 - (iv) in the case of analysis for 3-MCPD, meet the criteria specified in paragraph 3.3.2 of Annex II to Directive [2001/22/EC](#) as read with the note to that paragraph;
- (c) any analysis of the sample is carried out by a laboratory which complies with Directive [93/99/EEC](#);
- (d) any analysis of the sample is carried out in such a way as to comply with the first and second sub-paragraphs of paragraph 3.4 of Annex II to Directive [2001/22/EC](#) as read in the case of the second 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 third sub-paragraph of paragraph 3.4 and with paragraph 3.6 of that Annex.

(4) Where, pursuant to section 29(b) or (d) of the Act as modified by paragraph (1), an authorised officer has taken a sample of food to which paragraph (1)(d) applies, and that officer has submitted that sample to be analysed pursuant to section 30(1)(a) of the Act, 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—
 - (i) comply with paragraphs 1 and 2 of the Annex to Council Directive [85/591/EEC](#); and
 - (ii) meet the criteria specified in paragraph 4.3 of Annex II to Directive [2002/26/EC](#) as read with the notes to that paragraph;

- (c) any analysis of the sample is carried out by a laboratory which complies with Directive [93/99/EEC](#); 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.

(5) Where, pursuant to section 29(b) or (d) of the Act as modified by paragraph (1), an authorised officer has taken a sample of food to which paragraph (1)(e) applies, and that officer has submitted that sample to be analysed pursuant to section 30(1)(a) of the Act, 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—
 - (i) 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; and
 - (ii) by a laboratory which complies with the requirements of paragraph 4 of Annex II to Directive [2002/69/EC](#); and
- (c) 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](#).

(6) Where, pursuant to section 29(b) or (d) of the Act as modified by paragraph (1), an authorised officer has taken a sample of food to which paragraph (1)(f) applies, and that officer has submitted that sample to be analysed pursuant to section 30(1)(a) of the Act, 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—
 - (i) comply with paragraphs 1 and 2 of the Annex to Council Directive [85/591/EEC](#); and
 - (ii) 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 complies with Directive [93/99/EEC](#); 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.

(7) Where, pursuant to section 29(b) or (d) of the Act as modified by paragraph (1), an authorised officer has taken a sample of food to which paragraph (1)(g) applies, and that officer has submitted that sample to be analysed pursuant to section 30(1)(a) of the Act, the person who analyses the sample shall ensure that—

- (a) the sample is prepared in accordance with paragraphs 1, 2 and 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—
 - (i) comply with paragraphs 1 and 2 of the Annex to Council Directive [85/891/EC](#); and

- (ii) 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 complies with Directive [93/99/EEC](#) and 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.