
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, in Scotland, revoke (regulation 10 and the Schedule) and remake, with amendments, the Contaminants in Food (Scotland) Regulations 2010.

Paragraph 1A of Schedule 2 to the European Communities Act 1972 is cited in the enabling powers for these Regulations because reference is made in regulation 2 to certain EU instruments which are defined in the Regulations as meaning those EU instruments as amended from time to time.

These Regulations make provision for—

- (a) the continuing implementation of Council [Directive 76/621/EEC](#) relating to the fixing of the maximum level of erucic acid in oils and fats intended as such for human consumption and in foodstuffs containing added oils or fats and of Commission [Directive 80/891/EEC](#) relating to the Community method of analysis for determining the erucic acid content in oils and fats intended to be used as such for human consumption and in foodstuffs containing added oils or fats; and
- (b) the continuing execution and enforcement of [Commission Regulation \(EC\) No. 1881/2006](#) setting maximum levels for contaminants in foodstuffs (“the Commission Regulation”).

These Regulations also provide for the execution and enforcement of [Commission Regulation \(EC\) No 124/2009](#) (“Regulation 124/2009”), which concerns maximum permitted levels for certain feed additives that may, in specified circumstances, occur in food, as amended by Commission Regulation (EU) No. 610/2012.

The Regulations—

- (a) provide that it is an offence (except in certain cases relating to food placed on the market before a date specified in the relevant EU legislation)—
 - (i) to place specified foods on the market containing erucic acid in excess of permitted levels (regulations 3 and 4);
 - (ii) to place on the market certain foods if they contain contaminants of any kind specified in the Commission Regulation or in Regulation 124/2009 at levels exceeding those specified (regulation 5);
 - (iii) to use food containing contaminants at levels in excess of those permitted by the Commission Regulation as ingredients in the production of certain foods (regulation 5);
 - (iv) to mix foods that do not comply with the maximum levels prescribed by the Commission Regulation or Regulation 124/2009 with foods which do comply (regulation 5);
 - (v) to mix foods to which the Commission Regulation relates and which are intended for direct consumption or as food ingredients with foods to which the Commission Regulation relates and which are intended to be sorted or otherwise treated prior to consumption (regulation 5); or
 - (vi) to detoxify by chemical treatment food containing mycotoxins in excess of the limits specified in the Commission Regulation (regulation 5);
- (b) provide for penalties on conviction for an offence under these Regulations (regulation 6) and specify the enforcement authorities (regulation 7);

Status: This is the original version (as it was originally made).

- (c) provide for the application of specified provisions of the Food Safety Act 1990 for the purposes of these Regulations (regulation 8); and
- (d) make a consequential amendment to the Food Safety (Sampling and Qualifications) (Scotland) Regulations 2013 (regulation 9).

The Commission Regulation specifies the European Union methods of sampling and analysis that are required to be used for the official control of levels of the substances covered by it. Those methods are set out in—

- (a) [Commission Regulation \(EC\) No 401/2006](#) laying down the methods of sampling and analysis for the official control of the levels of mycotoxins in foodstuffs, as amended by Commission Regulation (EU) No 178/2010;
- (b) [Commission Regulation \(EC\) No 1882/2006](#) laying down methods of sampling and analysis for the official control of levels of nitrates in certain foodstuffs;
- (c) [Commission Regulation \(EC\) No 333/2007](#) laying down the methods of sampling and analysis for the official control of the levels of lead, cadmium, mercury, inorganic tin, 3-MCPD and benzo(a)pyrene in foodstuffs, amended by Commission Regulation (EU) No 836/2011; and
- (d) Commission Regulation (EU) No 252/2012 laying down methods of sampling and analysis for the official control of levels of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain foodstuffs and repealing Regulation [\(EC\) No 1883/2006](#).

The Regulations also revoke (regulation 10 and the Schedule) and remake with changes the Erucic Acid in Food (Scotland) Regulations 1977 (as amended) and revoke the Mineral Hydrocarbons in Food (Scotland) Regulations 1966.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency (Scotland), 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ and online at www.legislation.gov.uk.