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STATUTORY INSTRUMENTS

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**1997 No. 1499**

**FOOD**

**The Contaminants in Food Regulations 1997**

<i>Made</i>	- - - -	<i>10th June 1997</i>
<i>Laid before Parliament</i>		<i>13th June 1997</i>
<i>Coming into force</i>	- -	<i>4th July 1997</i>

The Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, in relation to England and Wales, and the Secretary of State for Scotland in relation to Scotland, in exercise of the powers conferred on them by sections 6(4), 16(1)(a) and (f), 17(2), 26(3) and 48(1) of the Food Safety Act 1990<sup>(1)</sup> and of all other powers enabling them in that behalf, after consultation in accordance with section 48(4) of that Act with such organisations as appear to them to be representative of interests likely to be substantially affected by the Regulations, hereby make the following Regulations:

**Title and commencement**

1. These Regulations may be cited as the Contaminants in Food Regulations 1997 and shall come into force on 4th July 1997.

**Interpretation**

2.—(1) In these Regulations, except where the context requires otherwise—

“the Act” means the Food Safety Act 1990;

“the Commission Regulation” means Commission Regulation (EC) No. 194/97 setting maximum levels for certain contaminants in foodstuffs<sup>(2)</sup>;

“EEA Agreement” means the Agreement on the European Economic Area<sup>(3)</sup> signed at Oporto on 2nd May 1992 as adjusted by the Protocol<sup>(4)</sup> signed at Brussels on 17th March 1993;

“EEA State” means a State which is a Contracting Party to the EEA Agreement;

“food authority” does not include—

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(1) 1990 c. 16; “the Ministers” is defined in section 4(1) of the Act. Section 6(4) of the Act was amended by paragraph 6 of Schedule 9 to the Deregulation and Contracting Out Act 1994 (c. 40).

(2) OJ No. L31, 1.2.97, p.48.

(3) OJ No. L1, 3.1.94, p.1.

(4) OJ No. L1, 3.1.94, p.571.

- (a) the council of a district in a non-metropolitan county in England except where the county functions have been transferred to that council pursuant to a structural change; or
- (b) the appropriate Treasurer referred to in section 5(1)(c) of the Act (which deals with the Inner Temple and the Middle Temple); and

“member State” means a member State of the European Community.

(2) Other expressions used in these Regulations have, in so far as the context admits, the same meaning as in the Commission Regulation and any reference in these Regulations to a numbered Article shall be construed as a reference to the Article so numbered in the Commission Regulation.

### **Offences and penalties**

**3.—**(1) If any person contravenes Article 2.1 he shall, save where the placing on the market is of authorised lettuce or spinach, be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) For the purposes of this regulation, “authorised lettuce or spinach” means lettuce or spinach, as appropriate, in point 1.1 of Part 1 of the Annex to the Commission Regulation which is grown in the United Kingdom in accordance with the proviso to Article 2.2 and intended for consumption in the United Kingdom.

(3) Where an offence under these Regulations is committed in Scotland by a Scottish partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of the offence and liable to be proceeded against and punished accordingly.

### **Enforcement**

**4.** Each food authority shall, within its area, enforce and execute the provisions of the Commission Regulation and these Regulations.

### **Defence in relation to exports**

**5.** In any proceedings for an offence under regulation 3 it shall be a defence for the person charged to prove—

- (a) that the food specified in Annex 1 to the Commission Regulation in respect of which the offence is alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that it complies with that legislation; and
- (b) in the case of intended export to an EEA State which is not a member State, that the legislation complies with the Commission Regulation where there is a decision by the EEA Joint Committee under Article 98 of the EEA Agreement to amend it to refer to the Commission Regulation.

### **Application of various sections of the Act**

**6.—**(1) The following provisions of the Act shall apply for the purposes of these Regulations which application shall, in the case of section 21, be as that section applies for the purposes of section 8, 14 or 15 of the Act and unless the context otherwise requires any reference in them to the Act or Part thereof shall be construed as a reference to these Regulations—

- section 20 (offences due to fault of another person);
- section 21 (defence of due diligence);
- section 30(8) (which relates to documentary evidence);

section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) and (2); and

section 36 (offences by bodies corporate).

(2) The following provisions of the Act shall apply for the purposes of these Regulations and any reference in those sections to the Act or to the execution of the Act shall, for the purposes of these Regulations, be construed as including a reference to, respectively, Article 2.1 and the execution of the provisions of the Commission Regulation and these Regulations—

section 32 (powers of entry);

section 33 (obstruction etc. of officers); and

section 44 (protection of officers acting in good faith).

9th June 1997

*Jeff Rooker*  
Minister of State, Ministry of Agriculture,  
Fisheries and Food

Signed by authority of the Secretary of State for Health

10th June 1997

*Tessa Jowell*  
Minister of State for Public Health,  
Department of Health

Signed by authority of the Secretary of State for Wales

10th June 1997

*Win Griffiths*  
Parliamentary Under Secretary of State, Welsh  
Office

10th June 1997

*Sam Galbraith*  
Parliamentary Under Secretary of State, Scottish  
Office

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations, which apply to Great Britain, make provision for the enforcement and execution of Commission Regulation (EC) No 194/97 setting maximum levels for certain contaminants in foodstuffs (“the Commission Regulation”).

These Regulations—

- (a) provide that it is an offence to contravene Article 2.1 of the Commission Regulation (placing on the market lettuce or spinach containing higher than specified levels of contaminants) save where the marketing is of authorised lettuce or spinach as defined in that regulation and also prescribe a penalty for the offence (regulation 3);
- (b) specify the enforcement authorities (regulation 4);
- (c) provide a defence in relation to exports in implementation of Articles 2 and 3 of Council Directive 89/397 EEC (OJ No. L186, 30.6.89, p.23) on the official control of foodstuffs, as read with the ninth recital to that Directive (regulation 5); and
- (d) provide for the application of specified provisions of the Food Safety Act 1990 (regulation 6).

Article 5 of the Commission Regulation provides that preserved, deep frozen or frozen spinach already on the market on 15th February 1997 which does not conform to the provisions of the Regulation may continue to be marketed until stocks are exhausted.

A Compliance Cost Assessment of the effect that these Regulations would have on the cost of business is available from the Food Contaminants Division of the Ministry of Agriculture, Fisheries and Food, Ergon House c/o Nobel House, 17 Smith Square, London SW1P 3JR.