

---

STATUTORY INSTRUMENTS

---

**2005 No. 3251**

**The Contaminants in Food (England) Regulations 2005**

**Procurement and analysis of samples**

5.—(1) Where a sample is to be taken under section 29(b) or (d) of the Act 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<sup>(1)</sup>), 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](#)<sup>(2)</sup>, 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;

---

(1) The requirement is that the minimum number of units required for a laboratory sample in such circumstances is 10.  
(2) OJNo. L187, 16.7.2002, p.30.

*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 section 29(b) or (d) of the Act 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 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 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 section 29(b) or (d) of the Act 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 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) 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 section 29(b) or (d) of the Act 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 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 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 section 29(b) or (d) of the Act 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 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 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 section 29(b) or (d) of the Act 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 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 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 section 29(b) or (d) of the Act 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 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 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 section 29(b) or (d) of the Act 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 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 [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.