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## EXPLANATORY NOTE

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

1. These Regulations evoke and re-enact with changes the [Contaminants in Food Regulations \(Northern Ireland\) 2005 \(S.R. 2005 No.538\)](#) (“the 2005 Regulations”). They make provision for the execution and enforcement of Commission Regulation [\(EC\) No. 466/2001](#) setting maximum levels for contaminants in foodstuffs (OJ No. L77, 16.3.2001, p.1, as corrected and amended) (“the Commission Regulation”). Since the 2005 Regulations were made, the Commission Regulation has been amended so as to —

- (a) introduce maximum permitted levels and other controls relating to certain *Fusarium* toxins (Commission Regulation [\(EC\) No 856/2005](#), OJ No L143, 7.6.2005, p.3); and
- (b) introduce new or amended controls relating to dioxins and the sum of dioxins and dioxin-like PCBs (Commission Regulation [\(EC\) No 199/2006](#), OJ No L32, 4.2.2006, p.34).

2. 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 to fresh spinach),
  - (ii) to use food containing such contaminants at such levels as ingredients in the production of certain foods,
  - (iii) to mix foods that 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) provide for the application of specified provisions of the Food Safety (Northern Ireland) Order 1991 for the purposes of these Regulations (*regulation 5*);
- (d) make a consequential amendment to the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 1991 (*regulation 6*), the effect being to disapply the sampling and analysis provisions of those Regulations only to the extent that those matters are regulated by the Community instruments mentioned in paragraph 3(a) to (f) below.

3. The Commission Regulation specifies the Community 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 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 (OJ No. L77, 16.3.2001, p.14), as corrected by Commission Decision [2001/873/EC](#) (OJ No. L325, 8.12.2001, p.34), and as amended by Commission Directive [2005/4/EC](#) (OJ No. L19, 21.1.2005, p.50);

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- (b) 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 (OJ No. L187, 16.7.2002, p.30);
- (c) 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 (OJ No. L209, 6.8.2002, p.5), as corrected by a corrigendum published on the 20<sup>th</sup> September 2002 (OJ No. L252, 20.9.2002, p.40), and as amended by Commission Directive [2004/44/EC](#) (OJ No. L113, 20.4.2004, p.17);
- (d) 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 (OJ No. L42, 13.2.2004, p.16);
- (e) 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 (OJ No. L34, 8.2.2005, p.15), and
- (f) 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 (OJ No. L 70, 9.3.2006, p.12). This Regulation repeals the sampling and analysis Directives [98/53/EC](#), [2002/26/EC](#), [2003/78/EC](#) and [2005/38/EC](#), and stipulates that any reference to those Directives in the Commission Regulation is to be read as a reference to Commission Regulation (EC) [401/2006](#).