
EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which apply in relation to Wales, revoke and re-enact with changes the Contaminants in Food (Wales) Regulations 2010 (S.I. 2010/2394 (W.206)). They 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 (OJ No. L202, 28.7.1976, p.35) 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 foodstuffs containing added oils or fats (OJ No. L254, 27.9.1980, p.35); and
- (b) the continuing execution and enforcement of Commission Regulation (EC) No. 1881/2006 setting maximum levels for certain contaminants in foodstuffs (OJ No. L364, 20.12.2006, p.5) (“the Commission Regulation”).

2. The Commission Regulation has been amended by —

- (a) Commission Regulation (EC) No. 1126/2007 (OJ No. L255, 29.9.2007, p.14), which concerns maximum permitted levels for *Fusarium* toxins in maize and maize products;
- (b) Commission Regulation (EC) No. 565/2008 (OJ No. L160, 19.6.2008, p.20), which concerns the establishment of a maximum level for dioxins and PCBs (Polychlorinated Biphenyls) in fish liver;
- (c) Commission Regulation (EC) No. 629/2008 (OJ No. L173, 3.7.2008, p.6), which concerns maximum permitted levels for certain heavy metals;
- (d) Commission Regulation (EU) No. 105/2010 (OJ No. L35, 6.2.2010, p.7), which concerns maximum permitted levels for ochratoxin A;
- (e) Commission Regulation (EU) No. 165/2010 (OJ No. L50, 27.2.2010, p.8), which concerns maximum levels for aflatoxins and the treatment of certain foods found to contain aflatoxins in excess of those levels;
- (f) Commission Regulation (EU) No.420/2011 (OJ No. L111, 30.4.2011, p.3), which concerns the collection of occurrence data by Member States;
- (g) Commission Regulation (EU) No. 835/2011 (OJ No. L215, 20.8.2011, p.4), which concerns maximum levels for polycyclic aromatic hydrocarbons in foodstuffs;
- (h) Commission Regulation (EU) No.1258/2011 (OJ No. L320, 3.12.2011, p.15), which concerns revised limits for nitrates in leafy vegetables;
- (i) Commission Regulation (EU) No.1259/2011 (OJ No. L320, 3.12.2011, p.18), which concerns maximum permitted levels for dioxins, dioxin-like PCBs and non dioxin-like PCBs in foodstuffs;
- (j) Commission Regulation (EU) No. 594/2012 (OJ No. L176, 6.7.2012, p. 43) concerning maximum permitted levels of ochratoxin A, non dioxin-like PCBs and melamine in foodstuffs; and
- (k) Commission Regulation (EU) No. 1058/2012 (OJ No. L313, 13.11.2012, p.14), which concerns maximum permitted levels for aflatoxins in dried figs.

3. These Regulations also provide for the execution and enforcement of [Commission Regulation \(EC\) No. 124/2009](#) (OJ No. L40, 11.2.2009, p.7) (“Regulation 124/2009”), which concerns maximum permitted levels for certain feed additives that may, in specified circumstances, occur in food. This Regulation has been amended by Commission Regulation (EU) No. 610/2012 (OJ No. L178, 10.7.2012, p.1).

4. The Regulations provide that it is an offence to place specified foods on the market containing erucic acid in excess of permitted levels (*regulations 3 and 4*).

5. The Regulations also 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) —

- (a) 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;
- (b) to use food containing contaminants at levels in excess of those permitted by the Commission Regulation as ingredients in the production of certain foods;
- (c) 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;
- (d) 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;
- (e) to detoxify by chemical treatment food containing mycotoxins in excess of the limits specified in the Commission Regulation;
- (f) to fail to observe particular labelling requirements for certain groundnuts, other oilseeds, derived products thereof and cereals; and
- (g) to place on the market or mix certain foods containing specified coccidiostats and histomonstats in excess of prescribed limits (*regulation 5*).

6. These Regulations additionally—

- (a) provide for penalties on conviction for an offence under these Regulations (*regulation 6*) and specify the enforcement and competent authorities (*regulation 7*);
- (b) provide for the application of specified provisions of the Food Safety Act 1990 for the purposes of these Regulations (*regulation 8*);
- (c) make a consequential amendment to the Food Safety (Sampling and Qualifications) (Wales) Regulations 2013 (*regulation 9*), the effect being to disapply the sampling and analysis provisions of those Regulations only to the extent that those matters are regulated by the EU instruments mentioned in paragraph 7.

7. 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 (OJ No. L70, 9.3.2006, p.12), as amended by Commission Regulation (EU) No. 178/2010 (OJ No. L52, 3.3.2010, p.32);
- (b) [Commission Regulation \(EC\) No. 1882/2006](#) laying down methods of sampling and analysis for the official control of the levels of nitrates in certain foodstuffs (OJ No. L364, 20.12.2006, p.25);
- (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 (OJ No. L88, 29.3.2007, p.29), as amended by Commission Regulation (EU) No. 836/2011 (OJ No. L215, 20.8.2011, p.9); 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 (OJ No. L84, 23.3.2012, p.1).

8. The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Food Standards Agency at Food Standards Agency Wales, 11th Floor, Southgate House, Wood Street, Cardiff, CF10 1EW.