
STATUTORY INSTRUMENTS

2019 No. 639

**The Contaminants in Food (Amendment)
(EU Exit) Regulations 2019**

PART 2

Amendment of retained direct EU legislation

Amendment of Council Regulation (EEC) No. 315/93 laying down Community procedures for contaminants in food

2. Council Regulation (EEC) No. 315/93 laying down Community procedures for contaminants in food is amended as follows.

3. In Article 1(1) after the definition of ‘Contaminant’ insert—

“‘Food Safety Authority’ means—

- (a) as regards England, Wales and Northern Ireland, the Food Standards Agency;
- (b) as regards Scotland, Food Standards Scotland;

“appropriate authority” means—

- (a) in relation to England, the Secretary of State;
- (b) in relation to Wales, the Welsh Ministers;
- (c) in relation to Scotland, the Scottish Ministers;
- (d) in relation to Northern Ireland, the Northern Ireland devolved authority;

“Northern Ireland devolved authority” means the Department of Health.”.

4. In Article 1(2)—

- (a) in the first subparagraph omit ‘Community’;
- (b) omit the second subparagraph.

5. For the first subparagraph of Article 2(3) substitute—

“**3.** In order to protect public health and pursuant to paragraph (1), the appropriate authority may by regulations made in accordance with this Regulation make provision where necessary to establish the maximum tolerances for specific contaminants. These measures are designed to amend non-essential elements of this Regulation by supplementing it.”.

6. In the second subparagraph of Article 2(3) omit “Community”.

7. After the second subparagraph of Article 2(3) insert—

“**4.** Any power to make regulations under this Regulation—

- (a) so far as exercisable by a Minister of the Crown, is exercisable by statutory instrument;

- (b) so far as exercisable by the Welsh Ministers, is exercisable by statutory instrument;
- (c) so far as exercisable by the Northern Ireland devolved authority is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (SI 1979/1573 (NI 12)) (and not by statutory instrument).

5. For regulations made under this Regulation by the Scottish Ministers, see also section 27 of the Interpretation and Legislative Reform (Scotland) Act 2010(1) (Scottish statutory instruments).

6. Any power to make regulations under this Regulation includes power—

- (a) to make different provision in relation to different cases or classes of case (including different provision for different areas or different classes of business);
- (b) to provide for such exceptions, limitations and conditions, and to make such supplementary, incidental, consequential or transitional provisions, as the appropriate authority considers necessary or expedient.

7. Any statutory instrument, Scottish statutory instrument or statutory rule containing regulations under this Regulation is subject to annulment in pursuance of a resolution—

- (a) in the case of England, of either House of Parliament;
- (b) in the case of Wales, of the National Assembly for Wales;
- (c) in the case of Scotland, of the Scottish Parliament;
- (d) in the case of Northern Ireland, being a negative resolution within the meaning given by section 41(6) of the Interpretation Act (Northern Ireland) 1954(2).

8. In this Regulation, any power—

- (a) of the Secretary of State to make regulations is limited to regulations which apply in relation to England only;
- (b) of the Welsh Ministers to make regulations is limited to regulations which apply in relation to Wales only;
- (c) of the Scottish Ministers to make regulations is limited to regulations which apply in relation to Scotland only;
- (d) of the Northern Ireland devolved authority to make regulations is limited to regulations which apply in relation to Northern Ireland only.”.

8. In Article 3 for “of the Scientific Committee for Food” substitute “with the Food Safety Authority”.

9. Omit Articles 4, 5, 6, 7 and 8.

10. After Article 9 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Amendment of 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

11. 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 is amended as follows.

12. After Article 4 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

(1) 2010 asp 10.
(2) 1954 c.33.

13. In Annex 1 paragraph A.3.1 omit “as designated by the Member State”.
14. In Annex 1 paragraph A.3.6 for “Member States” substitute “United Kingdom”.
15. In Annex 1 paragraph A3.8 for “the rules of the Member State” substitute “United Kingdom rules”.
16. In Annex 1 paragraph L1 in the fourth subparagraph for “Union” substitute “legal”.
17. In Annex 2 paragraph 3 for “Member States” substitute “United Kingdom”.

Amendment of Commission Regulation (EC) No. 1881/2006 setting maximum levels for certain contaminants in foodstuffs

18. Commission Regulation (EC) No. 1881/2006 setting maximum levels for certain contaminants in foodstuffs is amended as follows.

19. In Article 2—
 - (a) in paragraph 3 omit “Community”;
 - (b) omit paragraph 4.
20. Omit Article 7(4) and (5).
21. In Article 7(6)—
 - (a) in the first subparagraph for “Ireland, Spain, Croatia, Cyprus, Latvia, Poland, Portugal, Romania, Slovak Republic, Finland, Sweden and the United Kingdom may authorise the placing on their market of traditionally smoked meat and smoked meat products, smoked in their territory and intended for consumption in their territory with levels of PAHs” substitute “the placing on the market of traditionally smoked meat and smoked meat products, smoked in the United Kingdom and intended for consumption in the United Kingdom is, subject to any decision to the contrary by the appropriate authority, authorised where the levels of PAH are ”;
 - (b) in the second subparagraph for “Those Member States shall” substitute “The Food Safety Authority may”;
 - (c) After the third subparagraph insert—

“In this Article—

 - “Food Safety Authority” means—
 - (a) as regards England, Wales and Northern Ireland, the Food Standards Agency;
 - (b) as regards Scotland, Food Standards Scotland;
 - “appropriate authority” means—
 - (a) in relation to England, the Secretary of State;
 - (b) in relation to Wales, the Welsh Ministers;
 - (c) in relation to Scotland, the Scottish Ministers;
 - (d) in relation to Northern Ireland, the Department of Health.”.
22. In Article 7(7)—
 - (a) in the first subparagraph for “Ireland, Latvia, Romania, Finland, Sweden and the United Kingdom may authorise the placing on their market of traditionally smoked fish and smoked fishery products, smoked in their territory and intended for consumption in their territory with levels of PAHs” substitute “the placing on the market of traditionally smoked fish and smoked fishery products, smoked in the United Kingdom and intended for

consumption in the United Kingdom is, subject to any decision to the contrary by the appropriate authority, authorised where the levels of PAH are ”;

- (b) in the second subparagraph for “These Member States shall” substitute “The Food Safety Authority may”.

23. Omit Article 9.

24. After Article 12 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Amendment of 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

25. 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 is amended as follows.

26. After Article 2 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

27. In the Annex—

- (a) At paragraph A.3.1 omit “as designated by the Member State”;
- (b) at paragraph A.3.6 for “Member States” substitute “United Kingdom”;
- (c) at paragraph A.3.8 for “the rules of the Member State” substitute “United Kingdom rules”.

Amendment of Commission Regulation (EC) No. 333/2007 laying down the methods of sampling and analysis for the control of the levels of trace elements and processing contaminants in foodstuffs

28. Commission Regulation (EC) No. 333/2007 laying down the methods of sampling and analysis for the control of the levels of trace elements and processing contaminants in foodstuffs is amended as follows.

29. After Article 3 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

30. In the Annex—

- (a) at paragraph B.1.1 omit “as designated by the Member State”;
- (b) at paragraph B.1.6 for “the rules of the Member States” substitute “United Kingdom rules”;
- (c) at paragraph B.1.8 for “the rules of the Member States” substitute “United Kingdom rules”;
- (d) at paragraph C.2.4 for “the rules of the Member States” substitute “United Kingdom rules”;
- (e) at paragraph C.3.3.1 in the first paragraph omit “at European Union level”.

Amendment of Commission Regulation (EC) No. 124/2009 setting maximum levels for the presence of coccidiostats or histomonostats in food resulting from the unavoidable carry-over of those substances in non-target feed

31. Commission Regulation (EC) No. 124/2009 setting maximum levels for the presence of coccidiostats or histomonostats in food resulting from the unavoidable carry-over of those substances in non-target feed is amended as follows.

32. After Article 2 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

Amendment of [Commission Regulation \(EU\) 2015/705](#) laying down methods of sampling and performance criteria for the methods of analysis for the official control of the levels of erucic acid in foodstuffs and repealing [Commission Directive 80/891/EEC](#)

33. [Commission Regulation \(EU\) 2015/705](#) laying down methods of sampling and performance criteria for the methods of analysis for the official control of the levels of erucic acid in foodstuffs and repealing [Commission Directive 80/891/EEC](#) is amended as follows.

34. After Article 3 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

35. In the Annex—

- (a) at paragraph B.1.1 omit “designated by the Member State”;
- (b) at paragraph B.1.6 for “the rules of the Member States” substitute “United Kingdom rules”;
- (c) at paragraph B.1.8 for “the rules of the Member States” substitute “United Kingdom rules”;
- (d) at paragraph C.3.3.1 in the first paragraph omit “at European Union level”.

Amendment of [Commission Regulation \(EU\) 2017/644](#) laying down methods of sampling and analysis for the control of levels of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain foodstuffs and repealing [Regulation \(EU\) No. 589/2014](#)

36. [Commission Regulation \(EU\) 2017/644](#) laying down methods of sampling and analysis for the control of levels of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain foodstuffs and repealing [Regulation \(EU\) No. 589/2014](#) is amended as follows.

37. After Article 6 omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

38. In Annex 1 paragraph 1.1 for “the Annex to Recommendation 2013/711/EU” substitute “Annex 5”.

39. In Annex 2, in Section 2—

- (a) at paragraph 1 omit “as designated by the Member State”;
- (b) at paragraph 6 for “a Member State’s” substitute “United Kingdom”;
- (c) at paragraph 8 for “the rules of the Member States” substitute “United Kingdom rules”.

40. After Annex 4 insert the Annex set out in the Schedule to these Regulations.