
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) (No.2) Regulations 2006 (S.I. 2006/1850) (“the 2006 Regulations”). They make provision for the execution and enforcement of Commission Regulation (EC) No.1881/2006 setting maximum levels for contaminants in foodstuffs (OJ No. L364, 20.12.2006, p.5) (“the Commission Regulation”). The Commission Regulation consolidates and makes further amendments to the provisions formerly contained in Commission Regulation (EC) No. 466/2001.

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 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, or
 - (v) to detoxify by chemical treatment food containing mycotoxins in excess of 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 Act 1990 for the purposes of these Regulations (regulation 5);
- (d) make a consequential amendment to the Food Safety (Sampling and Qualifications) Regulations 1990 in so far as they apply in relation to Wales (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 [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);
 - (c) 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
 - (d) 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);
 - (e) Commission Regulation (EC) No. [1882/2006](#) laying down methods of sampling and analysis for the official control of levels of nitrates in certain foodstuffs (OJ No. L364, 20.12.2006, p.25);
 - (f) Commission Regulation (EC) No. [1883/2006](#) laying down methods of sampling and analysis for the official control of levels of dioxins and dioxin-like PCBs in certain foodstuffs (OJ No. L364, 20.12.2006, p.32).
- 4.** A full regulatory appraisal of the effect that this instrument will have on the costs of business has been prepared and placed in the Library of the National Assembly for Wales. Copies may be obtained from the Food Standards Agency, 11th Floor, Southgate House, Wood Street, Cardiff, CF10 1EW.