
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 302

FOOD

**Contaminants in Food (Amendment)
Regulations (Northern Ireland) 1999**

Made - - - - *30th June 1999*

Coming into operation *16th August 1999*

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 15(1) and (f), 16(2), 25(2)(a) and (3), 26(3), 32 and 47(2) of the Food Safety (Northern Ireland) Order 1991⁽¹⁾ and of all other powers enabling it in that behalf and after consultation in accordance with Article 47(3) of that Order with such organisations as appear to it to be representative of interests likely to be substantially affected by the Regulations, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Contaminants in Food (Amendment) Regulations (Northern Ireland) 1999 and shall come into operation on 16th August 1999.

(2) In these Regulations “the principal Regulations” means the Contaminants in Food Regulations (Northern Ireland) 1997⁽²⁾.

Amendment of the principal Regulations

2. The principal Regulations shall be amended in accordance with regulations 3 to 7.

3. In paragraph (1) of regulation 2 (interpretation)—

(a) at the end of the definition of “the Commission Regulation” there shall be inserted “as amended by Commission Regulation (EC) No. 1525/98⁽³⁾ and Commission Regulation (EC) No. 864/1999⁽⁴⁾”;

(b) after the definition of “the Commission Regulation” there shall be inserted—

““designated place” means any place at which there are the facilities to carry out the sampling required by Directive 98/53/EC;

(1) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12). See Article 2(2) for the definitions of “the Department concerned” and “regulations”

(2) S.R. 1997 No. 338

(3) O.J. No. L201, 17.7.98, p. 43

(4) O.J. No. L108, 27.4.99, p. 16

“Directive 98/53/EC” means Commission Directive 98/53/EC laying down the sampling methods and the methods of analysis for the official control of the levels for certain contaminants in foodstuffs⁽⁵⁾”;

(c) after the definition of “the Order” there shall be inserted—

““ultimate consumer” has the same meaning as in the Food Labelling Regulations (Northern Ireland) 1996⁽⁶⁾”.

4. For paragraph (1) of regulation 3 (offences and penalties) there shall be substituted—

“(1) A person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale if—

- (a) he places on the market any food (other than authorised lettuce or spinach) which is covered by, but fails to meet the requirements of, Article 2.1 as read with Article 2.5;
- (b) he contravenes Article 2.4;
- (c) he knowingly contravenes the requirements of a notice given under Article 8(3) (a) of the Order as applied with modifications by regulation 6;
- (d) he fails to comply with paragraph (1) of regulation 5A;
- (e) in purported compliance with paragraph (2) of regulation 5A he furnishes any record containing information which he knows to be false or misleading in a material particular; or
- (f) without reasonable excuse, he fails to comply within a reasonable time with a demand made under paragraph (2) of regulation 5A.”.

5. After regulation 4 there shall be inserted—

“Sampling, analysis and modification of Article 29 of the Order

4A.—(1) In its application to the taking, for the purposes of these Regulations, of a sample of any food described in point I.2.1 of the Annex to the Commission Regulation, Article 29 of the Order shall be modified so as to limit the power to take samples under paragraph (b) of that Article to the taking of samples in accordance with the methods of taking samples described, or referred to, in Annex I to Directive 98/53/EC⁽⁷⁾.

(2) An authorised officer who has procured a sample of any food of a description in point I.2.1. of the Annex to the Commission Regulation under Article 29(b) of the Order, as modified by paragraph (1), shall ensure—

- (a) that 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) that any analysis of the sample is carried out in accordance with methods of analysis which—
 - (i) if possible, comply with paragraphs 1 and 2 of the Annex to Council Directive 85/591 concerning the introduction of Community methods of

(5) O.J. No. L201, 17.7.98, p. 93

(6) S.R. 1996 No. 383; to which there are amendments not relevant to these Regulations

(7) Paragraphs 5.4.1. and 5.5.1.1 of Annex I to Directive 98/53/EC refer, in relation to the products covered by them, to sampling in accordance with Commission Decision 91/180/EEC (O.J. No. L93, 13.4.91, p. 1) laying down certain methods of analysis and testing of raw milk and heat-treated milk and Commission Directive 87/524/EEC (O.J. No. L306, 28.10.87, p. 24) laying down Community methods of sampling for chemical analysis for the monitoring of preserved milk products

- sampling and analysis for the monitoring of foodstuffs intended for human consumption⁽⁸⁾; and
 - (ii) meet the criteria specified in paragraph 4.3 of Annex II to Directive 98/53/EC as read with the notes thereto;
 - (c) that any analysis is carried out by a laboratory which complies with Council Directive 93/99/EEC on the subject of additional measures concerning the official control of foodstuffs⁽⁹⁾; and
 - (d) that the reporting of the result 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.”.
6. After regulation 5 there shall be inserted—

“Record keeping

5A.—(1) A person in possession of any food of any of the descriptions in point I.2.1 of the Annex to the Commission Regulation shall, where that food is at a place other than premises at which it is to be prepared for or offered for sale to the ultimate consumer, keep and maintain such records as are sufficient to show—

- (a) the place of origin of that food; and
- (b) if that food is intended to be delivered to another person for the purpose of sale or preparation for sale, the name and address of the person to whom the food is intended to be delivered.

(2) Any person who is required by paragraph (1) to keep such records as are referred to in that paragraph shall, on reasonable demand being made by an authorised officer, produce those records to that officer for inspection.”.

7. After paragraph (2) of regulation 6 there shall be inserted—

“(3) Article 8 of the Order (inspection and seizure of suspected food) shall, subject to paragraphs (4) and (5) apply for the purposes of these Regulations with the following modifications—

- (a) in paragraph (1)—
 - (i) the reference to paragraphs (3) to (9) shall be construed as including reference to those paragraphs as modified by this regulation; and
 - (ii) for “any food fails to comply with food safety requirements” there shall be substituted “the placing on the market of any food may contravene Article 2.1 of the Commission Regulation unless that food is lettuce or spinach in point 1.1. of the Annex to the Commission Regulation which is grown in the United Kingdom in accordance with the proviso to Article 2.2 of the Commission Regulation and is intended for consumption in the United Kingdom”;
- (b) in paragraphs (4) and (6), for “food safety requirements” there shall be substituted “the requirements of Article 2.1 of the Commission Regulation as to levels of contaminants”;
- (c) in paragraphs (4) and (7) the reference to paragraph (3) shall be construed as including reference to that paragraph as modified by this regulation; and

⁽⁸⁾ O.J. No. L372, 31.12.85, p. 50

⁽⁹⁾ O.J. No. L290, 24.11.93, p. 14

(d) in paragraph (5)—

- (i) the reference to paragraphs (3) and (4) shall be construed as including reference to those paragraphs as modified by this regulation; and
- (ii) the reference to Article 6 or 7 shall be construed as including a reference to these Regulations.

(4) In so far as Article 8 of the Order, as modified by paragraph (3), applies to an authorised officer acting in relation to food of any description specified in point I.2.1 of the Annex to the Commission Regulation paragraph (3) of that Article shall apply with the modification that for head (ii) of sub-paragraph (a) thereof there shall be substituted—

“(ii) either is not to be removed or is to be removed to a designated place; or”.

(5) The expressions “the Commission Regulation” and “designated place” used in the modification and application of Article 8 of the Order for the purposes of these Regulations shall, for those purposes, bear the meaning that those expressions bear in these Regulations.”.

Amendment of other Regulations

8. In the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 1991⁽¹⁰⁾—

- (a) at the start of regulation 2 (sampling to which those Regulations do not apply) there shall, for “These”, be substituted “Subject as specified in Schedule 1, these”; and
- (b) at the end of Schedule 1 (provisions to which those Regulations do not apply) there shall be added in the left hand column the title of the principal Regulations, followed by the words “to the extent that a sample falls to be prepared and analysed in accordance with regulation 4A thereof”, and in the right hand column their reference.

Revocation

9.—(1) The Aflatoxins in Nut, Nut Products, Dried Figs and Dried Fig Products Regulations (Northern Ireland) 1993⁽¹¹⁾ are hereby revoked.

(2) In the Food Labelling Regulations (Northern Ireland) 1996 paragraph (14) of regulation 49 (revocations and amendments) is hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

30th June 1999.

W. B. Smith
Assistant Secretary

⁽¹⁰⁾ S.R. 1991 No. 198; relevant amending Regulations are S.R. 1998 Nos. 237 and 264

⁽¹¹⁾ S.R. 1993 No. 31

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision for the enforcement and execution of Commission Regulation (EC) No. 1525/98 (O.J. No. L201, 17.7.98, p. 43) and Commission Regulation (EC) No. 864/1999 (O.J. No. L108, 27.4.99, p. 16) both of which amend Commission Regulation (EC) No. 194/97 (O.J. No. L31, 1.2.97, p. 48) setting maximum levels for certain contaminants in foodstuffs (together “the Commission Regulation”). They also implement Commission Directive 98/53/EC (O.J. No. L201, 17.7.98, p. 93) laying down the sampling methods and the methods of analysis for the official control of the levels for certain contaminants in foodstuffs.

These Regulations, which amend the Contaminants in Food Regulations (Northern Ireland) 1997—

- (a) provide that it is an offence to place on the market food which fails to meet the requirements of Article 2.1 of Commission Regulation 194/97 or to contravene Article 2.4 thereof (regulation 4);
- (b) apply Article 8 of the Food Safety (Northern Ireland) Order 1991 with modifications so as to require, by service of a notice, that food (other than “authorised lettuce or spinach”) which may contravene the requirements of Article 2.1 of Regulation 194/97 is to be removed for the purposes of inspection to a place having the proper facilities to do so and provide that it is an offence to knowingly contravene such a notice (regulations 4 and 7);
- (c) modify the application of Article 29 of the Food Safety (Northern Ireland) Order 1991 so as to provide that the taking of any samples of specified food must be in accordance with the methods described in Commission Directive 98/53 and require that samples of specified food are prepared and analysed in accordance with that Directive (regulation 5);
- (d) require records containing specified information to be kept and produced upon request (regulation 6);
- (e) amend the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 1991 (regulation 8);
- (f) revoke the Aflatoxins in Nuts, Nut Products, Dried Figs and Dried Fig Products Regulations (Northern Ireland) 1993 and make a consequential revocation of a provision of the Food Labelling Regulations (Northern Ireland) 1996 (regulation 9).