



STATUTORY INSTRUMENTS.

S.I. No. 276 of 2012



EUROPEAN COMMUNITIES (CERTAIN CONTAMINANTS IN
FOODSTUFFS) (AMENDMENT) REGULATIONS 2012

EUROPEAN COMMUNITIES (CERTAIN CONTAMINANTS IN FOODSTUFFS) (AMENDMENT) REGULATIONS 2012

I, JAMES REILLY, Minister for Health, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Commission Regulation (EC) No. 1881/2006 of 19 December 2006¹, as amended by Commission Regulation (EU) No. 420/2011 of 29 April 2011² as affected by Corrigendum to Commission Regulation (EU) No. 420/2011 of 29 April 2011³, Commission Regulation (EU) No. 835/2011 of 19 August 2011⁴, Commission Regulation (EU) No. 1258/2011 of 2 December 2011⁵ and Commission Regulation (EU) No. 1259/2011 of 2 December 2011⁶, as well as for the purpose of giving further effect to Commission Regulation (EC) No. 333/2007 of 28 March 2007⁷, as amended by Commission Regulation (EU) No. 836/2011 of 19 August 2011⁸, and to Commission Regulation (EU) No. 252/2012 of 21 March 2012⁹, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Certain Contaminants in Foodstuffs) (Amendment) Regulations 2012.

(2) The Principal Regulations and these Regulations may be cited together as the European Communities (Certain Contaminants in Foodstuffs) Regulations 2010 and 2012.

2. In these Regulations—

“Principal Regulations” means the European Communities (Certain Contaminants in Foodstuffs) Regulations 2010 (S.I. No. 218 of 2010).

3. The Principal Regulations are amended—

(a) in Regulation 2(1), by substituting for the definition of “Commission Regulation (EC) No. 1881/2006” the following—

“‘Commission Regulation (EC) No. 1881/2006’ means Commission Regulation (EC) No. 1881/2006 of 19 December 2006¹ regarding setting maximum levels for certain contaminants in foodstuffs, as

¹ OJ No. L 364, 20.12.2006, p.5.

² OJ No. L 111, 30.4.2011, p. 3.

³ OJ No. L 168, 28.6.2011, p. 20.

⁴ OJ No. L 215, 20.8.2011, p. 4.

⁵ OJ No. L 320, 3.12.2011, p. 15.

⁶ OJ No. L 320, 3.12.2011, p. 18.

⁷ OJ No. L 88, 29.3.2007, p. 29.

⁸ OJ No. L 215, 20.8.2011, p. 9.

⁹ OJ No. L 84, 23.3.2012, p. 1.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 27th July, 2012.

amended by Commission Regulation (EC) No. 1126/2007 of 28 September 2007¹⁰, Commission Regulation (EC) No. 565/2008 of 18 June 2008¹¹, Commission Regulation (EC) No. 629/2008 of 2 July 2008¹², Commission Regulation (EU) No. 105/2010 of 5 February 2010¹³, Commission Regulation (EU) No. 165/2010 of 26 February 2010¹⁴, Commission Regulation (EU) No. 420/2011 of 29 April 2011² as affected by Corrigendum to Commission Regulation (EU) No. 420/2011 of 29 April 2011³, Commission Regulation (EU) No. 835/2011 of 19 August 2011⁴, Commission Regulation (EU) No. 1258/2011 of 2 December 2011⁵ and Commission Regulation (EU) No. 1259/2011 of 2 December 2011⁶.”.

- (b) in Regulation 2(1), by substituting for the definition of “Commission Regulation (EC) No. 333/2007” the following—

“‘Commission Regulation (EC) No. 333/2007’ means Commission Regulation (EC) No. 333/2007 of 28 March 2007⁷ 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, as amended by Commission Regulation (EU) No. 836/2011 of 19 August 2011⁸ (including as to the title to Regulation (EC) No. 333/2007, where the reference to “benzo(*a*)pyrene” will be replaced by “polycyclic aromatic hydrocarbons” with effect from 1 September 2012);”.

- (c) in Regulation 2(1), by deleting the definition of “Commission Regulation (EC) No. 1883/2006” and inserting the following—

“‘Commission Regulation (EU) No. 252/2012’ means Commission Regulation (EU) No. 252/2012 of 21 March 2012⁹ 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;”.

- (d) in Regulation 2(1), by substituting for the definition of “EU Regulations” the following—

“‘EU Regulations’ means Council Regulation (EEC) No. 315/93 of 8 February 1993¹⁵ laying down Community procedures for contaminants in food, Commission Regulation (EC) No. 1881/2006 of 19 December 2006¹ regarding setting maximum levels for certain contaminants in foodstuffs, as amended by Commission Regulation (EC) No. 1126/2007 of 28 September 2007¹⁰, Commission Regulation (EC) No. 565/2008 of 18 June 2008¹¹, Commission Regulation (EC) No. 629/2008 of 2 July 2008¹², Commission Regulation (EU) No. 105/2010 of 5 February

¹⁰ OJ No. L 255, 29.9.2007, p. 14.

¹¹ OJ No. L 160, 19.6.2008, p. 20.

¹² OJ No. L 173, 3.7.2008, p. 6.

¹³ OJ No. L 35, 6.2.2010, p. 7.

¹⁴ OJ No. L 50, 27.2.2010, p. 8.

¹⁵ OJ No. L 37, 13.2.1993, p. 1.

2010¹³, Commission Regulation (EU) No. 165/2010 of 26 February 2010¹⁴, Commission Regulation (EU) No. 420/2011 of 29 April 2011² as affected by Corrigendum to Commission Regulation (EU) No. 420/2011 of 29 April 2011³, Commission Regulation (EU) No. 835/2011 of 19 August 2011⁴, Commission Regulation (EU) No. 1258/2011 of 2 December 2011⁵ and Commission Regulation (EU) No. 1259/2011 of 2 December 2011⁶, and, as regards laying down methods of sampling and analysis for the official control of the levels of certain contaminants in foodstuffs, Commission Regulation (EC) No. 401/2006 of 23 February 2006¹⁶ as amended by Commission Regulation (EU) No. 178/2010 of 2 March 2010¹⁷, Commission Regulation (EC) No. 1882/2006 of 19 December 2006¹⁸ laying down methods of sampling and analysis for the official control of the levels of nitrates in certain foodstuffs, Commission Regulation (EC) No. 333/2007, as amended by Commission Regulation (EU) No. 836/2011 of 19 August 2011⁸ (including as regards its title, which, from 1 September 2012, will refer to “polycyclic aromatic hydrocarbons” instead of “benzo(*a*)pyrene” and, as regards 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, Commission Regulation (EU) No. 252/2012 of 21 March 2012⁹”.

(e) in Regulation 6(1), by substituting the following—

“For the purposes of this Regulation and of Regulations 7 to 11, all references to “the Annex” mean the Annex to Commission Regulation (EC) No. 1881/2006 of 19 December 2006¹, as amended by Commission Regulation (EC) No. 1126/2007 of 28 September 2007¹⁰, Commission Regulation (EC) No. 565/2008 of 18 June 2008¹¹, Commission Regulation (EC) No. 629/2008 of 2 July 2008¹², Commission Regulation (EU) No. 105/2010 of 5 February 2010¹³, Commission Regulation (EU) No. 165/2010 of 26 February 2010¹⁴, Commission Regulation (EU) No. 420/2011 of 29 April 2011² as affected by Corrigendum to Commission Regulation (EU) No. 420/2011 of 29 April 2011³, Commission Regulation (EU) No. 835/2011 of 19 August 2011⁴, Commission Regulation (EU) No. 1258/2011 of 2 December 2011⁵ and Commission Regulation (EU) No. 1259/2011 of 2 December 2011⁶.”.

(f) in Regulation 11(1), by substituting the following—

“The prohibition in Regulation 6(2) shall not apply to:

- (i) Foodstuffs that do not comply with the maximum levels applicable from 1 September 2012 pursuant to Section 6 “Polycyclic aromatic hydrocarbons” of the Annex to Commission Regulation (EC) No. 1881/2006¹, as

¹⁶ OJ No. L 70, 9.3.2006, p. 12.

¹⁷ OJ No. L 52, 3.3.2010, p. 32.

¹⁸ OJ No. L 364, 20.12.2006, p. 25.

amended by Commission Regulation (EU) No. 835/2011⁴, and that are lawfully placed on the market prior to 1 September 2012, which may continue to be marketed after that date until their date of minimum durability or use-by-date;

- (ii) Foodstuffs that do not comply with the maximum levels applicable from 1 September 2014 pursuant to points 6.1.4 and 6.1.5 of the Annex to Commission Regulation (EC) No. 1881/2006¹, as amended by Commission Regulation (EU) No. 835/2011⁴, and that are lawfully placed on the market prior to 1 September 2014, which may continue to be marketed after that date until their date of minimum durability or use-by-date;
- (iii) Foodstuffs that do not comply with the maximum levels applicable from 1 April 2013 pursuant to point 6.1.2 of the Annex to Commission Regulation (EC) No. 1881/2006¹, as amended by Commission Regulation (EU) No. 835/2011⁴ and that are lawfully placed on the market prior to 1 April 2013, which may continue to be marketed after that date until their date of minimum durability or use-by-date;
- (iv) Foodstuffs that do not comply with the maximum level applicable from 1 April 2015 pursuant to point 6.1.2 of the Annex to Commission Regulation (EC) No. 1881/2006¹, as amended by Commission Regulation (EU) No. 835/2011⁴ and that are lawfully placed on the market prior to 1 April 2015, which may continue to be marketed after that date until their date of minimum durability or use-by-date.”.

(g) in Regulation 15 by substituting the following—

“(1) Sampling for the official control of the levels of dioxins, furans, dioxin-like PCBs and non-dioxin-like PCBs in foodstuffs listed in Section 5 of the Annex to Commission Regulation (EC) No. 1881/2006 shall be carried out in accordance with the methods set out in Annex II to Commission Regulation (EU) No. 252/2012.”

“(2) Sample preparation and analyses for the official control of the levels of dioxins, furans and dioxin-like PCBs in foodstuffs listed in Section 5 of the Annex to Commission Regulation (EC) No. 1881/2006 shall be carried out in accordance with the methods set out in Annex III to Commission Regulation (EU) No. 252/2012.”

“(3) Analyses for the official control of the levels of non-dioxin-like PCBs in foodstuffs listed in Section 5 of the Annex to Commission Regulation (EC) No. 1881/2006 shall be carried out in accordance with

the requirements for analytical procedures set out in Annex IV to Commission Regulation (EU) No. 252/2012.”.

- (h) in Regulation 16, by substituting, with effect from 1 September 2012, the following—

“Sampling and analysis for the official control of the levels of lead, cadmium, mercury, inorganic tin, 3-MCPD and polycyclic aromatic hydrocarbons (“PAH”) listed in Sections 3, 4 and 6 of the Annex to Commission Regulation (EC) No. 1881/2006 shall be carried out in accordance with the Annex to Commission Regulation (EC) No. 333/2007, but without prejudice to the provisions of the Official Controls Regulation.”.

- (i) in Regulation 31, by substituting for paragraph (2)(a), the following—

“(a) on summary conviction, to a class A fine or at the discretion of the court to imprisonment for a term not exceeding 6 months, or both, or”.

- (j) in Regulation 31, by inserting after paragraph (3), the following—

“(4) Where a person is convicted of an offence under these Regulations, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the Authority or the official agency, as the case may be, the costs and expenses, measured by the court, incurred by the Authority or official agency in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of employees, consultants and advisors engaged by the Authority or official agency.

(5) An order for costs and expenses under paragraph (4) is in addition to, and not instead of, any fine or penalty the court may impose under paragraph (2).”.



GIVEN under my Official Seal,
25 July 2012.

JAMES REILLY,
Minister for Health.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

These Regulations give further effect to Commission Regulation (EC) No. 1881/2006 of 19 December 2006, as amended by Commission Regulation (EU) No. 420/2011 of 29 April 2011 as affected by Corrigendum to Commission Regulation (EU) No. 420/2011 of 29 April 2011, Commission Regulation (EU) No. 835/2011 of 19 August 2011, Commission Regulation (EU) No. 1258/2011 of 2 December 2011 and Commission Regulation (EU) No. 1259/2011 of 2 December 2011. These Regulations give further effect to Commission Regulation (EC) No. 333/2007 of 28 March 2007 as amended by Commission Regulation (EU) No. 836/2011 of 19 August 2011. They also give further effect to Commission Regulation (EU) No. 252/2012 of 21 March 2012.

These Regulations amend the European Communities (Certain Contaminants in Foodstuffs) Regulations 2010 (S.I. No. 218 of 2010) in the manner specified in these Regulations, particularly as regards the fines and maximum term of imprisonment on summary conviction for an offence under the 2010 Regulations, and also provide for the recovery of costs from the defendant in the event of a successful prosecution, in addition to any fine or penalty imposed.

These Regulations may be cited as the European Communities (Certain Contaminants in Foodstuffs) (Amendment) Regulations 2012.

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