STATUTORY RULES OF NORTHERN IRELAND

2006 No. 256

FOOD

The Contaminants in Food Regulations (Northern Ireland) 2006

Made - - - -	*8th June 2006*
Coming into Operation	*1st July 2006*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred by Articles 15(1)(a), (e) and (f), 16(1) and (2), 25(1)(a), (2)(e) and (3), 26(3), 32(1) and (2)(b),(c) and (f), and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**).

In accordance with Article 47(3A) of the said Order, it has had regard to relevant advice given by the Food Standards Agency.

As required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**3**), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Contaminants in Food Regulations (Northern Ireland) 2006 and shall come into operation on 1st July 2006.

Interpretation

2.—(1) In these Regulations —

"authorised lettuce" means lettuce of the kind specified in point 1.3 of section 1 of Annex I to the Commission Regulation, which complies with the conditions of the derogation under Article 3b.2 of that Regulation in relation to the United Kingdom;

"authorised officer" means any person, whether or not an officer of a district council, who is authorised by it in writing to act in matters arising under these Regulations;

(**1**) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3

(**2**) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28 and S.R.2004 Nos. 482 and 505

(**3**) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, p.4)

"authorised spinach" means spinach of the kind specified in point 1.1 of section 1 of Annex I to the Commission Regulation, which complies with the conditions of the derogation under Article 3b.1 of that Regulation in relation to the United Kingdom;

"the Commission Regulation" means Commission Regulation (EC) No. 466/2001 setting maximum levels for certain contaminants in foodstuffs(**4**) as corrected by a corrigendum published on 30th November 2001(**5**), and as amended by Council Regulation (EC) No. 2375/2001(**6**), Commission Regulation (EC) No. 221/2002(**7**), Commission Regulation (EC) No. 257/2002(**8**), Commission Regulation (EC) No. 472/2002(**9**) as corrected by a corrigendum published on 23rd March 2002(**10**), Commission Regulation (EC) No. 563/2002(**11**) as corrected by a corrigendum published on 14th June 2002(**12**), Commission Regulation (EC) No. 1425/2003(**13**), Commission Regulation (EC) No. 2174/2003(**14**), Commission Regulation (EC) No. 242/2004(**15**), Commission Regulation (EC) No. 455/2004(**16**), Commission Regulation (EC) No. 655/2004(**17**), Commission Regulation (EC) No. 683/2004(**18**), Commission Regulation (EC) No. 684/2004(**19**), Commission Regulation (EC) No. 78/2005(**20**), Commission Regulation (EC) No. 123/2005(**21**), Commission Regulation (EC) No. 208/2005(**22**),Commission Regulation (EC) No. 856/2005(**23**) Commission Regulation (EC) No. 1822/2005(**24**),and Commission Regulation (EC) No. 199/2006(**25**);

"the Order" means the Food Safety (Northern Ireland) Order 1991;

(2) Any other expression used in these Regulations and in the Commission Regulation has the same meaning in these Regulations as it bears in the Commission Regulation.

Offences and penalties

3.—(1) Subject to the transitional arrangements contained in the Community provisions specified in paragraph (2), a person is 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 authorised spinach) which is covered by, but fails to meet the requirements of, Article 1.1, 2.1, 2.2 or 4.1, of the Commission Regulation, as read with Articles 1.2 and 4.3 of that Regulation; or

(b) he contravenes Article 2.3, 4.2, or 4a of the Commission Regulation.

(2) The Community provisions mentioned in paragraph (1) are —

(a) Article 7 of the Commission Regulation;

(**4**) OJ No. L77, 16.3.2001, p.1
(**5**) OJ No. L313, 30.11.2001, p.60
(**6**) OJ No. L321, 6.12.2001, p.1
(**7**) OJ No. L37, 7.2.2002, p.4
(**8**) OJ No. L41, 13.2.2002, p.12
(**9**) OJ No. L75, 16.3.2002, p.18
(**10**) OJ No. L80, 23.3.2002, p.42
(**11**) OJ No. L86, 3.4.2002, p.5
(**12**) OJ No. L155, 14.6.2002, p.63
(**13**) OJ No. L203, 12.8.2003, p.1
(**14**) OJ No. L326, 13.12.2003, p.12
(**15**) OJ No. L42, 13.2.2004, p.3
(**16**) OJ No. L74, 12.3.2004, p.11
(**17**) OJ No. L104, 8.4.2004, p.48
(**18**) OJ No. L106, 15.4.2004, p.3
(**19**) OJ No. L106, 15.4.2004, p. 6
(**20**) OJ No. L16, 20.1.2005, p.43
(**21**) OJ No. L25, 28.1.2005, p.3
(**22**) OJ No. L34, 8.2.2005, p.3
(**23**) OJ No. L143, 7.6.2005, p.3
(**24**) OJ No. L293, 9.11.2005, p.11
(**25**) OJ No. L32, 4.2.2006, p 34

(b) Article 2 of Commission Regulation (EC) No. 655/2004 amending Regulation (EC) No. 466/2001 as regards nitrate in foods for infants and young children;

(c) Article 3 of Commission Regulation (EC) No. 683/2004 amending Regulation (EC) No. 466/2001 as regards aflatoxins and ochratoxin A in foods for infants and young children;

(d) Article 2 of Commission Regulation (EC) No. 123/2005 amending Regulation (EC) No. 466/2001 as regards ochratoxin A;

(e) Article 2 of Commission Regulation (EC) No. 208/2005 amending Regulation (EC) No. 466/2001 as regards polycyclic aromatic hydrocarbons;

(f) Article 2 of Commission Regulation (EC) No. 856/2005 amending Regulation (EC) No. 466/2001 as regards *Fusarium* toxins;

(g) Article 2 of Commission Regulation (EC) No. 199/2006 amending Regulation (EC) No. 466/2001 setting maximum levels for certain contaminants in foodstuffs as regards dioxins and dioxin-like PCBs.

Enforcement

4. It shall be the duty of each district council to execute and enforce these Regulations within its district.

Application of various Articles of the Food Safety (Northern Ireland) Order 1991

5.—(1) The following provisions of the Order shall apply for the purposes of these Regulations with the modification that any reference in those provisions to the Order or Part thereof shall be construed as a reference to these Regulations —

(a) Article 4 (presumptions that food intended for human consumption);

(b) Article 19 (offences due to fault of another person);

(c) Article 20 (defence of due diligence), as it applies for the purpose of Article 13 or 14; ;

(d) Article 30(8) (which relates to documentary evidence);

(e) Article 34(1) (obstruction etc. of officers);

(f) Article 34(2), with the modification that the reference to "any such requirement as is mentioned in paragraph (1)(b)" shall be deemed to be a reference to any such requirement as is mentioned in Article 34(1)(b) as applied by sub–paragraph (e);

(g) Article 36(1) (punishment of offences), in so far as it relates to offences under Article 34(1) as applied by sub–paragraph (e);

(h) Article 36(2) and (3), in so far as it relates to offences under Article 34(2) as applied by sub–paragraph (f);

(2) Subject to paragraph (3), Article 8 of the Order (inspection and seizure of suspected food) shall apply for the purposes of these Regulations as if it read as follows —

"**8.**—(1) An authorised officer may at all reasonable times inspect any food intended for human consumption which has been placed on the market; and paragraphs (2) to (7) shall apply where, on such an inspection, it appears to the authorised officer that the placing on the market of any food contravenes regulation 3(1)(a) of the Contaminants in Food Regulations (Northern Ireland) 2006 (hereafter referred to as "the Regulations").

(2) The authorised officer may either —

(a) give notice to the person in charge of the food that, until the notice is withdrawn, the food or any specified portion of it —