

## **S.I. No. 93/2011 — European Communities (Food Additives other than Colours and Sweeteners) (Amendment) Regulations 2011.**

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 4th March, 2011.*

I, MARY COUGHLAN, Minister for Health and Children, 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 European Parliament and Council Directive 95/2/EC of 20 February 1995<sup>1</sup>, as amended by Directive 2006/52/EC of the European Parliament and of the Council of 5 July 2006<sup>2</sup> and Commission Directive 2010/69/EU of 22 October 2010<sup>3</sup>, hereby make the following regulations—

1. (1) These Regulations may be cited as the European Communities (Food Additives other than Colours and Sweeteners) (Amendment) Regulations 2011.

(2) The Principal Regulations, the Regulations of 2005 the Regulations of 2008 and these Regulations may be cited together as the European Communities (Food Additives other than Colours and Sweeteners) Regulations 2004 to 2011.

2. In these Regulations—

“Principal Regulations” means the European Communities (Food Additives other than Colours and Sweeteners) Regulations 2004 ( S.I. No. 58 of 2004 );

“Regulations of 2005” means the European Communities (Food Additives other than Colours and Sweeteners) (Amendment) Regulations 2005 ( S.I. No. 369 of 2005 ) and

“Regulations of 2008” means the European Communities (Food Additives other than Colours and Sweeteners) (Amendment) Regulations 2008 ( S.I. No. 40 of 2008 ).

3. The Principal Regulations are amended-

(a) in Regulation 2(1), by substituting for the definition of “Annexes” the following—

“‘Annexes’ means the Annexes to European Parliament and Council Directive 95/2/EC<sup>1</sup> of 20 February 1995 on food additives other than colours and sweeteners as amended by Directive 96/85/EC<sup>2</sup> of the European Parliament and of the Council of 19 December 1996, Directive 98/72/EC<sup>3</sup> of the European Parliament and of the Council of 15 October 1998, Directive 2001/5/EC<sup>4</sup> of the European Parliament and of the Council of 12 February 2001, Directive 2003/52/EC<sup>5</sup> of the European Parliament and of the Council of 18 June 2003, Directive 2003/114/EC<sup>5a</sup> of the European Parliament and of the Council of 22 December 2003, Directive 2006/52/EC<sup>5b</sup> of the European Parliament and of the Council of 5 July 2006 and Commission Directive 2010/69/EU<sup>5c</sup> of 22 October 2010;”,

and by substituting for footnote 5b thereto the following:

“<sup>5b</sup> OJ L 204, 26.7.2006, p. 10, as affected by Corrigendum to Directive 2006/52/EC, OJ L 78, 17.03.2007, p. 32.”

and by adding the following footnote thereto:

“<sup>5c</sup> OJ L 279, 23.10.2010, p. 22.”,

(b) in Regulation 2(1), by substituting for the definition of “Directive” the following—

“‘Directive’ means European Parliament and Council Directive 95/2/EC<sup>1</sup> of 20 February 1995 on food additives other than colours and sweeteners as amended by Directive 96/85/EC<sup>2</sup> of the European Parliament and of the Council of 19 December 1996, Directive 98/72/EC<sup>3</sup> of the European Parliament and of the Council of 15 October 1998, Directive 2001/5/EC<sup>4</sup> of the European Parliament and of the Council of 12 February 2001, Directive 2003/52/EC<sup>5</sup> of the European Parliament and of the Council of 18 June 2003, Directive 2003/114/EC<sup>5a</sup> of the European Parliament and of the Council of 22 December 2003, Directive 2006/52/EC<sup>5b</sup> of the European Parliament and of

the Council of 5 July 2006 and Commission Directive 2010/69/EU<sup>5c</sup> of 22 October 2010.”,

(c) in Regulation 18, by substituting for paragraph (2) the following—

“A person who is guilty of an offence under these Regulations is liable:

(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

(b) on conviction on indictment, to a fine not exceeding €500,000, or imprisonment for a term not exceeding 3 years, or both.”,

(d) in Regulation 18, by inserting after paragraph (2) the following—

“(3) 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.

(4) An order for costs and expenses under paragraph (3) is in addition to, and not instead of, any fine or penalty the court may impose under paragraph (2).”,

(e) by substituting for Regulation 19 the following—

“Notwithstanding section 57 of the Act of 1998, a summary offence under these Regulations may be prosecuted by:

(a) the Authority, or

(b) an official agency.”



GIVEN under my Official Seal,

23 February 2011.

MARY COUGHLAN,

Minister for Health and Children.

#### 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 European Parliament and Council Directive 95/2/EC of 20 February 1995, as amended by Directive 2006/52/EC of the European Parliament and of the Council of 5 July 2006 and Commission Directive 2010/69/EU of 22 October 2010.

These Regulations amend the European Communities (Food Additives other than Colours and Sweeteners) Regulations 2004 ( S.I. No. 58 of 2004 ) in the manner specified in these Regulations

These Regulations may be cited as the European Communities (Food Additives other than Colours and Sweeteners) (Amendment) Regulations 2011.

1 OJ L 61, 18.3.1995, p. 1.

2 OJ L 204, 26.7.2006, p. 10, as affected by Corrigendum to Directive 2006/52/EC, OJ L 78, 17.03.2007, p. 32.

3 OJ L 279, 23.10.2010, p. 22.

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