

S.I. No. 522/2010 — European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) Regulations 2010.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 9th November, 2010.*

I, MARY HARNEY, 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 94/35/EC of 30 June 1994¹ and for the purpose of giving effect to Commission Directive 2009/163/EU of 22 December 2009², hereby make the following regulations—

1. (1) These Regulations may be cited as the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) Regulations 2010.

(2) The Principal Regulations, the Regulations of 2001, the Regulations of 2002, the Regulations of 2005, the Regulations of 2007, the Regulations of 2008, the Regulations of 2009 and these Regulations may be cited together as the European Communities (Additives, Colours and Sweeteners in Foodstuffs) Regulations 2000 to 2010.

2. In these Regulations—

“Principal Regulations” means the European Communities (Additives, Colours and Sweeteners in Foodstuffs) Regulations 2000 (S.I. No. 437 of 2000);

“Regulations of 2001” means the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) Regulations 2001 (S.I. No. 342 of 2001);

“Regulations of 2002” means the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) Regulations 2002 (S.I. No. 344 of 2002) and the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment No. 3) Regulations 2002 (S.I. No. 380 of 2002);

“Regulations of 2005” means the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) Regulations 2005 (S.I. No. 61 of 2005), the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) (No. 2) Regulations 2005 (S.I. No. 192 of 2005) and the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) (No. 3) Regulations 2005 (S.I. No. 193 of 2005);

“Regulations of 2007” means the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) Regulations 2007 (S.I. No. 171 of 2007);

“Regulations of 2008” means the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) Regulations 2008 (S.I. No. 34 of 2008), the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) (No. 2) Regulations 2008 (S.I. No. 59 of 2008) and the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) (No. 3) Regulations 2008 (S.I. No. 369 of 2008) and

“Regulations of 2009” means the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) Regulations 2009 (S.I. No. 126 of 2009).

3. The Principal Regulations are amended—

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

“European Parliament and Council Directive 94/35/EC3 of 30 June 1994 (as amended by Directive 96/83/EC4 of the European Parliament and of the Council of 19 December 1996, Directive 2003/115/EC4A of the European Parliament and of the Council of 22 December 2003, Directive 2006/52/EC4B of the European Parliament and of the Council of 5 July 2006 and Commission Directive 2009/163/EU4C of 22 December 2009)”

for

“European Parliament and Council Directive 94/35/EC3 of 30 June 1994 (as amended by Directive 96/83/EC4 of the European Parliament and of the Council of 19 December 1996, and Directive 2003/115/EC4A of the European Parliament and of the Council of 22 December 2003

and Directive 2006/52/EC4B of the European Parliament and of the Council of 5 July 2006)”

and by the addition of the following footnote to the definition of “the Directives”:

“4 COJ L 344, 23.12.2009, p. 37,”

(b) in Regulation 2(1), by substituting for the definition of “Directive 94/35/EC” the following—

“‘Directive 94/35/EC’ means European Parliament and Council Directive 94/35/EC3 of 30 June 1994 on sweeteners for use in foodstuffs (as amended by Directive 96/83/EC4 of the European Parliament and of the Council of 19 December 1996, Directive 2003/115/EC4A of the European Parliament and of the Council of 22 December 2003, Directive 2006/52/EC4B of the European Parliament and of the Council of 5 July 2006 and Commission Directive 2009/163/EU4C of 22 December 2009),”

(c) in Regulation 2(1), by inserting after the definition of “functional area” the following definitions—

“‘official agency’ means an official agency carrying out functions under a service contract and acting on behalf of the Authority pursuant to section 48 of the Act of 1998,

“‘service contract’ means a contract entered into between the Authority and an official agency pursuant to section 48 of the Act of 1998’,

(d) in Regulation 31, by substituting for paragraph (4) the following—

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

(a) on summary conviction to a fine not exceeding €5,000 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”,

(e) in Regulation 31 by inserting after paragraph (4) the following—

“(5) 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.

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

(f) by substituting for Regulation 33 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,

4 November 2010.

MARY HARNEY,

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 effect to Commission Directive 2009/163/EU of 22 December 2009 insofar as it amends Directive 94/35/EC on sweeteners for use in foodstuffs with regard to neotame.

These Regulations contain enforcement provisions to give further effect to European Parliament and Council Directive 94/35/EC of 30 June 1994 on sweeteners for use in foodstuffs and amend the European Communities (Additives, Colours and Sweeteners in Foodstuffs) Regulations 2000 (S.I. No. 437 of 2000) in the manner specified in these Regulations.

These Regulations may be cited as the European Communities (Additives, Colours and Sweeteners in Foodstuffs) (Amendment) Regulations 2010.

1 OJ L 237, 10.09.1994, p.3

2 OJ L 344, 23.12.2009, p.37

© Government of Ireland. Oireachtas Copyright Material is reproduced with the permission of the House of the Oireachtas