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S.I. No. 400/2001 — European Communities (Certain Contaminants in Foodstuffs) Regulations, 2001

Statutory Instruments

S.I. No. 400 of 2001

European Communities (Certain Contaminants In Foodstuffs) Regulations, 2001

Dublin

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S.I. No. 400 of 2001

European Communities (Certain Contaminants In Foodstuffs) Regulations, 2001

I, Micháel Martin, 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) having regard to Council Regulation (EEC) No. 315/93 of 8 February 1993[1] , and for the purposes of giving effect to Commission Regulation (EC) No. 194/97 of 31 January 1997[2] and Corrigendum of 29 May 1997[3] , and Commission Regulation (EC) No. 1525/98 of 16 July 1998[4] , and Commission Regulation (EC) No. 864/1999 of 26 April 1999[5] , and Commission Regulation (EC) No. 1566/1999 of 16 July 1999[6] , and Commission Regulation (EC) No. 466/2001 of 8 March 2001[7] hereby make the following Regulations :-

PART I

Preliminary

1. These Regulations may be cited as the European Communities (Certain Contaminants in Foodstuffs) Regulations, 2001.

2. (1) In these Regulations -

"Act of 1998" means the Food Safety Authority of Ireland Act, 1998 (No. 29 of 1998) ;

"the Annexes" means :-

(a) before 5 April 2002 :

the Annex to Commission Regulation 194/97 (and Corrigendum of 29 May 1997), as amended by Commission Regulation 1525/98, and Commission Regulation 864/1999, and Commission Regulation (EC) No. 1566/1999;

(b) on or after 5 April 2002 :

Annex I of Commission Regulation (EC) No. 466/2001 of 8 March 2001;

"approved examiner" has the meaning assigned to it by the European Communities (Official Control of Foodstuffs) Regulations 1998 (S.I. No. 85 of 1998) and, for the purposes of these Regulations, includes the State Chemist in the State Laboratory;

"authorised officer" means -

(a) an authorised officer appointed under Section 49 of the Act of 1998;

(b) in relation to the functional area of a health board, a person or a person belonging to a class of persons, authorised by the chief executive officer of the health board concerned to perform the functions of an authorised officer under these Regulations, or

(c) in relation to the functional area of the Eastern Regional Health Authority, a person or a person belonging to a class of persons, authorised by the Regional Chief Executive of the Eastern Regional Health Authority to perform the functions of an authorised officer under these Regulations, or

(d) a person designated by the Minister for Agriculture, Food and Rural Development who is authorised in writing by the Minister for Agriculture, Food and Rural Development to be an authorised officer for the purposes of these Regulations;

"Certificate of an approved examiner" means a certificate given by an approved examiner of any test, examination or analysis made under these Regulations;

"contaminant" means any substance not intentionally added to food which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport, holding and/or storage of such foodstuffs, or as a result of environmental contamination. (This definition does not cover extraneous matter such as insect fragments, animal hair, etc.);

"the Council and Commission Regulations" means Council Regulation (EEC) No. 315/93 of 8 February 1993 laying down Community procedures for contaminants in foodstuffs, and Commission Regulation (EC) No. 194/97 of 31 January 1997 setting maximum levels for certain contaminants in foodstuffs together with the Corrigendum to Commission Regulation (EC) No. 194/97, as amended by Commission Regulation (EC) No. 1525/98 of 16 July 1998 and Commission Regulation (EC) No. 864/1999 of 26 April 1999 and Commission Regulation (EC) No. 1566/1999 of 16 July 1999 and, with effect from 5 April 2002, Commission Regulation (EC) No. 466/2001 of 8 March 2001;

"EEA Agreement" means the Agreement on the European Economic Area signed in Oporto on 2 May 1992 as adjusted by the Protocol to that Agreement done at Brussels on 17 March 1993[8] ;

"Food Safety Authority" means the Food Safety Authority of Ireland established under section 9 of the Food Safety Authority of Ireland Act, 1998 (No. 29 of 1998);

"Foodstuff" means any substance used for food or drink by man, and

(a) any substance which enters into or is used in the composition or preparation of human food,

(b) any substance which enters into or is used in the composition or preparation of any such substance aforesaid, and

(c) chewing gum and products of a similar composition and use

and references to foodstuff include, as the context may require, references to a particular food, particular foods or a class or classes of food;

"functional area" means :-

(a) in relation to a health board the functional area of the health board as specified in the Health Board Regulations, 1970 (S.I. No. 170 of 1970);

(b) in relation to the Eastern Regional Health Authority, means its functional area as specified in section 7(4) of the Health (Eastern Regional Health Authority) Act, 1999 (No. 13 of 1999) ;

(c) in relation to the Department of Agriculture, Food and Rural Development, means its functional area in all of the territory of the State;

"functions" includes powers and duties and references to the performance of functions include references to the exercise of powers and the performance of duties;

"import" means importation from a country other than a Member State;

"Member State" means a Member State of the European Community and shall be construed as including reference to those States which are Contracting Parties to the EEA Agreement;

"Minister" means the Minister for Health and Children;

"Official Control of Foodstuffs" hereinafter called "control of foodstuffs" means an inspection by an authorised officer of the compliance of :-

- foodstuffs,

- food additives, vitamins, mineral salts, trace elements and other additives intended to be sold as such, or

- materials and articles intended to come into contact with food,

with provisions aimed at preventing risks to public health, guaranteeing fair commercial transactions or protecting consumer interests, including provisions on consumer information;

"Official laboratory" means

(a) a laboratory approved in writing by the Minister to analyse any samples of a controlled item taken by an authorised officer for the purposes of these Regulations, or

(b) a laboratory approved in writing by the Chief Executive Officer of a health board with the consent of the Minister to analyse any samples of a controlled item taken by an authorised officer for the purposes of these Regulations, or

(c) a laboratory approved in writing by the Regional Chief Executive of the Eastern Regional Health Authority with the consent of the Minister to analyse any samples of a controlled item taken by an authorised officer for the purposes of these Regulations, or

(d) the State Laboratory;

"place on the market" means -

(a) import,

(b) sell,

(c) offer or expose for sale,

(d) invite the making by a person of an offer to purchase,

(e) distribute free of charge, or

(f) supply for any of those purposes,

and cognate words shall be construed accordingly;

"Public Analyst" means an analyst appointed by a health board and/or the Eastern Regional Health Authority to carry out the duties of a public analyst for the area of the board and/or Authority or an analyst designated by a health board and/or Authority to be a public analyst for its area.

"State Chemist" means the head of the State Laboratory or a person authorised by him or her in writing to perform the functions performed by the State Chemist in these Regulations;

(2) A word or expression that is used in these Regulations and which is also used in the Council and Commission Regulations has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Council and Commission Regulations;

(3) (a) A reference in these Regulations to a Regulation is to a Regulation of these Regulations, unless it is indicated that reference to some other Regulation is intended;

(b) A reference in these Regulations to a paragraph or subparagraph is to the paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

PART II

General Provisions

3. A person shall not place on the market foodstuffs unless they comply with the provisions laid down in these Regulations and in the Council and Commission Regulations.

4. (1) A person shall not manufacture, produce, process, prepare, import, distribute, market, sell or offer for sale any of the products indicated in the Annexes which contains contaminants at a level higher than that specified therein;

(2) A person shall not place on the market foodstuffs containing a contaminant in an amount which is unacceptable from the public health viewpoint and, in particular, at a toxicological level;

(3) The maximum limits applicable to the products, as laid down in the

Annexes shall also be applicable to processed products thereof in so far as no specific maximum limits are fixed for such processed products;

(4) Contaminant levels shall be kept as low as can reasonably be achieved by following good practices at all the stages referred to in paragraph (1).

(5) With effect from 5 April 2002 the maximum levels specified in Annex I of Commission Regulation (EC) No. 466/2001 shall apply to the edible part of the foodstuffs mentioned.

5. Without prejudice to Regulation 4(4), and for the purposes of these Regulations, Regulations 3 and 4 shall not apply in the case of fresh spinach (Spinacia oleracea L) and fresh lettuce (Lactuca sativa L) grown in Ireland in accordance with the Irish Code of Good Agricultural Practice for Production of Protected Lettuce and Spinach with Respect to Nitrate Content, and intended for sale in Ireland, for as long as the derogation provided for in the Council and Commission Regulations continues in operation.

6. (1) With regard to the products mentioned in point 1.2.1 of the Annex of Commission Regulation (EC) No. 194/97, and subject to the provisions of these Regulations it is prohibited :-

(a) to mix products complying with the maximum limits laid down in the Annexes with products exceeding the specified maximum limits, or to mix products to be subjected to a sorting technique or physical treatment with products intended for direct human consumption or as an ingredient in foodstuffs;

(c) comply with the maximum admissible levels laid down, before 5 April 2002 in point 1.2.1.1.3. of the Annex, and on or after that date in point 2.1.1.3. of the Annex, for nuts and dried fruit, and/or

(d) are subjected to a secondary treatment involving sorting or other physical treatments and that after this treatment the maximum levels laid down, before 5 April 2002 in points 1.2.1.1.1. and 1.2.1.2.1. of the Annex and after that date in points 2.1.1.1. and 2.1.2.1. of the Annex, are not exceeded, and this treatment does not result in other harmful residues;

(2) the destination of these products is demonstrated by labelling, which must be conspicuous, clearly legible and indelible, and comprising the indication “product must be subjected to sorting or other physical treatment to reduce aflatoxin contamination before human consumption or use as an ingredient in foodstuffs”.

(3) With effect from 5 April 2002, the maximum limits of aflatoxins applicable to the products, as provided for in Article 4(1) of Commission Regulation (EC) No. 466/2001 shall also be applicable to processed products thereof in so far as no specific maximum limits are fixed for such processed products.

9. With effect from 5 April 2002, in the case of products, other than those mentioned under Article 4(1) of Commission Regulation (EC) No. 466/2001, which are dried, diluted, processed or composed of more than one ingredient,

insofar as no specific maximum levels are fixed for such products, the maximum level applicable shall be that laid down in Annex I of that Regulation, taking into account respectively:

(1) changes of the concentration of the contaminant caused by drying or dilution processes,

(2) changes of the concentration of the contaminant caused by processing,

(3) the relative proportions of the ingredients in the product, and

(4) the analytical limit of quantification.

10. With effect from 5 April 2002, the maximum levels specified in Annex I of Commission Regulation (EC) No. 466/2001 shall apply also to food intended for infants and young children covered by Directive 91/321/EEC and Directive 96/5/EC, taking into account respectively, the changes of the concentration of the contaminant caused by drying, dilution or processing and the relative concentrations of the ingredients in the product.

11. With effect from 5 April 2002, and without prejudice to Articles 3(1) and 4(3) of Commission Regulation (EC) No. 466/2001, it is prohibited to use products as food ingredients for the production of compound foodstuffs which do not comply with the maximum levels set in Annex I of that Regulation.

12. For the purposes of these Regulations the sampling method applied shall be in accordance with the methods described in the Annexes.

13. For the purposes of these Regulations the analysis method applied shall comply with the criteria described in the Annexes.

14. (1) With effect from 5 April 2002, Commission Regulation (EC) No. 194/97, as amended, is repealed.

(2) With effect from 5 April 2002, references to the repealed Regulation shall be construed as references to Commission Regulation (EC) No. 466/2001, and shall be read in accordance with the correlation table in Annex II of Commission Regulation (EC) No. 466/2001.

15. Sections 3 and 4 of Annex I of Commission Regulation (EC) No. 466/2001 shall not apply to products which have been lawfully placed on the Community market before 5 April 2002.

16. The Minister for Health and Children, after consultation with the Food Safety Authority of Ireland, may, by order, temporarily suspend or restrict the application of these Regulations where, as a result of new information or of a reassessment of existing information, there is reason to suspect that a contaminant in food, although complying with these Regulations, constitutes a health risk.

PART III

Enforcement

17. Control of foodstuffs shall be carried out in accordance with the provisions of these Regulations.

18. These Regulations shall be enforced by the Food Safety Authority of Ireland.

19. These Regulations shall be deemed to be food legislation for the purposes of the Act of 1998 and the enforcement provisions contained in that Act shall accordingly apply for the purpose of ensuring compliance with these Regulations.

20. (1) Without prejudice to Regulation 19, the powers contained in the European Communities (Official Control of Foodstuffs) Regulations, 1998 (S.I. No. 85 of 1998), as amended, may be exercised for the purpose of ensuring compliance with these Regulations;

(2) An official certificate given in accordance with sub-article (1) of Article 14 of the said Regulations of 1998, as amended, may be adduced in evidence in a prosecution under these Regulations and shall be *prima facie* evidence of the matters contained therein, until the contrary is proved;

(3) An official certificate given by the State Laboratory may be adduced in evidence in a prosecution under these Regulations and shall be *prima facie* evidence of the matters contained therein, until the contrary is proved.

21. (1) Without prejudice to Regulations 18, 19 and 20, before the European Communities (Certain Contaminants in Foodstuffs) Regulations, 2001 are added to Schedule 1 of the service contract entered into by a health board and the Food Safety Authority under the Act of 1998, the powers contained in Regulations 22 to 26 may be exercised by an authorised officer of a health board for the purpose of ensuring compliance with these Regulations.

(2) Without prejudice to Regulations 18, 19 and 20, before the European Communities (Certain Contaminants in Foodstuffs) Regulations, 2001 are added to Schedule 1 of the service contract entered into by the Eastern Regional Health Authority and the Food Safety Authority under the Act of 1998, the powers contained in Regulations 22 to 26 may be exercised by an authorised officer of a health board for the purpose of ensuring compliance with these Regulations.

(3) Without prejudice to Regulations 18, 19 and 20, before the European Communities (Certain Contaminants in Foodstuffs) Regulations, 2001 are added to Schedule 1 of the service contract entered into by the Department of Agriculture, Food and Rural Development, and the Food Safety Authority under the Act of 1998, the powers contained in Regulations 22 to 26 may be exercised by an authorised officer designated by the Minister for Agriculture, Food and Rural Development for the purpose of ensuring compliance with these Regulations.

22. (1) The chief executive officer of a health board and the Regional Chief Executive of the Eastern Regional Health Authority may appoint in writing such and so many officers of the health board as he or she thinks fit to be

authorised officers for the purposes of ensuring compliance with these Regulations in the functional area of the health board;

(2) The Minister for Agriculture, Food and Rural Development may appoint in writing such and so many persons as he or she thinks fit to be authorised officers for the purposes of ensuring compliance with these Regulations;

(3) An authorised officer shall be furnished with a certificate of his or her appointment as an authorised officer and, when exercising any power conferred on an authorised officer under these Regulations, shall, if requested by any person affected, produce the certificate to that person;

(4) For the purposes of ensuring compliance with these Regulations, after entering into a service contract between the Food Safety Authority and the Department for Agriculture, Food and Rural Development, or a health board, or the Eastern Regional Health Authority, the appointments referred to in paragraphs (1) and (2) shall continue in force.

23. (1) An authorised officer may for the purpose of ensuring that these Regulations are being complied with -

(a) at all reasonable times enter any premises, subject to paragraph (2), at which there are reasonable grounds to believe that any trade, business or activity in connection with the production, processing, disposal, manufacture, exportation, importation, storage, distribution, sale, marketing or labelling for the purposes of marketing of any foodstuffs or foodstuff ingredient to which these Regulations apply is or has been carried on, or that records in relation to such trade, business or activity are kept, and search and inspect the premises and any foodstuff, label or records found in or on the premises;

(b) require any employee of the health board, a former employee of the health board or any person otherwise currently or previously retained by the health board, or any person who carries or has carried on any trade, business or activity to which these Regulations relate or any person currently or previously employed in connection with that trade, business or activity to produce to him or her such records, and in the case of such information in a non-legible form to reproduce it in a permanent legible form, or to give him or her such information, as the officer may reasonably require in relation to any entries in such records;

(c) secure for later inspection any premises or any part thereof in which such product, label or records are kept or with respect to which there are reasonable grounds for believing that such product, label or records are kept there;

(d) require any person in charge thereof or so employed therein, to produce to the officer such records and to give to the officer such information as the officer may reasonably require in relation to any entries in such records;

(e) inspect and take copies of or extracts from any such records

(including in the case of information in a non-legible form a copy of or extract from such information in a permanent legible form);

(f) seize and detain any product which fails to comply with these Regulations which he or she has reason to believe is unfit for human consumption;

(g) remove and retain the said product, labels or records for such period as may be reasonable for further examination or until the conclusion of any legal proceedings;

(h) as regards any product, or any article or substance used in the manufacture or preparation of a product the officer finds at or in a premises, require any person in charge thereof or any person who appears to the officer to be in possession of the product or the article or substance, to supply without payment, for test, examination or analysis sufficient samples thereof;

(i) require any person to afford the officer such facilities and assistance within his or her control or responsibilities as are reasonably necessary to enable the officer to exercise any of the powers conferred on an authorised officer under this Regulation;

(j) require a person referred to in subparagraph (b) to give to the officer any information which the officer may reasonably require in regard to the trade, business or activity or in regard to the persons carrying on such trade, business or activity or employed in connection with that trade, business or activity;

(k) require any person referred to in subparagraph (b) by or on whose behalf data equipment is or has been used in relation to a business within the meaning of subparagraph (a) or any person having charge of, or otherwise concerned with the operation of, the data equipment or any associated apparatus or material, to afford the officer all reasonable assistance in relation to its use in connection with such business;

(l) summon, at any reasonable time, any other person being or having been an employee of the health board or retained or having been retained by the health board or employed in connection with the trade, business or activity under examination by the health board to give to the officer any information which the officer may reasonably require in regard to that trade, business or activity and to produce to the officer any records which are in that person's power or control;

(m) examine any procedure connected with the manufacture of a product referred to in this Regulation, and

(n) exercise such other powers as may be necessary to ensure that these Regulations are being complied with;

(2) An authorised officer shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the

District Court under paragraph (6) authorising such entry;

(3) Where an authorised officer in the exercise of the officer's powers under this Regulation is prevented from entering any premises an application may be made to the District Court under paragraph (6) for a warrant authorising such entry;

(4) An authorised officer where he or she considers it necessary, may be accompanied by a member(s) of the Garda Síochána when performing any powers conferred on an authorised officer under this Regulation;

(5) In this Regulation "premises" means any place, ship or other vessel, aircraft, railway wagon or other vehicle, and includes a container used to transport foodstuffs;

(6) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for suspecting that there is information required by an authorised officer under this Regulation held on or in any premises or any part of any premises or there is a product which an authorised officer requires to inspect for purposes of these Regulations or that such inspection is likely to disclose evidence of a contravention of these Regulations, the judge may issue a warrant authorising an authorised officer, accompanied, if appropriate, by other authorised officers or by a member(s) of the Garda Síochána, at any time or times within one month from the date of issue of the warrant, on production, if so requested, of the warrant, to enter, if need be by reasonable force, the premises and exercise all or any of the powers conferred on an authorised officer under this Regulation;

(7) An application under paragraph (6) shall be made to the judge of the District Court in whose district court district the premises is situated.

24. (1) An authorised officer may destroy or otherwise dispose of any product seized and detained by him or her under paragraph 1(f) of Regulation 23, with the consent of the owner or person responsible for the product or upon the granting of an order under paragraph (3).

(2) An authorised officer who has seized and detained any product under paragraph 1(f) of Regulation 23 may, on giving notice in writing to the owner or person responsible for the product apply to a judge of the District Court in whose district court district the product was seized for an order directing that the product be destroyed or otherwise disposed of as being a foodstuff or a product which is unfit for human consumption.

(3) A judge of the District Court to whom an application is made under paragraph (2) shall, if satisfied that such product does not comply with these Regulations and is unfit for human consumption, order that it be destroyed or otherwise disposed of after such period, not exceeding 14 days, as may be specified in the order, as being a foodstuff which is unfit for human consumption.

25. (1) Where a sample of any product, article or substance is supplied pursuant to sub-paragraph (1)(h) of Regulation 23 and where the division of the sample

is reasonably practicable, the authorised officer concerned may divide the sample into not more than three approximately equal parts each of which he or she shall mark in such a way as to identify it as a part of the sample so supplied;

(2) The authorised officer shall mark, seal and fasten each part referred to in paragraph (1) in such a manner as its nature will permit, forward one part to a laboratory approved under the European Communities (Official Control of Foodstuffs) (Approved Laboratories) Order, 1998 (S.I. No. 95 of 1998), or to the State Laboratory, where it may be tested, examined or analysed for the purposes of these Regulations by an approved examiner, give or send one part to the seller, owner or person in apparent charge or control of the product, article or substance and retain the third part;

(3) Where an authorised officer is supplied with a sample consisting of a product, article or substance which is contained in unopened containers and its division into parts -

(a) is not reasonably practicable, or

(b) might affect the composition or impede the proper analysis of the sample,

the provisions of paragraph (1) as regards the division of samples into parts shall be deemed to be complied with if the authorised officer divides the containers into three lots and deals with each lot as if it were a sample as specified under paragraph (1).

26. (1) The approved examiner or a person under his or her direction shall analyse as soon as possible any sample of a product, article or substance submitted to him or her in pursuance of these Regulations and the approved examiner shall certify to the person who submitted the sample to him or her the result of such analysis;

(2) If the approved examiner finds that any sample analysed by him or her under paragraph (1) is diseased, contaminated or otherwise unfit for human consumption he or she should set out his or her findings in the form of certificate set out in the Schedule to these Regulations or a certificate in like form;

(3) An official certificate given in accordance with paragraph (1) may be given in evidence in a prosecution under these Regulations and shall be *prima facie* evidence of the matters contained therein, until the contrary is shown.

27. Where a sample of a product, article or substance is taken by an authorised officer in pursuance of these Regulations for analysis by the approved examiner, and where the seller, owner or person in apparent charge or control of such item requests in writing the results of such analysis, the request shall be made to the health board or the Eastern Regional Health Authority in whose functional area the sample was taken, or the Minister for Agriculture, Food and Rural Development, or the Food Safety Authority of Ireland, and the health board or the Eastern Regional Health Authority or the Minister for Agriculture, Food and Rural Development or the Food Safety Authority of Ireland shall comply with

such request.

28. (1) A person who fails to comply with these Regulations (other than Regulations 23(2), 24, 25, 26 or 27) is guilty of an offence;

(2) A person who falsely represents himself or herself to be an authorised officer is guilty of an offence;

(3) A person who -

(a) obstructs or interferes with an authorised officer in the exercise of the officer's powers under Regulation 23,

(b) fails to comply with a request from an authorised officer under Regulation 23, or

(c) makes a statement to an authorised officer which the person knows is false or misleading,

is guilty of an offence;

(4) A person guilty of an offence under these Regulations shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding six months, or both.

29. Where an offence under these Regulations is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to be attributable to any neglect on the part of any director, manager, secretary or any other officer of such body or a person who was purporting to act in any such capacity, such person is also guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the same offence.

30. (1) Any person who forges, or utters knowing it to be forged, a certificate or other document purporting to be issued, granted or given under these Regulations (hereafter in this Regulation referred to as “a forged document”), is guilty of an offence;

(2) Any person who alters with intent to defraud or deceive, or who utters knowing it to be so altered, a certificate or other document issued, granted or given under these Regulations (hereafter in this Regulation referred to as “an altered document”), is guilty of an offence;

(3) Any person who, without lawful authority, has in his or her possession a forged document or an altered document is guilty of an offence;

(4) Any person who, with intent to defraud or deceive -

(a) tampers with any thing so as to procure that any sample taken pursuant to these Regulations does not correctly represent the substance sampled, or

(b) tampers or interferes with any sample taken under these Regulations,

is guilty of an offence.

31. (1) A notice or other document under these Regulations shall, subject to paragraph (2), be addressed to the person concerned by name, and may be served on or given to the person in one of the following ways :

(a) by delivering it to the person,

(b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address,

(c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address,

(d) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and the notice, direction or other document relates to land, by delivering it to some person over 16 years of age resident or employed on the land or by affixing it in a conspicuous position on or near the land;

(2) It shall not be lawful for a person at any time during the period of 12 months after a direction or other document is affixed under paragraph (d) of paragraph (1) to remove, damage or deface the notice, direction or other document without lawful authority;

(3) For the purposes of this Regulation, a company within the meaning of the Companies Acts, 1963 to 1999, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

32. An offence under these Regulations may be prosecuted by -

(1) the Food Safety Authority of Ireland, or

(2) a health board within whose functional area the offence was committed, or

(3) the Eastern Regional Health Authority within whose functional area the offence was committed, or

(4) the Minister for Agriculture, Food and Rural Development.

Schedule

Form of official certificate to be given by an approved examiner to an authorised officer.

European Communities (Certain Contaminants in Foodstuffs) Regulations, 2001

Certificate of Analysis

To (1) .....

I, the undersigned (2) .....

being the Approved Examiner for the purpose of Regulations 20 and 21 of the above Regulations certify that on

the ..... day of ..... 20....

a sample marked (3) .....

Date .....

Number .....

Weight or Measure (4) .....

was submitted to me by you and I certify that the sample has been analysed/examined by me or under my direction (5) and as a result I am of the opinion that (6)

Observations: (7)

I further certify that the sample has undergone no change which would affect my opinion/observations expressed above.

Certified by me this.....day of.....20.....

at (8) .....

Name in BLOCK LETTERS ..... Status .....

Signature .....

Official Stamp

NOTES

(1) Insert the name and address of the person who submitted the sample for analysis.

(2) Insert description (i.e. officer of Health Board etc.)

(3) Insert particulars of marking (e.g. name, date etc.)

(4) This may be left unanswered if the sample cannot be conveniently weighed or measured or the weight or measurement is not material to the result of analysis.

(5) State whether the analysis was carried out by an approved examiner or under his direction by deleting appropriate words ("by me" or "under my direction").

(6) Here the approved examiner should specify the result of the analysis having regard to the provision of relevant legislation.

(7) Here the approved examiner may insert, at his discretion, his opinion whether the analysis indicates any addition, abstraction, deficiency or the presence of foreign matter or other defect and whether the composition or quality is thereby affected; any physical, chemical or other properties bearing on the composition or quality of the article; whether the article is injurious to health or unfit for human consumption; whether and in what respect a label and description relating to the sample is incorrect or misleading; and he may add any other observations as he may consider relevant.

(8) Insert the name and address of the laboratory carrying out the analysis/examination.

GIVEN under the Official Seal of the

Minister for Health and Children this

28th day of August, 2001.

Micheál Martin

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 European Commission Regulation 194/97 and Corrigenda, Commission Regulation 1525/98 of 16 July 1998, Commission Regulation 864/1999 of 26 April 1999, Commission Regulation 1566/1999 of 16 July 1999 and, with effect from 5 April 2002, Commission Regulation (EC) No. 466/2001 of 8 March 2001.

The principal effect of these Regulations is to set maximum levels for certain contaminants in foodstuffs.

[1] OJ No. L 37, 13.2.93, p. 1

[2] OJ No L 31, 1.2.97, p. 48

[3] OJ No L 138, 29.5.97, p. 31

[4] OJ No. L 201, 17.7.98, p. 43

[5] OJ No. L 108, 27.4.99, p. 16

[6] OJ No. L 184, 17.7.99, p. 17

[7] OJ No. L 77, 16.3.2001, p. 1

[8] The foodstuffs Directives fall within the scope of the EEA Agreement by virtue of Chapter XII of ANNEX II to that Agreement.