

Food Adulteration (Metallic Contamination) (Amendment) Regulation 2018

14 February 2019

Background

- **The Amendment Regulation**
 - **Publication in the Gazette – 8 Jun 2018**
 - **Tabling at the Legislative Council (LegCo) for negative vetting – 13 Jun 2018**
 - **Completion of scrutiny of the Amendment Regulation – 10 Oct 2018**
 - **Date of commencement – 1 Nov 2019**



Existing Regulations

- Regulation 3(1) of the Regulations prohibits the import, consignment, delivery, manufacture or sale, for human consumption, of any food containing any metal in greater concentration than as prescribed in the First or Second Schedule to the Regulations, or in such amount as to be dangerous or prejudicial to health; and
- The First and Second Schedules to the Regulations stipulate 19 maximum permitted concentrations (MPCs) of seven metallic contaminants, namely arsenic, antimony, cadmium, chromium, lead, mercury and tin, in food.



Principles for amending the Regulations

- 1) to replace the existing food categories of “all food in solid form” and “all food in liquid form” with specific MLs targeting individual food / food groups, with a view to aligning with the Codex principle and modern international regulatory trends of specifying metallic contamination standards for individual food / food groups of significant dietary exposure;
- 2) to adopt Codex MLs unless otherwise justified;
- 3) to establish MLs for food / food groups which are of significance to the population in Hong Kong and for which there are no relevant Codex MLs;
- 4) to update the food descriptions and nomenclatures in the Regulations, with reference to the available Codex’s food descriptions and nomenclatures or those of other economies as appropriate; and
- 5) to incorporate interpretation of MLs into the Regulations, given that there is currently no interpretation in the Regulations on how the MPCs can be applied to food in a dried, dehydrated or concentrated form; as well as multi-ingredient products (i.e. compounded food).



Overview of the Amendment Regulation

- **Total number of metallic contaminants increase from the existing 7 to 14**
 - **Additional metals: barium, boron, copper, manganese, nickel, selenium and uranium**
- **Total number of MLs increase from the existing 19 to 144**
 - **Of these 144 MLs, 84 made reference to Codex standards**



The Amendment Regulation



Commencement

- Comes into operation on 1 November 2019
 - For transitional period arrangement, see Regulation 7



Interpretation

- **Amended definition**
 - **Metal includes antimony, arsenic, boron and selenium**
- **New definition**
 - **Maximum level**
- **Definitions of some other terms can be found in other regulations and Part 1 of the Schedule**



Other definitions

- **Regulation 3**

- **compounded food**
- **ingredient**
- **specified food**
- **specified metal**

- **Part 1 of Schedule**

- **aquatic animals**
- **follow-up formula**
- **infant formula**
- **milk**
- **secondary milk products**



Regulation 3 substituted (1)

- (1) A person must not import, consign, deliver, manufacture or sell for human consumption any specified food or compounded food which contains a specified metal in excess of the ML.

The ML of each specified metal in each specified food is specified in Part 2 of the Schedule.



Extract of Part 2 of the Schedule

| Part 2 | | | |
|--------------------------------|---------------------------|-----------------------|----------|
| Maximum Level of Metal in Food | | | |
| Column 1 | Column 2 | Column 3 | Column 4 |
| Metal | Food | Maximum Level (mg/kg) | Note |
| 1. Antimony | Vegetables | 1 | |
| | Cereals | 1 | |
| | Meat of animal | 1 | Note 1 |
| | Meat of poultry | 1 | Note 1 |
| | Fish | 1 | Note 2 |
| | Crabs, prawns and shrimps | 1 | Note 3 |



Part 2 of the Schedule

● Part 2 - Maximum Level of Metal in Food

- 1) Antimony
- 2) Arsenic (expressed as total arsenic)
- 3) Arsenic (expressed as inorganic arsenic)
- 4) Barium
- 5) Boron
- 6) Cadmium
- 7) Chromium
- 8) Copper
- 9) Lead
- 10) Manganese
- 11) Mercury (expressed as methyl-mercury)
- 12) Mercury (expressed as total mercury)
- 13) Mercury (expressed as inorganic mercury)
- 14) Nickel
- 15) Selenium
- 16) Tin
- 17) Uranium



Part 2 of the Schedule

- Note 1: Applies to edible portion after removal of bones (if any) and to fat from the meat.
- Note 2: Applies to edible portion after removal of the digestive tract.
- Note 3: Crabs—applies to whole commodity (including the gonads, liver and other digestive organs) after removal of shell and gills.
- Note 4: Cephalopods—applies to edible portion after removal of shell and viscera.
- Note 5: Scallops—applies to edible portion after removal of shell and viscera.
- Note 6: Sea cucumbers—applies to whole commodity after removal of viscera.
- Note 7: Applies to edible portion after removal of shell (if any) and viscera.
- Note 8: Applies to fruit juices (not concentrated) or products reconstituted to the original juice concentration that are ready to drink. Also applies to nectars that are ready to drink.
- Note 9: Applies to fruits or vegetables (as the case may be).
- Note 10: Applies to products that are, or are reconstituted to be, ready to drink.
- Note 11: Applies to beverages that are, or are reconstituted to be, ready to drink.”.



Regulation 3 substituted (2)

(2)(b) the maximum level of a specified metal in a specified food that has gone through a process of drying, dehydration or concentration is to be proportionally adjusted according to the change in the concentration of the metal in the food caused by the process.

- For example, dried vegetables, dried seafood, concentration fruit juice, etc.
- Not applicable to MLs that are already established for specified foods in a dried, dehydrated or concentrated form, e.g. rice, wheat, wheat flour, maize, maize flour, pulses, “tea, green black”, coffee beans, etc.



Regulation 3 substituted (3)

- (3) For paragraph (1), the maximum level of a specified metal in each specified food applies to –
- (a) the edible portion of the food; or
 - (b) if applicable, the portion of the food specified in, or the food in the form specified in, a note referred to column 4 of part 2 of the Schedule in relation to the food.
- See Notes 1-11 under Part 2 of the Schedule.
 - Example 1: Scallops – applies to edible portion after removal of shell and viscera;
 - Example 2: Applies to products that are, or are reconstituted to be, ready to drink.



Regulation 3 substituted (4)

- (4) For paragraph (1), if all ingredients of a compounded food are specified food, the maximum level of a specified metal in the compounded food is the sum of the maximum level of the specified metal in each ingredient multiplied by the proportion, by weight, of the ingredient in the compounded food.
- Similar to Cap. 132BD and Cap. 132CM
 - Except that ingredient of a compounded food excludes food additive
 - e.g. A product containing dried apricot and sulphites only should comply with the ML for lead in fruits, with the application of dehydration factor as appropriate



Regulation 3AA added

- Similar to existing Regulation 3
- For food / food groups without relevant MLs under the Amendment Regulation, CFS will continue to conduct risk assessment to assess whether the food contains the metal concerned in an amount that is dangerous or prejudicial to health, thereby contravening regulation 3AA of the Amendment Regulation



Regulation 7 added (1)

- During the period between 1 Nov 2019 and 31 Oct 2020 (both dates inclusive), a person who does an act in relation to any food (other than any food specified below) that contains a metal at any level is taken not to have contravened regulation 3 if doing the act immediately before 1 Nov 2019 would not have contravened these Regulations as in force immediately before 1 Nov 2019.
- The specified food are fruit and vegetable and their juice, meat and edible offal and animal and poultry, aquatic animal and poultry egg which—
 - (a) has not been subjected to a process of preservation; or
 - (b) has been preserved by chilling but not freezing.



Regulation 7 added (2)

- Those types of food have shorter durability and shelf life and can be identified easily
- Made reference to Cap. 132X and Cap. 132AK for the interpretation of “fresh”
 - Discussed in previous trade meetings; easier for the trade to understand
- Other food items
 - Normally have a longer shelf / storage life
- All food must comply with the Amendment Regulation starting from 1 Nov 2020



~ End ~

