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**COMMISSION REGULATION (EU) .../...**

**of **XXX****

**amending Regulation (EC) No 1881/2006 as regards maximum levels of ochratoxin A in  
certain foodstuffs**

(Text with EEA relevance)

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## amending Regulation (EC) No 1881/2006 as regards maximum levels of ochratoxin A in certain foodstuffs

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food<sup>1</sup>, and in particular Article 2(3) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1881/2006<sup>2</sup> sets maximum levels for certain contaminants, including ochratoxin A, in foodstuffs.
- (2) Ochratoxin A is a mycotoxin naturally produced by fungi of the genus *Aspergillus* and *Penicillium* and is found as a contaminant in a wide variety of foods, such as cereals and cereal products, coffee beans, dried fruits, wine and grape juice, spices and liquorice. Ochratoxin A is formed during sun drying and storage of crops. The formation can be prevented by applying good drying and storage practices.
- (3) In 2020, the European Food Safety Authority ('the Authority') adopted an update of the scientific opinion on ochratoxin A in food<sup>3</sup>. The Authority considered that it was not appropriate to establish a health based guidance value for ochratoxin A and that the Tolerable Weekly Intake of 120 ng/kg body weight (bw) as established by the Authority in 2006 is consequently no longer valid. It further concluded that the calculated margins of exposure for carcinogenic effects of ochratoxin A indicate a possible health concern for certain consumer groups.
- (4) Maximum levels for ochratoxin A have already been established for certain foods by Regulation (EC) No 1881/2006. Taking into account that ochratoxin A has been found in foods for which no maximum level has been established yet and which contribute to the human exposure to ochratoxin A, it is appropriate to set a maximum level also for these foods such as dried fruit other than dried vine fruit, certain liquorice products, dried herbs, certain ingredients for herbal infusions, certain oilseeds, pistachio nuts and cocoa powder. Even if the relationship between the level of ochratoxin A in malt and in non-alcoholic malt beverages, and in dried dates and date syrup needs to be further clarified, it is also appropriate to set already a maximum level in non-alcoholic malt beverages and date syrup. Also taking into account the available occurrence data,

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<sup>1</sup> OJ L 37, 13.2.1993, p. 1.

<sup>2</sup> Commission Regulation (EC) No 1881/2006 of 19 December 2006 setting maximum levels for certain contaminants in foodstuffs (OJ L 364, 20.12.2006, p. 5).

<sup>3</sup> Scientific Opinion on the risk assessment of ochratoxin A in food. EFSA Journal 2020; 18(5):6113, 150 pp. <https://doi.org/10.2903/j.efsa.2020.6113>.

it is appropriate to lower the existing maximum levels of ochratoxin A in certain foods, such as bakery products, dried vine fruit, roasted coffee and soluble coffee. In addition, the existing provisions for ochratoxin A in certain spices has been broadened to all spices. For cheese and ham, additional monitoring on the presence of ochratoxin A is appropriate before establishing maximum levels.

- (5) Regulation (EC) No 1881/2006 should therefore be amended accordingly.
- (6) To enable economic operators to prepare for the new rules introduced by this Regulation, it is appropriate to provide for a reasonable time until the new maximum levels apply. It is also appropriate to provide for a transitional period for foodstuffs lawfully placed on the market before the date of application of this Regulation.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

The Annex to Regulation (EC) No 1881/2006 is amended in accordance with the Annex to this Regulation.

#### *Article 2*

Foodstuffs listed in the Annex, lawfully placed on the market before 1 January 2023, may remain on the market until their date of minimum durability or use-by-date.

#### *Article 3*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2023.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission*  
*The President*  
**Ursula VON DER LEYEN**