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11 June 2013 [shall come into force on 14 June 2013];

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If a whole or part of a paragraph has been amended, the date of the amending regulation appears in square brackets at the end of the paragraph. If a whole paragraph or sub-paragraph has been deleted, the date of the deletion appears in square brackets beside the deleted paragraph or sub-paragraph.

Republic of Latvia

Cabinet

Regulation No. 96

Adopted 1 February 2005

**Regulations Regarding Sampling of Products**

[*2 May 2023*]

*Issued pursuant to*

*Section 12, Paragraph three of the Law on the Safety of Goods and Services, Section 10.1, Paragraph four of the law On Uniformity of Measurements, Section 21.1, Paragraph five of the Law on the National Flag of Latvia, and Section 9.3, Paragraph two of the law On Conformity Assessment*

[*2 May 2023*]

1. The Regulation prescribes the procedures by which market surveillance authorities shall request and receive samples of products (hereinafter – the products), make control purchases, and handle samples after a laboratory or other type of examination (hereinafter – the examination). The Regulation shall apply to non-food products, except for the materials and articles intended to come into contact with food.

[*2 May 2023*]

2. The market surveillance authority shall take samples at the location of products (hereinafter – the sampling point) free of charge or receive them with a delivery service if a control purchase is required for sampling. The market surveillance authority may perform sample tests (pre-testing) at the location of products, and sampling need not be performed in such cases.

[*2 May 2023*]

3. An official of the market surveillance authority shall request and take samples on behalf of the market surveillance authority. When requesting and taking samples, an official of the market surveillance authority shall present a service identification document. When taking samples before release of products for free circulation, the market surveillance authority shall cooperate with a customs office in accordance with the procedures laid down in the laws and regulations regarding market surveillance.

[*2 May 2023*]

4. An official of the market surveillance authority shall take random samples in a representative (sufficient) quantity by taking into account the safety requirements for products and other essential requirements laid down in laws and regulations, the metrological requirements laid down for measuring instruments, and the requirements laid down for the national flag of Latvia and pennant of the national flag of Latvia. All activities related to the sample (taking, transportation, destruction thereof) shall be documented.

[*2 May 2023*]

5. A performer of economic activity from whose products samples are taken (hereinafter – the performer of economic activity), the head of the sampling point or a person authorised by him or her, or another financially liable person (hereinafter – the responsible person), but in urgent cases or in cases when the responsible person refuses to participate in the sampling procedure, two invited persons shall participate in the sampling procedure.

6. A statement regarding sampling shall be drawn up and signed in two copies (one copy for the market surveillance authority and the other for the responsible person), except for the case where the statement is signed with a secure electronic signature. If two invited persons have participated in the sampling procedure, the relevant copy of the statement shall be sent by post to the legal address of the performer of economic activity or to the electronic mail address indicated in the statement within seven working days. A statement regarding sampling drawn up before the release of products for free circulation or as a result of the control purchase, without the presence of the performer of economic activity, shall be drawn up in a single copy and signed only by the official of the market surveillance authority. In such a case, the drawn-up statement shall remain with the market surveillance authority and shall not be sent to the performer of economic activity.

[*2 May 2023*]

7. [2 May 2023]

8. Samples (if the size and type of samples permits it) shall be packed so as not to be damaged, and the packaging shall be sealed. A label indicating the identification code allocated to a sample by the market surveillance authority shall be attached to the samples taken or packaging thereof. The label shall be signed by the persons participating in the sampling procedure. If samples are taken before the release of products for free circulation or as a result of the control purchase without the presence of the performer of economic activity, the label shall be signed only by the official of the market surveillance authority.

[*2 May 2023*]

9. The market surveillance authority shall be responsible for ensuring that the samples are not damaged or exchanged before undergoing the examination.

10. Samples shall be stored in conformity with the storage provisions of the products taken for sampling if such have been indicated.

11. [2 May 2023]

12. [2 May 2023]

13. An examination opinion (test report) shall provide written answers to the questions asked by the market surveillance authority and also indicate whether any damage has occurred as a result of the examination which reduces the safety of the samples, the quality of the basic functions or properties of use as a result of which the samples may pose a risk to human life, health, or the property of a person.

[*2 May 2023*]

14. The person who signed the examination opinion shall be responsible for the objectivity of the examination results. If an examination opinion has been drawn up on the basis of the results of a test report, the person who has signed the test report shall be responsible for the test results.

[*2 May 2023*]

15. If the samples are not used or destroyed during the examination, the market surveillance authority shall take them back from the performer of examination (laboratory or expert) after the examination, except for the case where the expenses associated with the return of the samples are disproportionate – transportation expenses of the samples exceed the value of the samples (the selling price of the samples at the time of sampling). In such a case, the market surveillance authority may, upon agreement with the performer of the examination, leave the samples with the performer of the examination for destruction.

[*2 May 2023*]

15.1If the expenses associated with the return of the samples are disproportionate and the performer of economic activity from whom the samples were taken free of charge wishes to receive them back, the market surveillance authority may, upon agreement between the parties, compensate the performer of economic activity for the value of the samples which does not exceed the selling price of the samples at the time of sampling. If the performer of economic activity disagrees with the compensation for the value of the samples and wishes to receive the samples, the expenses associated with the return of the samples shall be covered by the performer of economic activity. If the performer of economic activity from whom the samples were taken free of charge has waived them, the market surveillance authority may, upon agreement with the performer of the examination, leave the samples with the performer of the examination for destruction.

[*2 May 2023*]

16. [2 May 2023]

17. If samples have not been used up or destroyed during the examination, the market surveillance authority shall, within seven working days, inform the performer of economic activity that the sample (or unused parts thereof) is returned, except for the case where the market surveillance authority states that the sample must be destroyed.

[*2 May 2023*]

18. The market surveillance authority shall state that samples must be destroyed if the examination opinion (test report) indicates that the samples do not conform to the safety requirements or other essential requirements, or damage has occurred during the examination which reduces the safety of the samples, the quality of the basic functions or properties of use and as a result of which the samples may pose a risk to human life, health, or the property of a person.

[*2 May 2023*]

19. The market surveillance authority and the performer of economic activity shall document the return and acceptance of the samples (or unused parts thereof) and confirm them with signatures.

[*2 May 2023*]

20. [2 May 2023]

21. If the performer of economic activity refuses to take back the samples (or unused parts thereof) referred to in Paragraph 17 of this Regulation or does not provide an answer to the market surveillance authority within two months after receipt of the information referred to in Paragraph 17 of this Regulation regarding its wish to take the samples back, or has confirmed its wish to receive the samples back but, within two months from the moment of confirmation, there has not been an opportunity to return them, the market surveillance authority shall destroy the samples.

[*2 May 2023*]

22. [2 May 2023]

23. The market surveillance authority shall, in accordance with the procedures laid down by the director (head) of the market surveillance authority, register and record in the single register all the documentation related to the sampling, transportation and destruction of samples.

[*2 May 2023*]

24. [2 May 2023]

25. If the examination opinion (test report) indicates that the samples do not conform to the safety requirements or other essential requirements, the metrological requirements laid down for measuring instruments, and the requirements laid down for the national flag of Latvia and pennant of the national flag of Latvia, the expenses associated with the laboratory or other type of examination (including transportation expenses of the samples) and expenses for the control purchase shall be covered in accordance with the procedures laid down in the law On Conformity Assessment and other laws and regulations.

[*2 May 2023*]

26. [2 May 2023]

27. Cabinet Regulation No. 83 of 27 February 2001, Procedures by Which Market Surveillance Authorities Request and Receive Samples of Products and Handle them after Performance of a Laboratory or Other Type of Examination (*Latvijas Vēstnesis*, 2001, No. 35), is repealed.

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