STATUTORY RULES OF NORTHERN IRELAND

2017 No. 157

FOOD

The Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2017

Made - - - -	*9th August 2017*
Coming into operation	*14th September 2017*

The Department of Health(**1**), in exercise of the powers conferred by Articles 15(2), 16(1) and (2) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**) makes the following Regulations.

In accordance with Article 47(3A) of the Food Safety (Northern Ireland) Order 1991, the Department of Health has had regard to relevant advice given by the Food Standards Agency.

As required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**3**), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2017 and come into operation on 14th September 2017.

Amendment of the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2012

2. The Materials and Articles in Contact with Food Regulations (Northern Ireland) 2012(**4**) are amended in accordance with regulations 3 to 14.

3. In regulation 2 (interpretation) for the definition of "Regulation 10/2011" substitute —

(**1**) Formerly the Department of Health, Social Services and Public Safety; see 2016 c.5 (N.I.), section 1

(**2**) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I. 12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R. 2004 No. 482 and 505

(**3**) OJ No. L 31, 1.2.2002, p.1 as last amended by Regulation (EU) No. 652/2014 of the European Parliament and of the Council of 15th May 2014 (OJ No. L 189, 27.6.2014, p.1)

(**4**) S.R. 2012 No.384

""Regulation 10/2011" means Commission Regulation (EC) No. 10/2011 on plastic materials and articles intended to come into contact with foods as last amended by Commission Regulation (EU) No. 2017/752;"(**5**);

4. In regulation 7 (offences of contravening specified provisions of Regulation 450/2009), omit paragraph (2).

5. In regulation 12(8) (controls and limits), for "paragraphs (5), (6) or (7)" substitute "paragraphs (5) or (7)".

6. In regulation 14 (offences of contravening specified provisions of Regulation 10/2011)—

(a) in paragraph 1 for "the Schedule" substitute "Schedule 1"; and

(b) omit paragraph (2).

7. For regulation 15 (competent authorities for the purposes of Regulation 10/2011), substitute—

"**15.**—(1) The competent authorities for the purposes of Articles 8 and 16(1) of Regulation 10/2011 are the Food Standards Agency and each district council in its district."

8. In regulation 16 (restrictions on the use of certain epoxy derivatives (BADGE, BFDGE and NOGE)) —

(a) in paragraph (1)(b) for "paragraphs (2) and (3) are" substitute "paragraph 2 is";

(b) omit paragraph (3); and

(c) in paragraph (4), for "paragraph (2) or (3)" substitute "paragraph (2)".

9. For regulation 19 (offences and penalties) substitute —

"**19.**—(1) Any person who contravenes regulation 10(3), 12(8) or 18(2) is guilty of an offence.

(2) Any person who intentionally obstructs a person acting in the execution of Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006, Regulation 450/2009, Regulation 10/2011, or these Regulations is guilty of an offence.

(3) Any person who, without reasonable excuse, fails to provide any assistance or information a person may reasonably require for the performance of their functions under the Regulations mentioned in paragraph (2) is guilty of an offence.

(4) Any person who, in purported compliance with any requirement under paragraph (3), knowingly or recklessly supplies information that is false or misleading in any material particular is guilty of an offence.

(5) A person guilty of an offence is liable —

(a) in the case of an offence created by paragraph (1) or (4) or by regulation 4(3), 5, 7(1), 14(1), or 16(4)—

(i) on conviction on indictment to a fine or to a term of imprisonment not exceeding two years or both, or

(ii) on summary conviction to a fine not exceeding level 5 on the standard scale; and

(b) in the case of an offence created by paragraph (2) or (3), on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) Nothing in paragraph (2) or (3) is to be construed as requiring a person to answer any question or give any information if to do so might incriminate that person.".

(**5**) OJ No L 12 15.1.2011 p.1 as last amended by Commission Regulation (EU) 2017/752 (OJ No. L113, 29.4.2017, p.18)

10. For regulation 20 (enforcement), substitute—

"**20.**—(1) Each district council in its district must execute and enforce Regulation 1935/2004, Regulation 1895/2005, Article 4 of Regulation 2023/2006, Regulation 450/2009, Regulation 10/2011 and these Regulations.

(2) The Food Standards Agency may also execute and enforce the provisions of —

(a) Articles 16(1) and 17(2) of Regulation 1935/2004;

(b) Article 13 of Regulation 450/2009; and

(c) Article 16(1) of Regulation 10/2011.".

11. In regulation 22(2) (time limit for prosecutions), for "7(2), 14(2) or 19(2) or (3)" substitute "19(2) or (3)".

12. For regulation 26 (application of various provisions of the Order) substitute—

"**26.**—(1) Article 9(1) and (2) of the Order (improvement notices) applies for the purposes of these Regulations with the modification (in the case of Article 9(1)) set out in Schedule 2 Part 1 for the purposes of-

(a) enabling an improvement notice to be served on a person requiring that person to comply with any of the following provisions—

(i) regulations 10(4), 10(6), 12(6);

(ii) Article 16 of Regulation 1935/2004;

(iii) Article 5 of Regulation 1895/2005;

(iv) Articles 12 and 13 of Regulation 450/2009; and

(v) the second sentence of Article 8, Article 15 as read with Annex IV and Article 16 of Regulation 10/2011; and

(b) making the failure to comply with a notice referred to in sub-paragraph (a) an offence.

(2) The provisions of the Order specified in column 1 of the table in Part 2 to Schedule 2 apply, with the modifications (if any) specified in column 2 of that table.

(3) Paragraphs (1) and (2) are without prejudice to the application of the Order to these Regulations for purposes other than those specified in paragraph (1)."

13. In the Schedule (specified provisions of Regulation 10/2011) —

(a) rename the Schedule, "Schedule 1";

(b) for the text in the first column of the seventh row (which relates to Article 11) of the table, substitute "Article 11(1) and Annex I, as read with Article 11(3) and (4)"; and

(c) omit the entries in the final row of the table.

14. After the Schedule insert the Schedule to these regulations.

Sealed with the official seal of the Department of Health on 9th August 2017.





Elizabeth Redmond
A senior officer of the Department of Health