STATUTORY RULES OF NORTHERN IRELAND

2012 No. 384

FOOD

The Materials and Articles in Contact with Food Regulations (Northern Ireland) 2012

Made - - - -	*22nd October 2012*
Coming into operation	*20th November 2012*

The Department of Health, Social Services and Public Safety [F1] makes the following Regulations in exercise of the powers conferred by Articles 15(2), 16(1) and (2), 25(1)(a), 2(a) and (3), 32 and 47(2) of the Food Safety (Northern Ireland) Order 1991 [F2] as read with paragraph 1A of Schedule 2 to the European Communities Act 1972 [F3].

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department of Health, Social Services and Public Safety that it is expedient for certain references to Commission Regulation (EC) No. 2023/2006 on good manufacturing practice for materials and articles intended to come into contact with food [F4] or to any Annex to the other EU instruments specified in regulation 2(3) to be construed as references to that instrument or Annex as amended from time to time.

In accordance with Article 47(3A) of the Food Safety (Northern Ireland) Order 1991, the Department of Health, Social Services and Public Safety 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 [F5], there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

F1 Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)

F2 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 Nos. 482 and 505

F3 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (2006, c.51) and amended by Part 1 of Schedule 1 to the European Union (Amendment) Act 2008 (2008 c.7)

F4 OJ No. L384, 29.12.2006, p.75, amended by Commission Regulation (EC) No.282/2008 (OJ No. L86, 28.3.2008, p.9)

F5 OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the

regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny – Part Four (OJ No. L188, 18.7.2009, p.14)

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2012 and come into operation on 20th November 2012.

Interpretation

2.—(1) In these Regulations —

"Directive 84/500/EEC" means Council Directive 84/500/EEC on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with foodstuffs F6**[**F7as last amended by Commission Directive 2005/31/EC**]** ;

"Directive 2007/42/EC" means Commission Directive 2007/42/EC relating to materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs F8;

"Regulation 1935/2004" means Regulation (EC) No. 1935/2004 of the European Parliament and of the Council on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EECF9**[**F10as last amended by Regulation (EC) No 596/2009 of the European Parliament and of the Council**]** ;

"Regulation 1895/2005" means Commission Regulation (EC) No. 1895/2005 on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food F11;

"Regulation 2023/2006" means Commission Regulation (EC) No. 2023/2006 on good manufacturing practice for materials and articles intended to come into contact with food F12F13... ;

"Regulation 450/2009" means Commission Regulation (EC) No. 450/2009 on active and intelligent materials and articles intended to come into contact with food F14;

[F15"Regulation 10/2011" means **[**F16, subject to paragraph 3,**]**Commission Regulation (EC) No. 10/2011 on plastic materials and articles intended to come into contact with foods as last amended by **[**F17Commission Regulation (EU) 2018/831**]** ;**]**

[F18"Regulation 2018/213" means Commission Regulation (EU) 2018/213 on the use of bisphenol A in varnishes and coatings intended to come into contact with food and amending Regulation (EU) No 10/2011 as regards the use of that substance in plastic food contact materials;**]**

"authorised officer" means any person, whether or not an officer of the district council having responsibility for execution and enforcement under regulation 20, who is authorised by that district council in writing to act in matters arising under these Regulations;

"the Order" means the Food Safety (Northern Ireland) Order 1991; and

"preparation" includes manufacture and any form of treatment or process.

(2) Expressions used in these Regulations and in Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006; **[**[F19]Regulation 450/2009, Regulation 10/2011 or Regulation 2018/213**]** bear the same meaning in these Regulations as they bear in those Regulations.

(3) Any reference to Regulation 2023/2006 or to any Annex to Directive 2007/42/EC or Regulation 10/2011 is a reference to that Regulation or that Annex as amended from time to time.

(4) The Interpretation Act (Northern Ireland) 1954 [F20] applies to these Regulations as it applies to an Act of the Assembly.

F6 OJ No. L277, 20.10.1984, p.12, amended by Commission Directive 2005/31/EC (OJ No. L110, 30.4.2005, p.36)
F7 Words in reg. 2 inserted (29.11.2018) by The Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2018 (S.R. 2018/186), regs. 1, **3(a)**
F8 OJ No. L172, 30.6.2007, p.71. This Directive repealed and consolidated without further amendment Commission Directive 93/10/EEC as last amended by Commission Directive 2004/14/EC
F9 OJ No. L338, 13.11.2004, p.4, amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council (OJ No. L188, 18.7.2009, p.14)
F10 Words in reg. 2 inserted (29.11.2018) by The Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2018 (S.R. 2018/186), regs. 1, **3(b)**
F11 OJ No. L302, 19.11.2005, p.28
F12 OJ No. L384, 29.12.2006, p.75
F13 Words in reg. 2(1) omitted (11.2.2019) by virtue of The Food (Miscellaneous Amendments and Revocations) Regulations (Northern Ireland) 2019 (S.R. 2019/5), regs. 1(1), **25(2)(a)(i)**
F14 OJ No. L135, 30.5.2009, p.3
F15 Words in reg. 2 substituted (14.9.2017) by The Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017/157), regs. 1, **3**
F16 Words in reg. 2(1) inserted (11.2.2019) by The Food (Miscellaneous Amendments and Revocations) Regulations (Northern Ireland) 2019 (S.R. 2019/5), regs. 1(1), **25(2)(a)(ii)**
F17 Words in reg. 2 substituted (29.11.2018) by The Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2018 (S.R. 2018/186), regs. 1, **3(d)**
F18 Words in reg. 2 inserted (29.11.2018) by The Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2018 (S.R. 2018/186), regs. 1, **3(e)**
F19 Words in reg. 2(2) substituted (29.11.2018) by The Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2018 (S.R. 2018/186), regs. 1, **3(f)**
F20 1954 c. 33 (NI)

Scope

3. The provisions of these Regulations do not apply in relation to those materials and articles specified in Article 1(3) (purpose and subject matter) of Regulation 1935/2004.

PART 2

General Requirements for Materials and Articles

Offences of contravening specified provisions of Regulation 1935/2004

4.—(1) A person must not place on the market or use, in the course of a business in connection with the storage, preparation, packaging, sale or service of food any material or article that does not comply with the requirements of Article 3(1) (general requirements) or Article 4(1),(2),(3) or (4) (special requirements for active and intelligent materials and articles).

(2) A person must not place on the market any material or article that does not comply with the requirements of Article 3(2), 4(5) or (6) or 15(1),(3),(4),(7) or (8) as read with Article 15(2) (labelling).

(3) Any person who contravenes paragraph (1) or (2) or Article 11(4) or (5) (Community authorisation) or 17(2) (traceability) is guilty of an offence.

(4) In this regulation a reference to a numbered Article is a reference to that Article in Regulation 1935/2004.

Offences of contravening Article 4 of Regulation 2023/2006

5. Any person who fails to comply with the requirements of Article 4 (conformity with good manufacturing practice) of Regulation 2023/2006 is guilty of an offence.

Competent authorities for the purposes of Regulation 1935/2004 and Regulation 2023/2006

6.—(1) The following bodies are designated as the competent authorities for the purposes of the provisions of Regulation 1935/2004 specified below —

(a) in respect of Articles 9 (application for authorisation of a new substance) and 13 (competent authorities of Member States), the Food Standards Agency; and

(b) in respect of Articles 16(1) (declaration of compliance) and 17(2) (traceability), the Food Standards Agency and each district council in its district.

(2) The competent authority for the purposes of Article 6(2) (quality control system) and 7(3) (documentation) of Regulation 2023/2006 is each district council in its district.

PART 3

Requirements for Active and Intelligent Materials and Articles

Offences of contravening specified provisions of Regulation 450/2009

7.—(1) Subject to the transitional provisions contained in Article 14 (entry into force and application) of Regulation 450/2009, any person who places on the market any active or intelligent material or article which does not comply with the requirements of Article 4 of that Regulation is guilty of an offence [F21].

[F22](2) . . . . . .

F21 Article 4(e) does not apply until the date of application of the EU list of authorised substances that may be used in active and intelligent components

F22 Reg. 7(2) omitted (14.9.2017) by virtue of The Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017/157), regs. 1, **4**

Competent authorities for the purposes of Regulation 450/2009

8. The competent authorities for the purposes of Article 13 of Regulation 450/2009 are the Food Standards Agency and each district council in its district.

PART 4

Requirements for Ceramic Articles

Interpretation of this Part

9.—(1) In this Part —

(a) "ceramic article" means an article to which Regulation 1935/2004 applies by virtue of its Article 1(2) as read with 1(3) that —

(i) is manufactured from a mixture of inorganic materials with a generally high argillaceous or silicate content to which small quantities of organic materials may have been added,

(ii) is first shaped, with the shape thus obtained having been permanently fixed by firing, and

(iii) may be glazed, enamelled and/or decorated; and

(b) any reference to a numbered Article or Annex is a reference to that Article of or Annex to Directive 84/500/EEC.

Limits for lead and cadmium and declaration of compliance

10.—(1) The quantities of lead or cadmium transferred from a ceramic article must not exceed the limits laid down in Article 2(4) as read with Article 2(3) and (5).

(2) Unless it is demonstrated that the materials used to make the ceramic article did not contain lead or cadmium, compliance with paragraph (1) is to be determined by testing and analysis in accordance with Annexes I and II.

(3) A person must not place on the market a ceramic article that does not comply with the requirements of paragraph (1) as read with paragraph (2).

(4) A person who places on the market a ceramic article that is not yet in contact with food must provide a written declaration complying with paragraph (5) to accompany the article at the marketing stages up to and including the retail stage.

(5) The declaration must be issued by the manufacturer or by a person established within the EU who placed the ceramic article on the market and must contain the information laid down in Annex III.

(6) A person who manufactures or, in the course of business, imports into the EU a ceramic article must on request make available to an authorised officer appropriate documentation to demonstrate compliance with the requirements of paragraph (1) including —

(a) the results of analysis carried out;

(b) the test conditions; and

(c) the name and address of the laboratory that performed the testing.

(7) Paragraphs (4), (5) and (6) do not apply in relation to a ceramic article which is second-hand.

(8) The documentation specified in paragraph (6)(a), (b) and (c) is not required where documentary evidence is provided to show that the materials used to make the ceramic article did not contain lead or cadmium.