STATUTORY RULES OF NORTHERN IRELAND

2007 No. 434

FOOD

The Materials and Articles in Contact with Food Regulations (Northern Ireland) 2007

Made - - - - 8th October 2007

Coming into operation in accordance with regulation 1

The Department of Health, Social Services and Public Safety(**1**) 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(**2**) as read with paragraph 1A of Schedule 2 to the European Communities Act 1972(**3**).

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Department that it is expedient for certain references to a Community instrument or to an Annex to a Community instrument as specified in regulation 2(4) to be construed as references to that instrument or annex as amended from time to time.

It has had regard to relevant advice given by the Food Standards Agency as required by Article 47(3A) of the 1991 Order.

There has been open and transparent public consultation during the preparation of the Regulations as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council(**4**) 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.

PART 1

Preliminary

Citation and commencement

1.—(1) These Regulations may be cited as the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2007.

(**1**) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)
(**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 Nos. 482 and 505
(**3**) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51)
(**4**) OJ No. L31, 1.2.2002, p. 1. That Regulation was last amended by Commission Regulation (EC) No. 575/2006 (OJ No. L100, 8.4.2006, p.3)

(2) Subject to paragraph (3), these Regulations shall come into operation on 5th November 2007.

(3) Regulations 5,7 and 14(3) shell come into operation on 1st August 2008.

Interpretation

2.—(1) In these Regulations —

"the 2006 Regulations" means the Plastic Materials and Articles in Contact with Food (No.2) Regulations (Northern Ireland) 2006(**5**);

"Directive 2002/72/EC" means Commission Directive 2002/72/EC relating to plastic materials and articles intended to come into contact with foodstuffs(**6**) as corrected by a corrigendum published on 13th February 2003(**7**) and as amended by Commission Directive 2004/1/EC(**8**), Commission Directive 2004/19/EC(**9**), Commission Directive 2005/79/EC(**10**) and Commission Directive 2007/19/EC(**11**);

"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(**12**);

"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/EEC(**13**);

"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(**14**);

"authorised officer" means any person, whether or not an officer of the district council having responsibility for execution and enforcement under regulation 14(1), who is authorised by that district council in writing to act in matters arising under these Regulations;

"import" means import in the course of a business from a place other than a Member State;

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

"plastics" means those materials and articles to which Directive 2002/72/EC applies;

"preparation" in relation to food includes manufacture and any form of treatment or process;

"regenerated cellulose film" means a thin sheet material obtained from refined cellulose derived from unrecycled wood or cotton, with or without the addition of suitable substances, either in the mass or on one or both surfaces, but does not include synthetic casings of regenerated cellulose;

"sell" includes offer or expose for sale or have in possession for sale;

(2) Any reference in these Regulations to a numbered Article is a reference to the Article bearing that number in Regulation 1935/2004.

(3) Expressions used in these Regulations and in Regulation 1935/2004 or Regulation 2023/2006 bear the same meaning in these Regulations as they bear in those Regulations.

(**5**) S.R. 2006 No.420

(**6**) OJ No. L220, 15.8.2002, p.18. This Directive was corrected by a corrigendum (OJ No. L39, 13.2.2003, p.1), and has been amended as at the date these Regulations were made by Commission Directives 2004/1/EC (OJ No. L7, 13.1.2004, p.45), 2004/19/EC (OJ No. L71, 10.3.2004, p.8), 2005/79/EC (OJ No. L302, 19.11.2005, p.35) and Commission Directive 2007/19/EC (OJ No.L97, 12.4.2007, p.50)

(**7**) OJ No. L38, 13.2.2003, p.44

(**8**) OJ No. L7, 13.1.2004, p.45

(**9**) OJ No. L71, 10.3.2004, p.8

(**10**) OJ No. L302, 19.11.2005, p.35

(**11**) OJ No. L97, 12.4.2007, p.50

(**12**) 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.

(**13**) OJ No. L338, 13.11.2004, p.4

(**14**) OJ No. L384, 29.12.2006, p.75

(4) Any reference to Regulation 2023/2006 or to an Annex of Directive 2002/72/EC or of Directive 2007/42/EC is a reference to that Regulation or that Annex as amended from time to time.

(5) The Interpretation Act (Northern Ireland) 1954(**15**) shall apply to these Regulations as it applies to an Act of the Assembly.

Scope

3. The provisions of these Regulations do not apply to those materials and articles specified in sub-paragraphs (a), (b) and (c) of Article 1(3).

PART 2

General Requirements for Materials and Articles

Enforcement of Regulation 1935/2004

4. Subject to the provisions of Article 27 (transitional arrangements), any person who contravenes any of the following provisions of Regulation 1935/2004 is guilty of an offence —

(a) Article 3 (general requirements);

(b) Article 4 (special requirements for active and intelligent materials and articles);

(c) Article 11(4) and (5) (provisions relating to Community authorisation);

(d) Article 15(1), (2), (3), (4), (7) and (8) (labelling);

(e) Article 16(1) (declaration of compliance);

(f) Article 17(2) (traceability).

Enforcement 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

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

(a) in respect of Articles 9 and 13, the Food Standards Agency;

(b) in respect of Articles 16(1) and 17(2), the Food Standards Agency and the district council having responsibility for enforcement pursuant to regulation 14(1).

Competent authority for the purposes of Regulation 2023/2006

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

(**15**) 1954 c.33 (N.I.)

PART 3

Requirements for Vinyl Chloride

Limits and migration limits

8.—(1) Materials and articles which are manufactured with vinyl chloride polymers or copolymers —

(a) must not contain vinyl chloride monomer in a quantity exceeding 1 milligram per kilogram of the material or article as measured by the method of analysis specified in regulation 9(1); and

(b) must be manufactured in such a way that they do not transfer to foods with which they are in contact any quantity of vinyl chloride exceeding 0.01 milligrams of vinyl chloride per kilogram of food as measured by the method of analysis specified in regulation 9(2).

(2) A person shall not —

(a) sell;

(b) import; or

(c) use in the course of a business in connection with the storage, preparation, packaging, selling or serving of food,

any such material or article that does not comply with paragraph (1).

Methods of Analysis

9.—(1) The method used in analysing any sample for the purpose of establishing the quantity of vinyl chloride monomer present in the material or article in order to determine whether it complies with regulation 8(1)(a) shall be the method specified in the Annex to Commission Directive 80/766/EEC (which lays down the Community method of analysis for the official control of the vinyl chloride monomer level in materials and articles which are intended to come into contact with foodstuffs)(**16**).

(2) The method used in analysing any food for the purpose of establishing the quantity of vinyl chloride present in the food in order to determine whether a material or article which is or has been in contact with the food complies with regulation 8(1)(b) shall be the method specified in the Annex to Commission Directive No. 81/432/EEC (which lays down the Community method of analysis for the official control of vinyl chloride released by material and articles into foodstuffs)(**17**).

PART 4

Requirements for Regenerated Cellulose Film

Controls and limits

10.—(1) This Part applies to regenerated cellulose film which —

(a) constitutes a finished product in itself; or

(b) is part of a finished product containing other materials,

(**16**) OJ No. L213, 16.8.80, p.42
(**17**) OJ No. L167, 24.6.81, p.6

and is intended to come into contact with food, or by being used for that purpose does come into contact with food.

(2) Except in paragraph (4), any reference in this regulation to Annex II is a reference to Annex II to Directive 2007/42/EC.

(3) Subject to paragraph (5), a person shall not manufacture any regenerated cellulose film intended to come into contact with food using any substance or group of substances other than the substances named or described —

(a) in the first column (denominations) of Annex II in the case of —

(i) uncoated film; or

(ii) coated film where the coating is derived from cellulose;

(b) in the first column of the First Part of Annex II in the case of film to be coated, where the coating will consist of plastics;

and other than in accordance with the conditions and restrictions specified in the corresponding entry in the second column of the appropriate Part of Annex II, as read with the preamble to that Annex.

(4) A person shall not manufacture any coating to be applied to film referred to in paragraph (3)(b) using any substance or group of substances except those listed in Annex II, III or IV to Directive 2002/72/EC and other than in accordance with the appropriate requirements, restrictions and specifications contained in those Annexes and in the 2006 Regulations.

(5) Substances other than those listed in Annex II may be used as colourants or adhesives in the manufacture of a film to which paragraph (3)(a) applies, provided that such film is manufactured in such a way that it does not transfer any colourant or adhesive to food in any detectable quantity.

(6) Subject to regulation 12 a person shall not —

(a) sell;

(b) import; or

(c) use in the course of a business in connection with the storage, preparation, packaging, selling or serving of food,

any regenerated cellulose film which has been manufactured in contravention of the requirements of paragraphs (3) or (4), or which fails to comply with paragraph (8).

(7) A person shall not use in the course of a business in connection with the storage, preparation, packaging, serving or selling of food —

(a) where the food contains water physically free at the surface, any regenerated cellulose film containing bis(2–hydroxyethyl) ether, ethanediol or both these substances;

(b) any regenerated cellulose film in such a way that any printed surface of that film comes into contact with the food.

(8) Any material or article made of regenerated cellulose film, unless by its nature clearly intended to come into contact with food, at a marketing stage other than the retail stage must be accompanied by a written declaration attesting that it complies with the legislation applicable to it.

Migration limits for regenerated cellulose film coated with plastics

11.—(1) Subject to paragraph (2), a person shall not manufacture or import any material or article made with regenerated cellulose film coated with plastics which —

(a) is intended to come into contact with food; and