STATUTORY RULES OF NORTHERN IRELAND

2006 No. 217

FOOD

The Ceramic Articles in Contact with Food Regulations (Northern Ireland) 2006

Made - - - -	*5th May 2006*
Coming into operation	
(except for regulations 3(3)(a) and (b) and 4)	*20th May 2006*
Regulations 3(3)(a) and (b) and 4	*20th May 2007*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred on it by Articles 15(2), 16(1), 25(1)(a), 2(a) and (3), 26(3) and 47(1) of the Food Safety (Northern Ireland) Order 1991(**2**);

In accordance with Article 47(3A) of the Food Safety (Northern Ireland) Order it has had regard to relevant advice given by the Food Standards Agency and consulted as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council(**3**) of 28 January 2002 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.

Citation and Commencement

1.—(1) These Regulations may be cited as the Ceramic Articles in Contact with Food Regulations (Northern Ireland) 2006

(2) These Regulations shall come into operation on 20th May 2006 except for regulation 3(3)(a) and (b) and regulation 4 which shall come into operation on 20th May 2007.

Interpretation

2. In these Regulations —

"ceramic article" means an article—

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

(**2**) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12) and paragraphs 26 to 42 of Schedule 5 & Schedule 6 to the Food Standards Act 1999 c. 28, S.R. 1999 No.438 and S.R. 2004 No.482

(**3**) OJNo. L31, 1.2.2002, p. 1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, p.4)

(a) 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. Such an article is first shaped and the shape thus obtained is permanently fixed by firing. It may be glazed, enamelled and decorated;

(b) which, in its finished state, is intended to come into contact with foodstuffs, or which is in contact with foodstuffs, and is intended for that purpose;

but does not include an article which is supplied as an antique;

"the Community" means the member states, Norway, Iceland and Leichtenstein;

"import" means the release into the UK for free circulation in the Community;

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

"place on the market" means the holding of articles for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution and other forms of transfer themselves.

Limits on the transfer of lead and cadmium

3.—(1) The quantities of lead and cadmium transferred from a ceramic article shall not exceed the limits laid down in Schedule 1.

(2) Compliance with paragraph (1) shall be determined by testing and analysis in accordance with Schedule 2 unless it is demonstrated that the materials used to make the ceramic article did not contain lead or cadmium.

(3) No person may —

(a) Manufacture;

(b) import; or

(c) place on the market,

a ceramic article which does not comply with the requirements in paragraph (1).

Declaration of Compliance

4.—(1) A manufacturer or seller of a ceramic article which is not yet in contact with food shall provide a written declaration in accordance with Schedule 3 to accompany the article at the marketing stages up to and including the retail stage.

(2) The declaration shall be issued by the manufacturer or by a seller established within the Community.

(3) The manufacturer or importer into the Community shall on request make available a district council specified in regulation 5 appropriate documentation to demonstrate compliance with the requirements of regulation 3(1), including:

(a) the results of the analysis carried out;

(b) the test conditions;

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

(d) evidence that the materials used to make the ceramic article did not contain lead or cadmium.

(4) This regulation does not apply to a ceramic article which is second-hand.

Enforcement

5. Each district council shall enforce and execute these Regulations within its district.

Offences and penalties

6.—(1) A person who contravenes regulations 3(3) or 4(1) or (3) is guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable —

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

(b) on summary conviction to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 6 months or to both.

(3) In proceedings for an offence in respect of failure to comply with regulation 4 it shall be a defence to prove that the ceramic article to which the offence relates was first placed on the market in the Community before 20 May 2007.

Application of the Order

7. The following provisions of the Order apply for the purposes of these Regulations, with reference to those provisions to the Order or a Part of it is to be construed as a reference to these Regulations —

(a) Article 19 (offences due to fault of another person);

(b) Article 20 (1), (5) and (6) (defence of due diligence);

(c) Article 34 (obstruction etc. of officers);

(d) Article 35 (time limit for prosecutions) with the modification that the reference to Article 36(2) of the Order shall be a reference to regulation 6 of these Regulations;

(e) Article 36(1), (2) and (3) (punishment of offences) in so far as it relates to offences under Article 34 as applied by this regulation);

Consequential Amendments

8. In the Official Food and Feed Controls Regulations (Northern Ireland) 2006(**4**), sub-paragraph (b) Schedule 3 (definition of relevant food law), omit the words “except in so far as it involves the regulation of food contact materials under the Ceramic Ware (Safety) Regulations 1988”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 5th May 2006.

L.S.

Mr Don Hill
A senior officer of the
Department of Health, Social Services and
Public Safety

(**4**) S.R. 2006 No.2

SCHEDULE 1 Regulation 3(1)

Maximum quantities of lead and cadmium which may be transferred from a ceramic article (migration limits)

The quantity of lead and/or cadmium extracted during the test carried out under the conditions laid down in Schedule 2 shall not exceed the following limits:

	Lead	*Cadmium*
Category 1: articles which cannot be filled and articles which can be filled, the internal depth of which, measured from the lowest point to the horizontal plane passing through the upper rim, does not exceed 25 mm	0.8 mg/dm^2	0.07 mg/dm^2
Category 2: All other articles which can be filled	4.0 mg/l	0.3mg/l
Category 3: Cooking ware; packaging and storage vessels having a capacity of more than three litres	1.5 mg/l	0.1 mg/l

Where a ceramic article does not exceed the above quantities by more than 50%, that article shall nevertheless be recognised as satisfying the requirements of these Regulations if at least three other articles with the same shape, dimensions, decoration and glaze are subjected to a test carried out under the conditions laid down in Schedule 2 and the average quantities of lead and cadmium extracted from those articles do not exceed the limits set, with none of those articles exceeding those limits by more than 50%.

Where a ceramic article consists of a vessel fitted with a ceramic lid, the lead and cadmium limit which may not be exceeded (mg/dm2 or mg/litre) shall be that which applies to the vessel alone.

The vessel alone and the inner surface of the lid shall be tested separately and under the same conditions;

(1) the sum of the two lead and cadmium extraction levels obtained shall be related as appropriate to the surface area or the volume of the vessel alone.

SCHEDULE 2 Regulation 3(2)

TESTING OF CERAMIC ARTICLES

PART I

BASIC RULES FOR DETERMINING THE MIGRATION OF LEAD AND CADMIUM

Test liquid (“simulant”)

1. 4% (v/v) acetic acid, in a freshly prepared aqueous solution.

Test conditions

2.—(1) Carry out the test at a temperature of 22 ± 2°C for a duration of 24 ± 0.5 hours.