STATUTORY RULES OF NORTHERN IRELAND

2005 No. 210

FOOD

The Materials and Articles in Contact with Food Regulations (Northern Ireland) 2005

Made - - - -	*12th April 2005*
Coming into operation	*23rd May 2005*

The Department of Health, Social Services and Public Safety(**1**), in exercise of the powers conferred on it by Articles 15(2), 16(1) and (2), 25(1)(a) and (3), 32 and 47(3) of the Food Safety (Northern Ireland) Order 1991(**2**) and of all other powers enabling it in that behalf, having had regard, in accordance with Article 47(3A) of the said Order, to relevant advice given by the Food Standards Agency, and after consultation as required by Article 9 of Regulation (ECNo. 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**) and in accordance with Article 47(3) and (3B) of the said Order, hereby makes the following Regulations:

PART 1

PRELIMINARIES

Citation and commencement

1. These Regulations may be cited as the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2005, and shall come into operation on 23rd May 2005.

Interpretation

"the Agency" means the Food Standards Agency;

"Directive 93/10/EEC" means Commission Directive 93/10/EEC relating to materials and articles made of regenerated cellulose film intended to come into contact with food(**4**);

(**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) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28 and S.R. 2004 No. 482
(**3**) O.J. No. 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 (O.J. No. L245, 29.9.2003, p. 4)
(**4**) O.J. No. L93, 17.4.93, p.27, as last amended by Commission Directive 2004/14/EC (O.J. No. L27, 30.1.2004, p. 48)

"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 Commission Directive 2002/72/EC relating to plastic materials intended to come into contact with foodstuffs applies(**5**);

"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;

"the 1998 Regulations" means the Plastic Materials and Articles in Contact with Food Regulations (Northern Ireland) 1998(**6**);

"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(**7**);

(2) Any reference in these Regulations to a numbered Article or Annex is, unless otherwise indicated, a reference to the Article or Annex bearing that number in Regulation 1935/2004.

(3) Expressions used in these Regulations and in Regulation 1935/2004 have the same meaning in these Regulations as in that Regulation.

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) on or after 27th October 2006, Article 17(2) (traceability).

Competent authorities for the purposes of Regulation 1935/2004

5. 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 Agency;

(**5**) O.J. No. L220, 15.8.2002, p. 18, as last amended by Commission Directive 2004/19/EC (O.J. No. L71, 10.3.2004, p. 8)
(**6**) S.R. 1998 No. 264 as amended by S.R. 2000 No. 402, S.R. 2002 No. 316, S.R. 2004 No. 493 and S.R. 2005 No. 49
(**7**) O.J. No. L338, 13.11.2004, p. 4

(b) in respect of Articles 16(1) and 17(2), the Agency and the authority having responsibility for enforcement pursuant to regulation 12(1).

PART 3

REQUIREMENTS FOR VINYL CHLORIDE

Limits and migration limits

6.—(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 7(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 7(2).

(2) No person may –

(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 this regulation.

Methods of Analysis

7.—(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 6(1)(a) shall be the method specified in the Annex to Commission Directive No. 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)(**8**).

(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 6(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)(**9**).

PART 4

REQUIREMENTS FOR REGENERATED CELLULOSE FILM

Controls and Limits

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

(**8**) O.J. No. L213, 16.8.90, p. 42
(**9**) O.J. No. L167, 24.6.81, p. 6

(a) constitutes a finished product in itself; or

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

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

(2) Any reference in this regulation to Annex II is a reference to Annex II to Directive 93/10/EEC.

(3) Subject to paragraph (5) no person may manufacture any regenerated cellulose film 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) No person may manufacture any coating to be applied to film referred to in paragraph (3)(b) using any substance or group of substances other than the substances listed in Schedules 1, 2 or 2A to the 1998 Regulations and other than in accordance with the appropriate requirements, restrictions and specifications contained in those Regulations and in the Schedules thereto.

(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 regenerated cellulose film to which this paragraph applies 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 10 no person may –

(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 (4) and (5), or which fails to comply with paragraph (8).

(7) No person may 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

9.—(1) Subject to paragraph (2) no person shall manufacture or import any material or article made with regenerated cellulose film coated with plastics which is capable of transferring its constituents to food in quantities exceeding an overall migration limit of 10 milligrams per square decimetre of the surface of the material or article in contact with food.

(2) In the case of any material or article made with regenerated cellulose film coated with plastics which –

(a) is or is comparable to a container or which can be filled with a capacity of not less than 500 millilitres and not more than 10 litres; or

(b) can be filled and for which it is impracticable to estimate the surface area in contact with food; or

(c) is a cap, gasket, stopper or similar device for sealing,

the overall migration limit shall be 60 milligrams of constituents transferred per kilogram of food.

(3) No person shall manufacture or import any material or article made with regenerated cellulose film coated with plastics manufactured with any substance listed in Part I of Schedule 1 to the 1998 Regulations (authorised monomers) which is capable of transferring its constituents to food in quantities exceeding the specific migration limits set out in column 4 of that Part as read with Part II of that Schedule.

(4) Where the migration limit for a substance mentioned in paragraph (3) is expressed in milligrams per kilogram, in the case of regenerated cellulose film coated with plastics which –

(a) is or is comparable to a container or which can be filled with a capacity of less than 500 millilitres or more than 10 litres; or

(b) cannot be filled or for which it is impracticable to estimate the relationship between the surface area of the film and the quantity of food in contact with it,

the migration limit shall be divided by the conversion factor of 6 in order to express it in milligrams of constituents transferred per square decimetre of the material or article in contact with food.

(5) Subject to paragraph (6) the verification of compliance with migration limits shall be conducted in accordance with the provisions of Schedules 3 and 4 of the 1998 Regulations as read with regulation 6 of those Regulations and for the purposes of this paragraph any reference in those provisions to a plastic material or article shall be construed as a reference to regenerated cellulose film coated with plastic.

(6) Paragraph (5) shall not apply in any circumstances to which regulation 7(1) or (2) is applicable.

Saving and transitional provisions

10.—(1) Notwithstanding the revocations in regulation 16, in relation to regenerated cellulose film manufactured before 29th April 1994 the defences in regulation 6A of the Materials and Articles in Contact with Food Regulations (Northern Ireland) 1987(**10**) shall apply in relation to offences under these Regulations in like manner as they applied to offences under the equivalent provisions in those Regulations.

(2) In any proceedings for an offence under regulation 8(3), (4) or 6(b) or regulation 9(1) or (3) it shall be a defence to prove that –

(a) the Order constituting the offence was committed in relation to the manufacture or importation into the European Community of regenerated cellulose film before 29th January 2006; and

(b) the Order constituting the offence would not have constituted an offence under the Materials and Articles in Contact with Food Regulations 1987 immediately before the coming into force of these Regulations.

(**10**) S.R. 1987 No. 432 as amended by S.R. 1991 No. 344 and S. R. 1994 No. 174