STATUTORY RULES OF NORTHERN IRELAND

2002 No. 316

FOOD

Plastic Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2002

Made - - - -	*11th October 2002*
Coming into operation	*30th November 2002*

The Department of Health, Social Services and Public Safety(**1**), in exercise of the powers conferred on it by Articles 15(2), 16(1), 25(1)(a) and (3), 32 and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**), 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 (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**), and in accordance with Article 47(3) and (3B) of the said Order, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Plastic Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2002 and shall come into operation on 30th November 2002.

Amendments to the Plastic Materials and Articles in Contact with Food Regulations (Northern Ireland) 1998

2. The Plastic Materials and Articles in Contact with Food Regulations (Northern Ireland) 1998(**4**) ("the principal Regulations") shall be amended in accordance with regulations 3 to 18.

3. Immediately after regulation 1 (citation and commencement) there shall be inserted the following regulation –

(**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. 1996/1633 (N.I. 12) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28
(**3**) O.J. No. L31, 1.2.2002, p. 1
(**4**) S.R. 1998 No. 264, as amended by S.R. 2000 No. 402

"**Scope of these Regulations**

1A. Notwithstanding the title to these Regulations –

(a) regulations 3 and 9 to 12 apply also in relation to adhesives and to materials or articles covered by surface coatings; and

(b) regulations 8A and 8B apply only in relation to adhesives and to materials or articles covered by surface coatings.".

4. In regulation 2 (interpretation) –

(a) in paragraph (1) –

(i) immediately after the definition of "additive" there shall be inserted the following definitions –

""adhesive" means anything which, for the purposes of Commission Directive 2002/16, is included among the adhesives to which that Directive applies;

"BADGE" means 2,2-bis(4-hydroxyphenyl) propane bis(2,3-epoxypropyl) ether;

"BFDGE" means bis(hydroxyphenyl) methane bis(2,3-epoxypropyl) ethers;",

(ii) for the definition of "capable" there shall be substituted the following definition –

""capable" means capable as established –

(a) in relation to any plastic material or article, under regulation 6; and

(b) in relation to any adhesive or material or article covered by a surface coating, under regulation 8B;",

(iii) immediately after the definition of "capable" there shall be inserted the following definitions –

""Commission Directive 2001/62" means Commission Directive 2001/62/EC amending Directive 90/128/EEC relating to plastic materials and articles intended to come into contact with foodstuffs(**5**);

"Commission Directive 2002/16" means Commission Directive 2002/16/EC on the use of certain epoxy derivatives in materials and articles intended to come into contact with foodstuffs(**6**),"

(iv) for the definition of "the Directive" there shall be substituted the following definition –

""the Directive" means Commission Directive 2002/72/EC relating to plastic materials and articles intended to come into contact with foodstuffs(**7**);",

(v) immediately after the definition of "import" there shall be inserted the following definition –

""material or article covered by a surface coating" means anything which, for the purposes of Commission Directive 2002/16, is included among the materials and articles covered by surface coatings to which that Directive applies;",

(vi) immediately after the definition of "monomer" there shall be inserted the following definition –

""NOGE" means novolac glycidyl ethers not covered by Article 1(a) or (b) of Commission Directive 2002/16;",

(**5**) O.J. No. L221, 17.8.2001, p. 18
(**6**) O.J. No. L51, 22.2.2002, p. 27
(**7**) O.J. No. L220, 15.8.2002, p. 18

(vii) at the end of the definition of "plastic material or article" there shall be added ", except that, in the provisions referred to in paragraph (5), to the extent that they implement or relate to the enforcement of Commission Directive 2002/16, it means a material or article made of any type of plastic", and

(viii) immediately after the definition of "plastic material or article" there shall be inserted the following definition –

""QMA" has the same meaning as it bears in the first sentence of the sub-division relating to that term in paragraph 8 of Annex ll to the Directive;";

(b) for paragraph (2) there shall be substituted the following provision –

"(2) For the purposes of these Regulations, the supply in the course of a business, otherwise than on sale, of any plastic material or article, adhesive or material or article covered by a surface coating, shall be deemed to be a sale of the plastic material or article, adhesive or material or article covered by a surface coating concerned."; and

(c) immediately after paragraph (4) there shall be inserted the following paragraph –

"(5) The provisions referred to in the definition of "plastic material or article" in paragraph (1) are regulations 3, 4, 4A, 5, 6, 10, 11 and 12 and Schedules 3 and 4.".

5. In regulation 3 (restriction on the use, sale or importation of plastic materials and articles) –

(a) for the heading there shall be substituted the following heading –

"Restriction on the use, sale or importation of plastic materials and articles, adhesives and materials and articles covered by surface coatings";

(b) in paragraphs (1) and (2), immediately after "plastic material or article", wherever it occurs, there shall be inserted ", adhesive or material or article covered by a surface coating";

(c) at the end of paragraph (4)(a)(iii), "or" shall be deleted;

(d) for paragraph (4)(a)(iv) there shall be substituted the following provision –

"(iv) it does not comply with regulation 4(5), (5A) or (5B), 4A(4), (5) or (6), 5(4), (4A), (4B) or (4C), 7 or 7A(1), or";

(e) immediately after paragraph (4)(a)(iv) there shall be inserted the following provision –

"(v) it has been manufactured in contravention of a prohibition contained in regulation 4A(1), (2) or (3),"; and

(f) there shall be added at the end the following paragraph –

"(5) For the purposes of this regulation, an adhesive or a material or article covered by a surface coating fails to meet the requisite standards if –

(i) it has been manufactured in contravention of a prohibition contained in regulation 8A(1), (2) or (3), or

(ii) it does not comply with regulation 8A(4), (5) or (6).".

6. In regulation 4 (restriction on manufacture with monomers) –

(a) for the heading and paragraph (1) there shall be substituted the following provisions –

"**Restriction on the use of monomers in the manufacture of plastic materials and articles**

(1) Subject to the following paragraphs, no person shall use in the manufacture of any plastic material or article any prohibited monomer, that is to say –

(a) any monomer (not being one to which sub-paragraph (b) or (c) relates) which is not –

(i) of good technical quality;

(ii) identified by PM/REF No. , CAS No. (if any) and name in columns 1, 2 and 3 respectively of the relevant section of Part I of Schedule 1, and

(iii) used in accordance with the restrictions and specifications (if any) for that monomer set out or referred to in the corresponding entry in column 4 of that section;

(b) BFDGE to the extent that they are used in such manufacture –

(i) on or after 1st January 2005, or

(ii) prior to that date in contravention of the restriction specified in paragraph 1 of Annex II to Commission Directive 2002/16, as read with the second sentence of paragraph 2 of that Annex; or

(c) NOGE to the extent that it is used in such manufacture –

(i) on or after 1st January 2005, or

(ii) prior to that date but on or after 1st March 2003, in contravention of the restriction specified in the first sentence of Article 4 of Commission Directive 2002/16.";

(b) in paragraph (2) –

(i) for sub-paragraphs (b) and (c) there shall be substituted the following provisions –

"(b) in the case of a plastic material or article manufactured on or after 30th November 2002 and before 1st January 2005, Section A or B; and

(c) in the case of a plastic material or article manufactured on or after 1st January 2005, Section A.";

(c) for paragraph (3) there shall be substituted the following paragraph –

"(3) Paragraph (1)(a) does not apply to the use of a monomer in the manufacture of any –

(a) surface coatings obtained from resinous or polymerised products in liquid, powder or dispersion form, including, but not limited to, varnishes, lacquers and paints;

(b) epoxy resins;

(c) adhesives and adhesion promoters; or

(d) printing inks.";

(d) in paragraph (4), for "Paragraph (1)" there shall be substituted "Paragraph (1)(a)";

(e) immediately after paragraph (5) there shall be inserted the following provisions –

"(5A) No plastic material or article manufactured using BFDGE as a monomer shall be capable of transferring constituents of that monomer to food with which that plastic material or article may come into contact, in quantities exceeding the appropriate limit specified in paragraph 1 of Annex II to Commission Directive 2002/16, as read with the second sentence of paragraph 2 of that Annex.

(5B) On or after 1st March 2003, no plastic material or article manufactured using NOGE as a monomer shall fail to comply with the requirements of the first sentence of Article 4 of Commission Directive 2002/16."; and

(f) in paragraph (7) –

(i) for "paragraph (1)" there shall be substituted "paragraph (1)(a)", and

(ii) after "Part I of Schedule 1" there shall be inserted "or to which sub-paragraph (b) or (c) of that paragraph relates".

7. Immediately after regulation 4 there shall be inserted the following regulation –

"**Restriction on the manufacture of plastic materials and articles using certain substances other than as monomers or additives**

4A.—(1) No person shall use BADGE in the manufacture of any plastic material or article, where the use is not as a monomer or an additive –

(a) on or after 1st January 2005; or

(b) prior to that date in contravention of the restriction specified in paragraph 1 of Annex 1 to Commission Directive 2002/16, as read with the second sentence of paragraph 2 of that Annex.

(2) No person shall use BFDGE in the manufacture of any plastic material or article, where the use is not as a monomer or an additive –

(a) on or after 1st January 2005; or

(b) prior to that date in contravention of the restriction specified in paragraph 1 of Annex II to Commission Directive 2002/16, as read with the second sentence of paragraph 2 of that Annex.

(3) No person shall use NOGE in the manufacture of any plastic material or article, where the use is not as a monomer or additive –

(a) on or after 1st January 2005; or

(b) prior to that date but on or after 1st March 2003, in contravention of the restriction specified in the first sentence of Article 4 of Commission Directive 2002/16.

(4) No plastic material or article manufactured using BADGE other than as a monomer or an additive shall be capable of transferring constituents of BADGE to food with which the plastic material or article may come into contact, in quantities exceeding the appropriate limit specified in paragraph 1 of Annex I to Commission Directive 2002/16, as read with the second sentence of paragraph 2 of that Annex.

(5) No plastic material or article manufactured using BFDGE other than as a monomer or an additive shall be capable of transferring constituents of BFDGE to food with which the plastic material or article may come into contact, in quantities exceeding the appropriate limit specified in paragraph 1 of Annex II to Commission Directive 2002/16, as read with the second sentence of paragraph 2 of that Annex.

(6) On or after 1st March 2003, no plastic material or article manufactured using NOGE other than as a monomer or an additive shall fail to comply with the requirements of the first sentence of Article 4 of Commission Directive 2002/16.".

8. In regulation 5 (restriction on manufacture with additives) –

(a) for the heading and paragraph (1) there shall be substituted the following provisions –

"**Restriction on the use of additives in the manufacture of plastic materials and articles**

(1) Subject to the following paragraphs, no person shall use in the manufacture of any plastic material or article any prohibited additive, that is to say –