1981 No. 285

FOOD AND DRUGS

Materials and Articles in Contact with Food Regulations (Northern Ireland) 1981

Made . . . . . *20th August 1981*

Coming into operation . . . *28th September 1981*

The Department of Health and Social Services, being a designated Department(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to materials and articles in contact with food or drink or intended for such contact, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Materials and Articles in Contact with Food Regulations (Northern Ireland) 1981 and shall come into operation on 28th September 1981.

Interpretation

2.—(1) In these regulations—

"authorised officer" means an authorised officer of a district council;

"business" includes the undertaking of a canteen, club, school, hospital or institution, whether carried on for profit or not, and any undertaking or activity carried on by a district council or other public authority;

"Department" means the Department of Health and Social Services;

"food" means food intended for human consumption and includes drink, water, natural mineral water, chewing gum and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food, but does not include—

(*a*) live animals or birds,

(*b*) fodder or feedingstuffs for animals, birds or fish, or

(*c*) articles or substances used only as drugs;

"import" means import in the course of a business;

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

"public analyst" has the meaning assigned to it by section 31 of the Food and Drugs Act (Northern Ireland) 1958(**c**);

"registered trade mark" means a trade mark which has effect in any member state of the European Economic Community and is duly registered in accordance with the laws of that state;

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

(**a**) Designated by S.I. 1976/2141
(**b**) 1972 c. 68
(**c**) 1958 c. 27 (N.I.)

"sell by retail" means sell to a person buying otherwise than for the purposes of re-sale, but does not include selling to a caterer for the purposes of his catering business or to a manufacturer for the purposes of his manufacturing business;

"ship" includes any boat or craft, and for this purpose "craft" includes hovercraft.

(2) The Interpretation Act (Northern Ireland) 1954(a) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Exemptions

3. The provisions of these regulations shall not apply to—

(*a*) any fixed public or private water supply equipment;

(*b*) any substance which, being used as a covering or coating for a food, forms part of that food and may be consumed with it, including such a substance used as covering or coating for cheese rind or prepared meat products;

(*c*) any material or article intended for exportation to any place outside the United Kingdom;

(*d*) any material or article which is a collector's piece of artistic, archaeological or ethnographic interest or to any other material or article of an age exceeding 100 years.

Sale and use of materials and articles

4.—(1) This regulation shall apply to materials and articles which are in their finished state and are intended to come into contact with food or which are in contact with food and are intended for that purpose.

(2) Materials and articles to which this regulation applies shall be manufactured in accordance with good manufacturing practice, that is to say in such a way that under normal or foreseeable conditions of use they do not transfer their constituents to food with which they are, or are likely to be, in contact, in quantities which could—

(i) endanger human health or

(ii) bring about a deterioration in the organoleptic characteristics of such food or an unacceptable change in its nature, substance or quality.

(3) 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 which does not comply with this regulation.

Labelling and description of materials and articles sold by retail

5.—(1) The following particulars shall be shown with any material or article which, being in its finished state, is intended to come into contact with food but is not already in contact with food, when such material or article is sold by retail:—

(*a*) unless the material or article is by its nature clearly intended to come into contact with food, the description "for food use" or a specific indication of the particular use for which the material or article is intended,

(*b*) any special conditions to be observed when the material or article is being used, and

(*c*) either

(a) 1954 c. 33 (N.I.)

(i) the name or trade name and address or registered office, or

(ii) the registered trademark

of the manufacturer or processor of the material or article, or of a seller thereof established within the European Economic Community.

(2) Such particulars shall be shown clearly, legibly and indelibly—

(*a*) on the material or article or on its packaging, or

(*b*) on a label affixed to the material or article or to its packaging, or

(*c*) on a sign which is in the immediate vicinity of the material or article and is clearly visible to purchasers, but the particulars mentioned in paragraph (1)(*c*) shall appear on such a sign only if it was not reasonably practicable for such particulars, or a label bearing them, to be marked on, or affixed to, the material or article or to its packaging at the time of manufacture or sale.

(3) A person shall not sell by retail any such material or article, unless the particulars mentioned in paragraph (1) are shown in the manner required by paragraph (2).

Labelling and description of materials and articles sold otherwise than by retail

6.—(1) The following particulars shall be shown with any material or article which, being in its finished state, is intended to come into contact with food but is not already in contact with food, when such material or article is sold otherwise than by retail or is imported:—

(*a*) the description "for food use" or a specific indication of the particular use for which the material or article is intended,

(*b*) any special conditions to be observed when the material or article is being used, and

(*c*) either

(i) the name or trade name and address or registered office, or

(ii) the registered trade mark

of the manufacturer or processor of the material or article, or of a seller thereof established within the European Economic Community.

(2) Such particulars shall be shown clearly, legibly and indelibly—

(*a*) on the material or article or on its packaging, or

(*b*) on a label affixed to the material or article or to its packaging, or

(*c*) in the accompanying documents.

(3) A person shall not sell otherwise than by retail or import any such material or article, unless the particulars mentioned in paragraph (1) are shown in the manner required by paragraph (2).

Restriction on use of description "for food use"

7.—(1) A person shall not sell any material or article under the description "for food use" or under any other description directly or indirectly leading a purchaser to believe that he is purchasing a material or article suitable for use with food, unless that material or article complies with the provisions of regulation 4(2).

(2) A person shall not publish, or be a party to the publication of, an advertisement for a material or article in which a description of the kind mentioned in paragraph (1) is used, unless the material or article to which the advertisement relates complies with the provisions of regulation 4(2).

(3) In any proceedings brought under paragraph (2) against the manufacturer, producer or importer of any material or article or of any food, it shall rest on the person charged to prove that he did not publish and was not party to the publication of, the advertisement.

(4) In any proceedings brought under paragraph (2) it shall be a defence for the person charged to prove that, being a person whose business it is to publish, or arrange for the publication of, advertisements, he received the advertisement for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under this regulation.

(5) Where a person sells a material or article to a purchaser in response to a request in which a description of the kind mentioned in paragraph (1) is used, he shall be deemed to have sold that material or article under that description, unless he clearly notifies the purchaser at the time of sale that the material or article is not suitable for use with food.

Materials and articles offered as prizes, etc.

8.—(1) Regulations 4, 5 and 7 shall apply to—

(*a*) any material or article which is offered as a prize or reward in connection with any entertainment to which the public are admitted, whether on payment of money or not, as if the material or article were, or had been, exposed for sale by each person concerned in the organisation of the entertainment;

(*b*) any material or article which is offered as a prize or reward or given away for the purpose of advertisement, or in furtherance of any trade or business, as if the material or article were, or had been, exposed for sale by the person offering or giving away the material or article; and

(*c*) any material or article which is exposed or deposited in any premises for the purpose of being so offered or given away as aforesaid, as if the material or article were, or had been, exposed for sale by the occupier of the premises.

(2) The expression "entertainment" includes any social gathering, amusement, exhibition, performance, game, sport or trial of skill.

Enforcement

9. Each district council shall enforce and execute the provisions of these regulations in its district.

Powers of authorised officers

10. An authorised officer may at all reasonable hours and on producing, if so required, some duly authenticated document showing his authority, exercise the following powers, that is to say—

(*a*) he may, for the purpose of ascertaining whether any offence under these regulations has been committed, inspect any materials or articles and enter—

(i) any premises, other than premises used only as a dwelling, or

(ii) any ship, aircraft or vehicle;

(*b*) if he has reasonable cause to suspect that an offence under these regulations has been committed, he may require any person carrying on a trade or business, or employed in connection with a trade or business, to produce any books or documents relating to the trade or business, and he may take copies of any such book or document, or of any entry in any such book or document;

(*c*) he may for the purpose of ascertaining whether any offence under these regulations has been committed, purchase or take samples of any material or article to which these regulations apply and of any food which has come into contact with any such material or article.

Confidentiality

11. No information obtained from any books or documents produced in accordance with regulation 10(*b*) shall, without the previous consent in writing of the person carrying on the trade or business in question, be disclosed except for the purpose of any proceedings for an offence against any of these regulations or any report of those proceedings.