
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2007 (S.R. 2007 No. 434 as amended by S.R. 2009 No. 56 and S.R. 2009 No. 377) (“the 2007 Regulations”) and re-enact, with certain amendments relating to active and intelligent materials and articles, provisions contained in those Regulations. These Regulations provide for the enforcement of 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 (OJ No. L338, 13.11.2004, p.4) (“Regulation 1935/2004”).

The Regulations also provide for —

- (a) the enforcement of [Commission Regulation \(EC\) No. 2023/2006](#) on good manufacturing practice for materials and articles intended to come into contact with food (OJ No. L384, 29.12.2006, p.75 (“Regulation 2023/2006”));
- (b) the implementation of Commission Directive 2007/42/EC relating to materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs (OJ No. L172, 30.6.2007, p.71) (“Directive 2007/42”). This Directive repealed and consolidated Commission Directive [93/10/EEC](#) (OJ No. L93, 17.4.1993, p.27) as last amended by Commission Directive [2004/14/EC](#) (OJ No. L27, 30.1.2004, p.48); and
- (c) the enforcement of [Commission Regulation \(EC\) No. 450/2009](#) on active and intelligent materials and articles intended to come into contact with food (OJ No. L135, 30.5.2009, p.3) (“Regulation 450/2009”).

These Regulations provide that references to a specified EU instrument or specified parts of it are to be construed as references to the instrument or parts of it as they may be amended from time to time (*regulation 2(3)*).

These Regulations do not apply to materials or articles outside the scope of Regulation 1935/2004 (*regulation 3*). The materials identified in that Regulation as being outside its scope are materials and articles supplied as antiques, covering or coating materials forming part of the food and which may be consumed with it and fixed public or private water supply equipment.

Part 2 of these Regulations contains provisions which make it an offence to contravene certain requirements of Regulation 1935/2004 (*regulation 4*), Regulation 2023/2006 (*regulation 5*) and Regulation 450/2009 (*regulation 6*). Regulation 1935/2004 is the principal framework Regulation on materials and articles in contact with food.

Part 2 also provides for designation of the competent authorities for the various purposes identified in Regulations 1935/2004, 2023/2006 and 450/2009 (*regulation 7*).

Part 3 consists of regulations which re-enact, without amendment, the provisions of the 2007 Regulations relating to vinyl chloride (*regulations 8 and 9*).

Part 4 contains regulations which re-enact, without amendment, provisions of the 2007 Regulations relating to regenerated cellulose film (“RCF”) (*regulations 10, 11 and 12*).

In particular, regulation 10 of these Regulations —

- (a) controls what substances may be used in the manufacture of RCF, which may vary according to whether or not it is coated with plastics (*paragraph (3)*);

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- (b) regulates what substances may be used to manufacture plastic coatings for RCF, and under what conditions (*paragraph (4)*);
- (c) creates a conditional derogation from paragraph (3) in respect of substances used as colourants or adhesives in the manufacture of non-plastic coated RCF (*paragraph (5)*);
- (d) creates offences in relation to the sale, import or business use of non-compliant RCF (*paragraphs (6) & (7)*); and
- (e) creates a conditional requirement for RCF, when marketed prior to the retail stage, to be accompanied by a declaration of legislative compliance (*paragraph (8)*).

Regulation 11 applies to plastic coated RCF the existing controls (derived from Commission Directive 2002/72/EC) on migration of constituents of plastic materials and articles into food, in particular by —

- (a) specifying overall migration limits for plastic coated RCF (*paragraphs (1) & (2)*);
- (b) applying to plastic coated RCF the specific migration limits applicable to certain substances used in the manufacture of plastic materials and articles (*paragraphs (3) & (4)*); and
- (c) applying the prescribed methods and procedures for checking compliance with migration limits (*paragraphs (5) & (6)*).

Regulation 12 contains saving and transitional provisions which —

- (a) preserve the defences available under the Materials and Articles in Contact with Food Regulations (Northern Ireland) 1987 ([S.R. 1987 No. 432](#)) for any RCF manufactured before 29th April 1994 that may still be in circulation; and
- (b) provide a defence in relation to RCF manufactured in or imported into the European Community before 29th January 2006.

Part 5 contains general administrative and enforcement provisions which —

- (a) penalise contravention of these Regulations or obstruction of those enforcing them (*regulation 13*);
- (b) designate enforcement authorities for various functions under the Regulations (*regulation 14*);
- (c) provide for the prosecution of a person who causes the commission of an offence by another person, whether or not proceedings are taken against the original offender (*regulation 15*);
- (d) specify a time limit for commencing a prosecution (*regulation 16*);
- (e) provide for a defence of due diligence to an offence under these Regulations (*regulation 17*);
- (f) specify the procedure to be followed when sending a sample for analysis (*regulation 18*);
- (g) make provision for a reference sample to be analysed by the Laboratory of the Government Chemist (*regulation 19*);
- (h) apply certain provisions of the Food Safety (Northern Ireland) Order 1991 for the purposes of these Regulations (*regulation 20*);
- (i) make a consequential amendment to Schedule 1 to the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 1991 ([S.R. 1991 No. 198](#); relevant amending rule is [S.R. 2007 No. 434](#)) (*regulation 21*);
- (j) make a consequential amendment to the Plastic Materials and Articles in Contact with Food Regulations (Northern Ireland) 2009 ([S.R. 2009 No. 56](#)) (*regulation 22*);

- (k) amend the definition of “ingredient” in the Food Labelling Regulations (Northern Ireland) 1996 (S.R. 1996 No. 383; relevant amending rule is S.R. 2009 No. 415) (regulation 23); and
- (l) revoke the 2007 Regulations (S.R. 2007 No. 434), and the relevant amending Regulations S.R. 2009 No. 377 as well as Regulation 25 of the 2009 Regulations (S.R 2009 No.56) (regulation 24).