
EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations provide for the implementation of the following Directives and the enforcement of the following EU Regulations—

- (a) Council Directive [78/142/EEC](#) on the approximation of the laws of the Member States relating to materials and articles which contain vinyl chloride monomer and are intended to come into contact with foodstuffs (OJNo. L44, 15.2.1978, p.15) (“Directive [78/142/EEC](#)”);
- (b) Council Directive [84/500/EEC](#) on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with foodstuffs (OJ No. L277, 20.10.1984, p.12) (“Directive [84/500/EEC](#)”);
- (c) 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/EC](#)”);
- (d) 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”);
- (e) Commission Regulation (EC) No. [1895/2005](#) on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food (OJ No. L302, 19.11.2005, p.28) (“Regulation 1895/2005”);
- (f) 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”);
- (g) 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”); and
- (h) Commission Regulation (EU) No. 10/2011 on plastic materials and articles intended to come into contact with food (OJ No. L12, 15.1.2011, p.1) (“Regulation 10/2011”).

2. These Regulations revoke the Plastic Materials and Articles in Contact with Food (Wales) Regulations 2009 (S.I. 2009/481 (W.49)). They also revoke and re-enact with certain amendments the provisions of the Ceramic Articles in Contact with Food (Wales) Regulations 2006 (S.I. 2006/1704 (W.166)) and the Materials and Articles in Contact with Food (Wales) Regulations 2010 (S.I. 2010/2288 (W.200)).

3. 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)*).

4. 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.

5. Part 2 of these Regulations contains provisions which make it an offence to contravene certain requirements of Regulation 1935/2004 (*regulation 4*) and Regulation 2023/2006 (*regulation 5*).

Regulation 1935/2004 is the principal framework Regulation on materials and articles in contact with food.

6. Part 2 also provides for designation of the competent authorities for the various purposes identified in Regulations 1935/2004 and 2023/2006 (*regulation 6*).

7. Part 3 provides for the enforcement of specified provisions of Regulation 450/2009 (*regulation 7*) and designates the competent authorities for the purposes of that Regulation (*regulation 8*).

8. Part 4 implements Directive [84/500/EEC](#), and the definition of a ceramic article is set out in *regulation 9*. It provides that no person may place on the market a ceramic article that does not meet the specifications set out in the Directive (*regulation 10*). This regulation additionally contains requirements relating to documentary proof of compliance which apply to new but not to second hand ceramic articles.

9. Part 5 of these Regulations, which implements Directive [2007/42/EC](#), contains requirements relating to regenerated cellulose film and identifies the various types of such film to which the provisions apply (*regulation 11*). This Part, in *regulation 12*, contains conditions relating to the substances that may be used for the manufacture of regenerated cellulose film (*paragraphs (1) to (4)*), specifies that the printed surface of regenerated film must not come into contact with food (*paragraph (5)*) and specifies certain documentation and labelling requirements (*paragraphs (6) and (7)*).

10. Part 6 of these Regulations provides for the enforcement of Regulation 10/2011 and identifies those provisions of the EU Regulation which it constitutes an offence to contravene (*regulation 14 and the Schedule*). The competent authorities for the purposes of certain provisions of Regulation 10/2011 are designated in regulation 15.

11. Part 7 provides for the continuing enforcement of Regulation 1895/2005 which maintains a ban on the epoxy derivatives BFDGE and NOGE and restrictions on the use of BADGE (*regulation 16*). The competent authorities for the purpose of this EU Regulation are designated in *regulation 17*.

12. Part 8 maintains the controls on the use of vinyl chloride put in place by Directive [78/142/EEC](#) to the extent that those controls are not now effected by Regulation 10/2011 (*regulation 18*).

13. Part 9 contains enforcement and associated provisions that—

- (a) penalise contravention of these Regulations or obstruction of those enforcing them (*regulation 19*);
- (b) designate enforcement authorities for various functions under the Regulations (*regulation 20*);
- (c) provide that individuals responsible for the actions of a corporate body or a Scottish partnership may be co-prosecuted for offences committed by that body or partnership (*regulation 21*);
- (d) 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 22*);
- (e) specify a time limit for commencing a prosecution (*regulation 23*);
- (f) provide for a defence of due diligence to an offence under these Regulations (*regulation 24*);
- (g) specify the procedure to be followed when sending a sample for analysis (*regulation 25*);
- (h) make provision for a reference sample to be analysed by the Laboratory of the Government Chemist (*regulation 26*);and

- (i) apply certain provisions of the Food Safety Act 1990 for the purposes of these Regulations (*regulation 27*).

14. Part 10 contains general and supplementary provisions which—

- (a) make consequential amendments to Schedule 1 to the Food Safety (Sampling and Qualifications) Regulations 1990 (*regulation 28*);
- (b) maintain an amendment to the Food Labelling Regulations 1996 (S.I. 1996/1499) and provide for that amendment to expire on a date when directly applicable EU food labelling provisions take effect (*regulation 29*); and
- (c) provide for the revocation of specified Regulations (*regulation 30*).

15. The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Food Standards Agency at Food Standards Agency Wales, 11th Floor, Southgate House, Wood Street, Cardiff CF10 1EW.

Changes to legislation:

There are currently no known outstanding effects for the The Materials and Articles in Contact with Food (Wales) Regulations 2012.