
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2012 (“the principal Regulation”) to provide for the enforcement of Commission Regulation (EU) 2018/213 (“Regulation 2018/213”) on the use of bisphenol A in varnishes and coatings intended to come into contact with food and amending Regulation (EU) No 10/2011 as regards the use of that substance in plastic food contact materials (OJ L 41, 14.2.2018, p.6).

These Regulations amend the principal Regulations so as to—

- (a) extend the definitions of “[Directive 84/500/EEC](#)”, “[Regulation 1935/2004](#)”, “[Regulation 2023/2006](#)” and “[Regulation 10/2011](#)” to include a reference to the last amending EU Regulation (*regulation 3(a) to (d)*);
- (b) insert a definition of Regulation 2018/213 (*regulation 3 (e)*);
- (c) amend regulation 13 (Interpretation of Part 6 and Schedule 1) to exclude regulation 14(1) and Schedule 1 from its application (*regulation 4*);
- (d) amend regulation 14 (Offences of contravening specified provisions of Regulation 10/2011) to identify transitional arrangements provided for in a number of EU regulations, subject to which regulation 14 makes provision for offences for failure to comply with those requirements of Regulation 10/2011 listed in column 1 of Schedule 1 to the principal Regulations (*regulation 5*);
- (e) amend regulation 16 (Restrictions on the use of certain epoxy derivatives) at 16(2) to remove the reference to Article 6(1), (2) and (4) of Regulation 1895/2005 (transitional provisions which have expired) (*regulation 6*);
- (f) insert a Part 7A, comprising regulations 17A to 17C, to provide for the enforcement of provisions of Regulation 2018/213 on the use of bisphenol A (‘BPA’) in varnishes and coatings intended to come into contact with food for the purposes of Regulation 2018/213 (*regulation 7*);

Regulation 17A makes interpretative provision for Part 7A.

Regulation 17B provides that, subject to the transitional provisions contained in Article 6 of Regulation 2018/213, any person who places on the market a material or article which fails to comply with Article 2 of that Regulation is guilty of an offence. Article 2(1) provides that the migration rate of BPA into or onto food from varnishes and coatings shall not exceed 0,05 mg of BPA per kg of food (mg/kg). Article 2(2) permits no migration of BPA from varnishes and coatings intended to be in contact with infant formula, baby foods, products intended for young children etc.

Regulation 17C provides that the Food Standards Agency, and each district council in its district, are competent authorities for the purposes of Article 4(3) of Regulation 2018/213 (competent to request business operators to provide appropriate supporting documentation to demonstrate compliance with the written declaration required by Article 4(1) and Annex I to Regulation 2018/213).

- (g) amend Regulation 19 (Offences and penalties) to make it an offence to obstruct a person acting in the execution of Regulation 2018/213 (*regulation 8(a)*) and to provide for sentencing in relation to the offence created by inserted regulation 17B (*regulation 8(b)*);

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (h) amend regulation 23 (General defences) to include reference in paragraph (2) to the offence created by inserted regulation 17B (*regulation 9*);
- (i) amend regulation 2 (Application of various provisions of the Order) to enable an improvement notice under Article 9 of the Food Safety (Northern Ireland) Order 1991 ('the Order') to be served on a person, requiring that person to comply with Article 4 of Regulation 2018/213 (provision by business operators of a written declaration of compliance, permitting easy identification of varnishes and coatings, and provision of supporting documentation to the competent authority without delay and, in any event, within 10 days of request) (*regulation 10*);
- (j) omit regulation 27 (the regulations that it amended have since been revoked) and regulation 28 (its operative provisions have expired) (*regulation 11*); and
- (k) amend Schedule 2, Part 1, to provide that the modification by Schedule 2 of Article 9(1) of the Order (improvement notices) applies to improvement notices served in relation to failure to comply with Article 4 of Regulation 2018/213 (*regulation 12*).