

EXPLANATORY MEMORANDUM TO
The Materials and Articles in Contact with Food (Amendment)
Regulations (Northern Ireland) 2018

SR 2018 No.186

1. Introduction

- 1.1. This explanatory memorandum has been prepared by the Food Standards Agency in Northern Ireland to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Articles 15(2), 16(1) and (2), 25(1)(a), (2)(a) and (3), and 47(2) of the Food Safety (Northern Ireland) Order 1991.
- 1.3. The rule is due to come into operation on 29th November 2018 in line with Commission Regulation (EU) 2018/213.

2. Purpose of the Rule

- 2.1. The purpose of the Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2018 is to amend the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2012 to allow for the enforcement of Commission Regulation (EU) 2018/213.

3. Policy Background

- 3.1. Regulation (EC) No 1935/2004 of the European Parliament and of the Council (“the Framework Regulation”) lays down the general safety rules for all materials and articles intended to come into contact with food. Article 5(1) of the Framework Regulation allows for specific measures for groups of materials and articles.
- 3.2. Bisphenol A (BPA) is a chemical substance used in the manufacture of certain materials and articles intended to come into contact with food, including polycarbonate, a hard, clear plastic, which is used in many consumer products and epoxy resins, which act as a protective lining on the inside of some metal-based food and beverage cans.

4. The BPA Regulation

BPA in varnishes and coatings

- 4.1. On the basis of European Food Safety Authority (“EFSA”) advice, Commission Regulation (EU) 2018/213 has been adopted to set limits for the amount of BPA used in food contact materials that may be released from varnishes and coatings into the food with which they are in contact. From 6th September 2018, no more than 0.05mg of BPA may be released from varnishes and coatings per kg of food with which they are in contact.
- 4.2. The Regulation further provides that, as a derogation from the above, from 6th September 2018, no migration of BPA shall be permitted from varnishes or coatings specifically intended to come into contact with foods for babies, infants or young children.

- 4.3. Varnished or coated materials that were lawfully placed on the market before 6th September 2018 will be permitted to remain on the market until stocks are exhausted.
- 4.4. The proposed Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2018 will amend the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2012 to provide for the enforcement of the requirements of Commission Regulation (EU) 2018/213 in relation to BPA in varnishes and coatings.

BPA in plastic food contact materials

- 4.5. Currently, Commission Regulation (EU) No 10/2011 sets out specific requirements for the manufacture and marketing of plastic materials and articles that come into contact with food, including in relation to the use of BPA. Among other things, the Regulation sets a maximum migration limit for BPA of 0.6mg per kg of food with which the plastic is in contact.
- 4.6. From 6th September 2018, Commission Regulation (EU) No 2018/213 will amend Commission Regulation (EU) No 10/2011 in relation to BPA use in plastic food contact materials. On the basis of EFSA advice, the BPA migration limit is to be lowered to 0.05mg per kg of food.
- 4.7. Commission Regulation (EU) No 10/2011 also currently provides that BPA may not be used in the manufacture of polycarbonate infant feeding bottles.
- 4.8. The amendments also provide that, in addition to the existing prohibition on the use of BPA in the manufacture of polycarbonate infant feeding bottles, the use of BPA will not be permitted in the manufacture of spill-proof polycarbonate drinking cups or bottles which are intended for infants and young children.
- 4.9. Plastic food contact materials that were lawfully placed on the market before 6th September 2018 will be permitted to remain on the market until stocks are exhausted.
- 4.10. The Materials and Articles in Contact with Food Regulations (Northern Ireland) 2012 do not require an amendment to provide for the enforcement of these substantive amendments; they will be captured by the existing ambulatory reference in those Regulations.

5. Matters of Special Interest to the Health Committee

N/A

6. Consultation

- 6.1. An eight-week consultation was conducted in Northern Ireland between 23rd April and 18th June 2018 seeking comments on the draft Statutory Rule. No responses were received to the consultation.

7. Position in Great Britain

7.1. In England, where the FSA also has responsibility for materials and articles in contact with food, similar regulations will be brought forward to amend the equivalent regulations. In Wales, their equivalent regulations namely, The Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2018 came into force on 6th September 2018.

8. Equality Impact

8.1. These regulations will apply in equal measure to all Section 75 groups. It is not expected that any of these changes will impact differentially across any of the section 75 groups.

9. Regulatory Impact

9.1. A Regulatory Impact Assessment has not been prepared to accompany these Regulations as there are no changes to the current controls and therefore no identified costs to consumers, businesses or enforcement authorities associated with implementation of the Regulations.

10. Financial Implications

10.1. N/A

11. Section 24 of the Northern Ireland Act 1998

11.1. These regulations will apply in equal measure to all groups. It is not expected that any of these changes will impact differentially across any as determined by Section 24.

12. EU Implications

12.1. N/A