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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Materials and Articles in Contact with Food (Wales) Regulations 2012 (S.I. 2012/2705 (W. 291)) (“the principal Regulations”) to provide for the enforcement of Commission Regulation (EU) 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 No L 41, 14.2.2018, p. 6) (“Regulation 2018/213”).

Regulation 4 amends regulation 14 of the principal Regulations to enforce the transitional provision provided for in Article 6 of Regulation 2018/213. A person is not guilty of the offence of failing to comply with a requirement of Regulation (EU) No 10/2011 on plastic materials and articles intended to come into contact with food (OJ No L 12, 15.1.2011, p. 1) specified in column 1 of Schedule 1 of the principal Regulations if the plastic material or article was lawfully placed on the market before 6 September 2018. Such products may remain on the market until exhaustion of stocks.

Regulation 5 inserts new regulations 17A to 17C into the principal Regulations to provide for the enforcement of the provisions of Regulation 2018/213 on the use of bisphenol A in varnishes and coatings intended to come into contact with food. New regulation 17B provides that subject to the transitional provision in Article 6 of Regulation 2018/213, any person who places on the market a material or article that fails to comply with Article 2 of that Regulation is guilty of an offence. Article 2 provides that no bisphenol A may be released from varnishes or coatings specifically intended to come into contact with foods for babies, infants or young children and that, in relation to all other varnishes and coatings intended to come into contact with food, no more than 0.05mg of bisphenol A may be released per kg of food with which they are in contact. New regulation 17C provides that the Food Standards Agency is the competent authority for the purposes of Article 4(3) of Regulation 2018/213.

Regulations 6 and 7 amend the principal Regulations to provide that a person who intentionally obstructs any person acting in the execution of Regulation 2018/213 commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale. A person guilty of the offence of failing to comply with Article 2 of Regulation 2018/213 is liable on conviction on indictment to an unlimited fine or to a term of imprisonment not exceeding two years, or both, or on summary conviction, to an unlimited fine.

Regulations 8 and 9 amend the principal Regulations to enable an authorised officer of the enforcement authority to serve an improvement notice to require a person to comply with Article 4 of Regulation 2018/213. Article 4 requires business operators to ensure that varnished or coated materials and articles intended to come into contact with food are accompanied by a written declaration of compliance with Regulation 2018/213.

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 impact 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, 11<sup>th</sup> Floor, Southgate House, Wood Street, Cardiff, CF10 1EW or from the Agency’s website at [www.food.gov.uk](http://www.food.gov.uk).