2004 No. 493

FOOD

The Plastic Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2004

Made - - - - -	*30th November 2004*
Coming into operation	*30th December 2004*

The Department of Health, Social Services and Public Safety(**a**), in exercise of the powers conferred on it by Articles 15(2), 16(1), 25(1)(a) and (3) and 47(2) of the Food Safety (Northern Ireland) Order 1991(**b**) and of all other powers enabling it in that behalf, having had regard, in accordance with Article 47(3A) of the said Order, to relevant advice given by the Food Standards Agency, and after consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**c**), and in accordance with Article 47(3) and (3B) of the said Order, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Plastic Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2004 and shall come into operation on 30th December 2004.

Amendments to the Plastic Materials and Articles in Contact with Food Regulations (Northern Ireland) 1998

2. The Plastic Materials and Articles in Contact with Food Regulations (Northern Ireland) 1998(**d**) shall be amended in accordance with regulations 3 to 6.

3. In regulation 2(1) (interpretation) –

(a) at the end of the definition of "Commission Directive 2002/16" there shall be added "as amended by Commission Directive 2004/13/EC"(**e**);

(b) at the end of the definition of "the Directive" there shall be added "as amended by Commission Directive 2004/1/EC"(**f**).

4. In the following provisions, for the figure "2005" there shall be substituted the figure "2006" –

(a) regulation 4A(1)(a);

(**a**) Formerly the Department of Health and Social Services; *see* S.I. 1999/283 (N.I.) Article 3
(**b**) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1663 (N.I. 12) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28
(**c**) O.J No. L31, 1.2.2002, p. 1
(**d**) S.R. 1998 No. 264 as amended by S.R. 2000 No. 402, S.R 2002 No. 316 and S.R. 2003 No. 2
(**e**) O.J. No. L27, 31.1.2004, p. 46
(**f**) O.J. No. L7, 13.1.2004, p. 45

(b) regulation 5(1)(b)(i);

(c) regulation 8A(1);

(d) in section A of Part I of Schedule 1, at item 40 in column 4 (restrictions and specifications).

5. In Part I of Schedule 2, at item 27A in column 4 (restrictions and specifications), after "For use only as a blowing agent" there shall be added "Use prohibited as from 2nd August 2005".

6. In regulation 10 (offences) –

(a) for paragraph (19) there shall be substituted –

"(19) In any proceedings for an offence under regulation 3(1)(b) in relation to the requisite standards applicable to adhesives and materials and articles covered by a surface coating it shall be a defence to prove that –

(a) the adhesive, material or article was brought into contact with food before 28th February 2003;

(b) the date of filling (or subject to paragraph (24) a coded indication of the date of filling) of the material or article concerned appeared on the adhesive, material or article at the time of sale; and

(c) the labelling or marking with the particulars mentioned in sub-paragraph (b) at the time of sale complied with the requirements as regards labelling relating to durability contained in Article 2.1(a) of Directive 2000/13/EC of the European Parliament and of the Council."(**a**);

(b) paragraph (20) shall be omitted;

(c) immediately after paragraph (22) there shall be added –

"(23) In any proceedings for an offence under regulations 3(1)(b) in relation to the sale as from 2nd August 2005 of a plastic material or article containing azodicarbonamide with reference number 36640 in Part I of Schedule 2 it shall be a defence to prove that –

(a) the plastic material or article was brought into contact with food before 2nd August 2005;

(b) the date of filling (or subject to paragraph (24) a coded indication of the date of filling) of the material or article concerned appeared on the plastic material or article concerned at the time of sale; and

(c) the labelling or marking with the particulars mentioned in sub-paragraph (b) at the time of sale complied with the requirements as regards labelling relating to durability contained in Article 2.1(a) of Directive 2000/13/EC of the European Parliament and of the Council.

(24) For the purposes of paragraph (19)(b) and paragraph (23)(b) the date signified by a coded indication shall have been made available on request to the Food Standards Agency and the enforcement authority.".

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 30th November 2004.

(L.S.) *Deirdre Kenny*

A senior officer of the Department of Health, Social Services and Public Safety

(**a**) O.J. No. L109, 6.5.2000, p. 29

EXPLANATORY NOTE

(This note is not part of the Regulations.)

1. These Regulations, further amend the Plastic Materials and Articles in Contact with Food Regulations (Northern Ireland) 1998 (S.R. 1998 No. 264, "the 1998 Regulations"). These Regulations implement Commission Directive 2004/13/EC amending Commission Directive 2002/16/EC relating to the use of certain epoxy derivatives in materials and articles intended to come into contact with foodstuffs (OJ No. L51, 22.2.2002, p. 27) and also implement Commission Directive 2004/1/EC amending Commission Directive 2002/72/EC in relation to the use of azodicarbonamide as a blowing agent (O.J. No. L220, 15.8.2002, p. 18).

2. The Regulations amend the 1998 Regulations by –

(a) extending by a year the provisional authorisation of 2,2-bis(hydroxyphenyl)propane bis(2,3-epoxypropyl)ether ("BADGE") (regulation 4);

(b) prohibiting the use of the blowing agent azodicarbonamide as from 2nd August 2005 (regulation 5);

(c) amending the defence available under regulation 10, paragraph (19) and (20) of the 1998 Regulations by the addition of a provision which allows for a date code as an alternative to the date of filling itself appearing on materials and articles covered by a surface coating, the defence being conditional on the meaning of the code having been disclosed on request to the Food Standards Agency and the enforcement authority (regulation 6(a) and (b));

(d) creating a defence relating to azodicarbonamide used in plastic materials or articles brought into contact with food before 2nd August 2005 similar to that which applies to materials and articles covered by a surface coating (regulation 6(c));

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