

2006 No. 217

FOOD

**The Ceramic Articles in Contact with Food Regulations
(Northern Ireland) 2006**

Made - - - - - *5th May 2006*

Coming into operation

*(except for regulations 3(3)(a) and
(b) and 4)* *20th May 2006*

Regulations 3(3)(a) and (b) and 4 *20th May 2007*

The Department of Health, Social Services and Public Safety^(a) makes the following Regulations in exercise of the powers conferred on it by Articles 15(2), 16(1), 25(1)(a), 2(a) and (3), 26(3) and 47(1) of the Food Safety (Northern Ireland) Order 1991^(b);

In accordance with Article 47(3A) of the Food Safety (Northern Ireland) Order it has had regard to relevant advice given by the Food Standards Agency and consulted as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council^(c) of 28 January 2002 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.

Citation and Commencement

1.—(1) These Regulations may be cited as the Ceramic Articles in Contact with Food Regulations (Northern Ireland) 2006

(2) These Regulations shall come into operation on 20th May 2006 except for regulation 3(3)(a) and (b) and regulation 4 which shall come into operation on 20th May 2007.

Interpretation

2. In these Regulations —

“ceramic article” means an article—

- (a) manufactured from a mixture of inorganic materials with a generally high argillaceous or silicate content to which small quantities of organic materials may have been added. Such an article is first shaped and the shape thus obtained is permanently fixed by firing. It may be glazed, enamelled and decorated;

(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 & Schedule 6 to the Food Standards Act 1999 c.28, S.R. 1999 No.438 and S.R. 2004 No.482

(c) OJ No. L31, 1.2.2002, p. 1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, p.4)

- (b) which, in its finished state, is intended to come into contact with foodstuffs, or which is in contact with foodstuffs, and is intended for that purpose;

but does not include an article which is supplied as an antique;

“the Community” means the member states, Norway, Iceland and Leichtenstein;

“import” means the release into the UK for free circulation in the Community;

“the Order” means the Food Safety (Northern Ireland) Order 1991;

“place on the market” means the holding of articles for the purpose of sale, including offering for sale or any other form of transfer, whether free of charge or not, and the sale, distribution and other forms of transfer themselves.

Limits on the transfer of lead and cadmium

3.—(1) The quantities of lead and cadmium transferred from a ceramic article shall not exceed the limits laid down in Schedule 1.

(2) Compliance with paragraph (1) shall be determined by testing and analysis in accordance with Schedule 2 unless it is demonstrated that the materials used to make the ceramic article did not contain lead or cadmium.

(3) No person may —

- (a) Manufacture;
- (b) import; or
- (c) place on the market,

a ceramic article which does not comply with the requirements in paragraph (1).

Declaration of Compliance

4.—(1) A manufacturer or seller of a ceramic article which is not yet in contact with food shall provide a written declaration in accordance with Schedule 3 to accompany the article at the marketing stages up to and including the retail stage.

(2) The declaration shall be issued by the manufacturer or by a seller established within the Community.

(3) The manufacturer or importer into the Community shall on request make available a district council specified in regulation 5 appropriate documentation to demonstrate compliance with the requirements of regulation 3(1), including:

- (a) the results of the analysis carried out;
- (b) the test conditions;
- (c) the name and the address of the laboratory that performed the testing;
- (d) evidence that the materials used to make the ceramic article did not contain lead or cadmium.

(4) This regulation does not apply to a ceramic article which is second-hand.

Enforcement

5. Each district council shall enforce and execute these Regulations within its district.

Offences and penalties

6.—(1) A person who contravenes regulations 3(3) or 4(1) or (3) is guilty of an offence.

(2) A person guilty of an offence under paragraph (1) is liable —

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both; or

(b) on summary conviction to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 6 months or to both.

(3) In proceedings for an offence in respect of failure to comply with regulation 4 it shall be a defence to prove that the ceramic article to which the offence relates was first placed on the market in the Community before 20 May 2007.

Application of the Order

7. The following provisions of the Order apply for the purposes of these Regulations, with reference to those provisions to the Order or a Part of it is to be construed as a reference to these Regulations —

- (a) Article 19 (offences due to fault of another person);
- (b) Article 20 (1), (5) and (6) (defence of due diligence);
- (c) Article 34 (obstruction etc. of officers);
- (d) Article 35 (time limit for prosecutions) with the modification that the reference to Article 36(2) of the Order shall be a reference to regulation 6 of these Regulations;
- (e) Article 36(1), (2) and (3) (punishment of offences) in so far as it relates to offences under Article 34 as applied by this regulation);

Consequential Amendments

8. In the Official Food and Feed Controls Regulations (Northern Ireland) 2006(a), subparagraph (b) Schedule 3 (definition of relevant food law), omit the words “except in so far as it involves the regulation of food contact materials under the Ceramic Ware (Safety) Regulations 1988”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 5th May 2006.



Mr Don Hill

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

(a) S.R. 2006 No.2

SCHEDULE 1

Regulation 3(1)

Maximum quantities of lead and cadmium which may be transferred from a ceramic article (migration limits)

The quantity of lead and/or cadmium extracted during the test carried out under the conditions laid down in Schedule 2 shall not exceed the following limits:

	<i>Lead</i>	<i>Cadmium</i>
Category 1: articles which cannot be filled and articles which can be filled, the internal depth of which, measured from the lowest point to the horizontal plane passing through the upper rim, does not exceed 25 mm	0.8 mg/dm ²	0.07 mg/dm ²
Category 2: All other articles which can be filled	4.0 mg/l	0.3mg/l
Category 3: Cooking ware; packaging and storage vessels having a capacity of more than three litres	1.5 mg/l	0.1 mg/l

Where a ceramic article does not exceed the above quantities by more than 50%, that article shall nevertheless be recognised as satisfying the requirements of these Regulations if at least three other articles with the same shape, dimensions, decoration and glaze are subjected to a test carried out under the conditions laid down in Schedule 2 and the average quantities of lead and cadmium extracted from those articles do not exceed the limits set, with none of those articles exceeding those limits by more than 50%.

Where a ceramic article consists of a vessel fitted with a ceramic lid, the lead and cadmium limit which may not be exceeded (mg/dm² or mg/litre) shall be that which applies to the vessel alone.

The vessel alone and the inner surface of the lid shall be tested separately and under the same conditions;

(1) the sum of the two lead and cadmium extraction levels obtained shall be related as appropriate to the surface area or the volume of the vessel alone.

SCHEDULE 2

Regulation 3(2)

TESTING OF CERAMIC ARTICLES

PART I

BASIC RULES FOR DETERMINING THE MIGRATION OF LEAD AND CADMIUM

Test liquid (“simulant”)

1. 4% (v/v) acetic acid, in a freshly prepared aqueous solution.

Test conditions

- 2.—(1) Carry out the test at a temperature of $22 \pm 2^{\circ}\text{C}$ for a duration of 24 ± 0.5 hours.
- (2) When the migration of lead is to be determined, cover the sample by an appropriate means of protection and expose it to the usual lighting conditions in a laboratory.
- (3) When the migration of cadmium or of lead and cadmium is to be determined, cover the sample so as to ensure that the surface to be tested is kept in total darkness.

Filling

- 3.—(1) Samples which can be filled —
 - (a) Fill the article with a 4% (v/v) acetic acid solution to a level no more than 1mm from the overflow point; the distance is measured from the upper rim of the sample.
 - (b) Samples with a flat or slightly sloping rim should be filled so that the distance between the surface of the liquid and the overflow point is no more than 6mm measured along the sloping rim.
- (2) Samples which cannot be filled —

The surface of the sample which is not intended to come into contact with foodstuffs is first covered with a suitable protective layer able to resist the action of the 4% (v/v) acetic acid solution. The sample is then immersed in a receptacle containing a known volume of acetic acid solution in such a way that the surface intended to come into contact with the foodstuffs is completely covered by the test liquid.

Determination of the surface area

4. The surface area of the articles in category 1 is equal to the surface area of the meniscus formed by the free liquid surface obtained by complying with the filling requirements set out in paragraph 3.

PART II

METHODS OF ANALYSIS FOR DETERMINATION OF THE MIGRATION OF LEAD AND CADMIUM

Object and field of application

1. The method allows the specific migration of lead and cadmium to be determined.

Principle

2. The determination of the specific migration of lead and cadmium is carried out by an instrumental method of analysis that fulfils the performance criteria of point 4.

Reagents

- 3.—(1) All reagents must be of analytical quality, unless otherwise specified.
- (2) Where reference is made to water, it shall always mean distilled water or water of equivalent quality.
- (3) 4% (v/v) acetic acid, in aqueous solution: add 40 ml of glacial acetic acid to water and make up to 1000 ml.
- (4) Stock solutions: prepare stock solutions containing 1000 mg/litre of lead and at least 500 mg/litre of cadmium respectively in a 4% acetic acid solution, as referred to in sub-paragraph (3).

Performance criteria of the instrumental method of analysis

- 4.—(1) The detection limit for lead and cadmium must be equal to or lower than:
- 0,1 mg/litre for lead,
 - 0,01 mg/litre for cadmium.

The detection limit is defined as the concentration of the element in the 4 % acetic acid solution, as referred to in point 3.1, which gives a signal equal to twice the background noise of the instrument.

- (2) The limit of quantification for lead and cadmium must be equal to or lower than:
- (a) 0,2 mg/litre for lead,
 - (b) 0,02 mg/litre for cadmium.
- (3) Recovery: The recovery of lead and cadmium added to the 4 % acetic acid solution, as referred to in point 3.1, must lie within 80-120 % of the added amount.
- (4) Specificity: The instrumental method of analysis used must be free from matrix and spectral interferences.

Method

- 5.—(1) Preparation of the sample —
- (a) The sample must be clean and free from grease or other matter likely to affect the test.
 - (b) Wash the sample in a solution containing a household liquid detergent at a temperature of approximately 40 °C. Rinse the sample first in tap-water and then in distilled water or water of equivalent quality. Drain and dry so as to avoid any stain. The surface to be tested is not to be handled after it has been cleaned.
- (2) Determination of lead and cadmium —
- (a) The sample thus prepared is tested under the conditions laid down in Schedule I.
 - (b) Before taking the test solution for determining lead and cadmium, homogenise the content of the sample by an appropriate method, which avoids any loss of solution or abrasion of the surface being tested.
 - (c) Carry out a blank test on the reagent used for each series of determinations.
 - (d) Carry out determinations for lead and cadmium under appropriate conditions.

SCHEDULE 3

Regulation 4

DECLARATION OF COMPLIANCE

- 1.—(1) The written declaration referred to in regulation 4(1) shall contain the following information:
- (a) the identity and address of the company which manufactured the finished ceramic article and (if applicable) of the importer who imports it into the Community;
 - (b) the identity of the ceramic article;
 - (c) the date of the declaration;
 - (d) confirmation that the ceramic article meets the relevant requirements in:
 - (i) this Regulation; or
 - (ii) Council Directive 84/500/EEC of 15 October 1984 on the approximation of the laws of the Member States relating to ceramic articles intended to come into contact with

foodstuffs(a) as amended by Commission Directive 2005/31/EC of 29 April 2005(b); and

(iii) Regulation (EC) No 1935/2004 of the European Parliament and of the Council of 27 October on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC(c).

(2) The written declaration shall permit an easy identification of the article for which it is issued and shall be renewed when substantial changes in the production bring about changes in the migration of lead and cadmium.

(a) O.J. L277 of 20.10.84 p12
(b) O.J. L.110 of 30.04.05 p36
(c) OJ L338, 13/11/2004 p.4-14

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations apply to ceramic articles which are intended to come into contact with food. They set limits on the amount of lead and cadmium which may migrate from such articles, lay down requirements for testing ceramic articles and require them to be accompanied at the marketing stages by certificates of compliance.

2. These Regulations implement 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 (O.J. L.277 of 20.10.84 p.12) as amended by Commission Directive 2005/31/EC regarding a declaration of compliance and performance criteria of the analytical method for ceramic articles intended to come into contact with foodstuffs (O.J. L.110 of 30.4.05 p.36). The former Directive was previously implemented by the Ceramic Ware (Safety) Regulations 1988 (SI 1988/1647) which have been revoked.

3. The 1988 Regulations applied to the United Kingdom. These Regulations apply to Northern Ireland. Corresponding Regulations are being made for England, Scotland and Wales.

4. Regulation 2 defines “ceramic article”. Regulation 3 and Schedule 1 limit the quantities of lead and cadmium which may be transferred by a ceramic article. Schedule 2 sets out how an article is to be tested. Regulation 4 requires a written declaration of compliance to accompany a ceramic article which is not yet in contact with food at all marketing stages up to the retail stage. The details of the declaration are set out in Schedule 3. The Regulation also requires the manufacturer or importer into the Community to keep documentation showing that the requirements of Schedule 1 have been met and the tests in Schedule 2 have been carried out.

5. Regulation 5 provides that the Regulations are to be enforced by the district councils in their respective districts. Regulation 6 sets out the penalties for failure to comply with the Regulations and the defences that are available. Regulation 7 sets out the provisions of the Food Safety Order which are applied for the purposes of the Regulations.

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Stationery Office Limited
under the authority and
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Tullo, Controller of
Her Majesty's Stationery
Office being the Government
Printer for Northern Ireland and
the Officer appointed to print the
Acts of the Northern Ireland Assembly
Dd. N2676. C2. 5/06. Gp. 130. 14567.
£3.00