

2007 No. 434

FOOD

**The Materials and Articles in Contact with Food Regulations
(Northern Ireland) 2007**

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Coming into operation in accordance with regulation 1

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The Department of Health, Social Services and Public Safety^(a) makes the following Regulations in exercise of the powers conferred by Articles 15(2), 16(1) and (2), 25(1)(a), 2(a) and (3), 32 and 47(2) of the Food Safety (Northern Ireland) Order 1991^(b) as read with paragraph 1A of Schedule 2 to the European Communities Act 1972^(c).

These Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and it appears to the Department that it is expedient for certain references to a Community instrument or to an Annex to a Community instrument as specified in regulation 2(4) to be construed as references to that instrument or annex as amended from time to time.

It has had regard to relevant advice given by the Food Standards Agency as required by Article 47(3A) of the 1991 Order.

There has been open and transparent public consultation during the preparation of the Regulations as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council^(d) 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.

PART 1

Preliminary

Citation and commencement

1.—(1) These Regulations may be cited as the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2007.

(2) Subject to paragraph (3), these Regulations shall come into operation on 5th November 2007.

(3) Regulations 5,7 and 14(3) shall come into operation on 1st August 2008.

(a) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)

(b) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R.2004 Nos. 482 and 505

(c) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51)

(d) OJ No. L31, 1.2.2002, p. 1. That Regulation was last amended by Commission Regulation (EC) No. 575/2006 (OJ No. L100, 8.4.2006, p.3)

Interpretation

2.—(1) In these Regulations —

“the 2006 Regulations” means the Plastic Materials and Articles in Contact with Food (No.2) Regulations (Northern Ireland) 2006(a);

“Directive 2002/72/EC” means Commission Directive 2002/72/EC relating to plastic materials and articles intended to come into contact with foodstuffs(b) as corrected by a corrigendum published on 13th February 2003(c) and as amended by Commission Directive 2004/1/EC(d), Commission Directive 2004/19/EC(e), Commission Directive 2005/79/EC(f) and Commission Directive 2007/19/EC(g);

“Directive 2007/42/EC” means Commission Directive 2007/42/EC relating to materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs(h);

“Regulation 1935/2004” means Regulation (EC) No. 1935/2004 of the European Parliament and of the Council on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC(i);

“Regulation 2023/2006” means Commission Regulation (EC) No. 2023/2006 on good manufacturing practice for materials and articles intended to come into contact with food(j);

“authorised officer” means any person, whether or not an officer of the district council having responsibility for execution and enforcement under regulation 14(1), who is authorised by that district council in writing to act in matters arising under these Regulations;

“import” means import in the course of a business from a place other than a Member State;

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

“plastics” means those materials and articles to which Directive 2002/72/EC applies;

“preparation” in relation to food includes manufacture and any form of treatment or process;

“regenerated cellulose film” means a thin sheet material obtained from refined cellulose derived from unrecycled wood or cotton, with or without the addition of suitable substances, either in the mass or on one or both surfaces, but does not include synthetic casings of regenerated cellulose;

“sell” includes offer or expose for sale or have in possession for sale;

(2) Any reference in these Regulations to a numbered Article is a reference to the Article bearing that number in Regulation 1935/2004.

(3) Expressions used in these Regulations and in Regulation 1935/2004 or Regulation 2023/2006 bear the same meaning in these Regulations as they bear in those Regulations.

(4) Any reference to Regulation 2023/2006 or to an Annex of Directive 2002/72/EC or of Directive 2007/42/EC is a reference to that Regulation or that Annex as amended from time to time.

(5) The Interpretation Act (Northern Ireland) 1954(k) shall apply to these Regulations as it applies to an Act of the Assembly.

(a) S.R. 2006 No.420

(b) OJ No. L220, 15.8.2002, p.18. This Directive was corrected by a corrigendum (OJ No. L39, 13.2.2003, p.1), and has been amended as at the date these Regulations were made by Commission Directives 2004/1/EC (OJ No. L7, 13.1.2004, p.45), 2004/19/EC (OJ No. L71, 10.3.2004, p.8), 2005/79/EC (OJ No. L302, 19.11.2005, p.35) and Commission Directive 2007/19/EC (OJ No.L97, 12.4.2007, p.50)

(c) OJ No. L38, 13.2.2003, p.44

(d) OJ No. L7, 13.1.2004, p.45

(e) OJ No. L71, 10.3.2004, p.8

(f) OJ No. L302, 19.11.2005, p.35

(g) OJ No. L97, 12.4.2007, p.50

(h) OJ No. L172, 30.6.2007, p.71. This Directive repealed and consolidated without further amendment Commission Directive 93/10/EEC as last amended by Commission Directive 2004/14/EC.

(i) OJ No. L338, 13.11.2004, p.4

(j) OJ No. L384, 29.12.2006, p.75

(k) 1954 c.33 (N.I.)

Scope

3. The provisions of these Regulations do not apply to those materials and articles specified in sub-paragraphs (a), (b) and (c) of Article 1(3).

PART 2

General Requirements for Materials and Articles

Enforcement of Regulation 1935/2004

4. Subject to the provisions of Article 27 (transitional arrangements), any person who contravenes any of the following provisions of Regulation 1935/2004 is guilty of an offence —

- (a) Article 3 (general requirements);
- (b) Article 4 (special requirements for active and intelligent materials and articles);
- (c) Article 11(4) and (5) (provisions relating to Community authorisation);
- (d) Article 15(1), (2), (3), (4), (7) and (8) (labelling);
- (e) Article 16(1) (declaration of compliance);
- (f) Article 17(2) (traceability).

Enforcement of Regulation 2023/2006

5. Any person who fails to comply with the requirements of Article 4 (conformity with good manufacturing practice) of Regulation 2023/2006 is guilty of an offence.

Competent authorities for the purposes of Regulation 1935/2004

6. The following bodies are designated as the competent authorities for the purposes of the provisions of Regulation 1935/2004 as specified below —

- (a) in respect of Articles 9 and 13, the Food Standards Agency;
- (b) in respect of Articles 16(1) and 17(2), the Food Standards Agency and the district council having responsibility for enforcement pursuant to regulation 14(1).

Competent authority for the purposes of Regulation 2023/2006

7. The competent authority for the purposes of Article 6(2) and 7(3) of Regulation 2023/2006 is each district council in its district.

PART 3

Requirements for Vinyl Chloride

Limits and migration limits

8.—(1) Materials and articles which are manufactured with vinyl chloride polymers or copolymers —

- (a) must not contain vinyl chloride monomer in a quantity exceeding 1 milligram per kilogram of the material or article as measured by the method of analysis specified in regulation 9(1); and
- (b) must be manufactured in such a way that they do not transfer to foods with which they are in contact any quantity of vinyl chloride exceeding 0.01 milligrams of vinyl chloride per kilogram of food as measured by the method of analysis specified in regulation 9(2).

- (2) A person shall not —
- (a) sell;
 - (b) import; or
 - (c) use in the course of a business in connection with the storage, preparation, packaging, selling or serving of food,

any such material or article that does not comply with paragraph (1).

Methods of Analysis

9.—(1) The method used in analysing any sample for the purpose of establishing the quantity of vinyl chloride monomer present in the material or article in order to determine whether it complies with regulation 8(1)(a) shall be the method specified in the Annex to Commission Directive 80/766/EEC (which lays down the Community method of analysis for the official control of the vinyl chloride monomer level in materials and articles which are intended to come into contact with foodstuffs)(a).

(2) The method used in analysing any food for the purpose of establishing the quantity of vinyl chloride present in the food in order to determine whether a material or article which is or has been in contact with the food complies with regulation 8(1)(b) shall be the method specified in the Annex to Commission Directive No. 81/432/EEC (which lays down the Community method of analysis for the official control of vinyl chloride released by material and articles into foodstuffs)(b).

PART 4

Requirements for Regenerated Cellulose Film

Controls and limits

10.—(1) This Part applies to regenerated cellulose film which —

- (a) constitutes a finished product in itself; or
- (b) is part of a finished product containing other materials,

and is intended to come into contact with food, or by being used for that purpose does come into contact with food.

(2) Except in paragraph (4), any reference in this regulation to Annex II is a reference to Annex II to Directive 2007/42/EC.

(3) Subject to paragraph (5), a person shall not manufacture any regenerated cellulose film intended to come into contact with food using any substance or group of substances other than the substances named or described —

- (a) in the first column (denominations) of Annex II in the case of —
 - (i) uncoated film; or
 - (ii) coated film where the coating is derived from cellulose;
- (b) in the first column of the First Part of Annex II in the case of film to be coated, where the coating will consist of plastics;

and other than in accordance with the conditions and restrictions specified in the corresponding entry in the second column of the appropriate Part of Annex II, as read with the preamble to that Annex.

(a) OJ No. L213, 16.8.80, p.42
(b) OJ No. L167, 24.6.81, p.6

(4) A person shall not manufacture any coating to be applied to film referred to in paragraph (3)(b) using any substance or group of substances except those listed in Annex II, III or IV to Directive 2002/72/EC and other than in accordance with the appropriate requirements, restrictions and specifications contained in those Annexes and in the 2006 Regulations.

(5) Substances other than those listed in Annex II may be used as colourants or adhesives in the manufacture of a film to which paragraph (3)(a) applies, provided that such film is manufactured in such a way that it does not transfer any colourant or adhesive to food in any detectable quantity.

(6) Subject to regulation 12 a person shall not —

- (a) sell;
- (b) import; or
- (c) use in the course of a business in connection with the storage, preparation, packaging, selling or serving of food,

any regenerated cellulose film which has been manufactured in contravention of the requirements of paragraphs (3) or (4), or which fails to comply with paragraph (8).

(7) A person shall not use in the course of a business in connection with the storage, preparation, packaging, serving or selling of food —

- (a) where the food contains water physically free at the surface, any regenerated cellulose film containing bis(2-hydroxyethyl) ether, ethanediol or both these substances;
- (b) any regenerated cellulose film in such a way that any printed surface of that film comes into contact with the food.

(8) Any material or article made of regenerated cellulose film, unless by its nature clearly intended to come into contact with food, at a marketing stage other than the retail stage must be accompanied by a written declaration attesting that it complies with the legislation applicable to it.

Migration limits for regenerated cellulose film coated with plastics

11.—(1) Subject to paragraph (2), a person shall not manufacture or import any material or article made with regenerated cellulose film coated with plastics which —

- (a) is intended to come into contact with food; and
- (b) is capable of transferring its constituents to food in quantities exceeding an overall migration limit of 10 milligrams per square decimetre of the surface of the material or article in contact with food.

(2) In the case of any material or article made with regenerated cellulose film coated with plastics which —

- (a) is or is comparable to a container or which can be filled with a capacity of not less than 500 millilitres and not more than 10 litres; or
- (b) can be filled and for which it is impracticable to estimate the surface area in contact with food; or
- (c) is a cap, gasket, stopper or similar device for sealing,

the overall migration limit shall be 60 milligrams of constituents transferred per kilogram of food.

(3) A person shall not manufacture or import any material or article made with regenerated cellulose film coated with plastics manufactured with any substance listed in Section A or B of Annex II to Directive 2002/72/EC (authorised monomers and other starting substances) which —

- (a) is intended to come into contact with food; and
- (b) is capable of transferring its constituents to food in quantities exceeding the specific migration limits set out in column 4 of those Sections as read with the general introduction to that Annex.

(4) Where the migration limit for a substance mentioned in paragraph (3) is expressed in milligrams per kilogram, in the case of regenerated cellulose film coated with plastics which —

- (a) is or is comparable to a container or which can be filled with a capacity of less than 500 millilitres or more than 10 litres; or
- (b) cannot be filled or for which it is impracticable to estimate the relationship between the surface area of the film and the quantity of food in contact with it,

the migration limit shall be divided by the conversion factor of 6 in order to express it in milligrams of constituents transferred per square decimetre of the material or article in contact with food.

(5) Subject to paragraph (6), the verification of compliance with migration limits shall be conducted in accordance with the provisions of Schedules 2 and 3 of the 2006 Regulations as read with regulation 11 of those Regulations and for the purposes of this paragraph any reference in those provisions to a plastic material or article shall be construed as a reference to regenerated cellulose film coated with plastic.

(6) Paragraph (5) shall not apply in any circumstances to which regulation 9(1) or (2) is applicable.

Saving and transitional provisions and defences

12.—(1) Notwithstanding the revocation of the Materials and Articles in Contact with Food Regulations (Northern Ireland) 1987(a), in relation to regenerated cellulose film manufactured before 8th June 1994 the defences in regulation 6A of those Regulations shall apply in relation to offences under these Regulations in like manner as they applied to offences under the equivalent provisions in those Regulations.

(2) In any proceedings for an offence of contravening regulation 10(3), (4), (6) or (7), or regulation 11(1) or (3) it shall be a defence to prove that—

- (a) the act constituting the offence was committed in relation to a material or article made with regenerated cellulose film which was manufactured or imported into the European Community before 29th January 2006; and
- (b) the act constituting the offence would not have constituted an offence under the Materials and Articles in Contact with Food Regulations (Northern Ireland) 1987 immediately before the coming into operation of the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2005(b).

PART 5

General

Offences and penalties

13.—(1) Any person who—

- (a) contravenes the provisions of regulation 8(2), 10(3), (4), (6) or (7), or 11(1) or (3);
- (b) intentionally obstructs any person acting in the execution of Regulation 1935/2004, Regulation 2023/2006 or these Regulations or without reasonable excuse fails to provide any assistance or information that person may reasonably require; or
- (c) in purported compliance with any requirement mentioned in sub-paragraph (b), knowingly or recklessly supplies information that is false or misleading in any material particular,

is guilty of an offence.

(a) S.R. 1987 No.432, as amended by S.R. 1991 No. 203, S.R. 1991 No. 344 and S.R. 1994 No. 174

(b) S.R. 2005 No.210. These Regulations were subsequently amended by S.R. 2006 No.2, S.R. 2006 No. 251 and S.R. 2006 No.420, but none of those amendments are relevant to this provision

- (2) Any person convicted of an offence under these Regulations is liable —
- (a) in the case of an offence mentioned in paragraph (1)(a) or (c) or in regulation 4 or 5 —
 - (i) on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or both;
 - (ii) on summary conviction to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 6 months or both; and
 - (b) in the case of an offence mentioned in paragraph (1)(b) on summary conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding level 5 on the standard scale or both.
- (3) Nothing in paragraph (1)(b) is to be construed as requiring any person to answer any question or give any information if to do so might incriminate him.

Enforcement

- 14.**—(1) Each district council in its district shall execute and enforce—
- (a) the provisions of Regulation 1935/2004 mentioned in regulation 4, and
 - (b) subject to paragraph (3), these Regulations.
- (2) The Food Standards Agency may also execute and enforce the provisions of Articles 16(1) and 17(2).
- (3) Each district council in its district shall execute and enforce the provisions of Regulation 2023/2006 mentioned in regulation 5.

Offences due to act or default of a third party

15. Where the commission by any person of an offence under these Regulations is due to an act or default of some other person, that other person shall be guilty of the offence; and a person may be charged with and convicted of the offence whether or not proceedings are taken against the first mentioned person.

Time limit for prosecutions

16. A prosecution for an offence under these Regulations shall not be begun after the expiry of three years from the commission of the offence or one year from its discovery by the prosecution, whichever is the earlier.

General defences

17.—(1) In any proceedings for an offence under these Regulations it shall, subject to paragraph (5), be a defence for the person accused to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

(2) Without prejudice to the generality of paragraph (1), a person accused of an offence under regulation 4 or 13(1)(a) who did not —

- (a) prepare the material or article in respect of which the offence is alleged to have been committed; nor
- (b) import it into the United Kingdom,

shall be taken to have established the defence provided by paragraph (1) if he satisfies the requirements of paragraphs (3) and (4).

(3) A person satisfies the requirements of this paragraph if he proves —

- (a) that the commission of the offence was due to an act or default of some other person who was not under his control, or to reliance on information supplied by such a person;
- (b) that either —

- (i) he carried out all such checks of the material or article in question as were reasonable in all the circumstances, or
 - (ii) it was reasonable in all the circumstances for him to rely on checks carried out by the person who supplied him with that material or article; and
 - (c) that he did not know and had no reason to suspect at the time the offence was committed that his act or omission would amount to an offence under these Regulations.
- (4) A person satisfies the requirements of this paragraph if the offence is one of sale and he proves —
- (a) that the commission of the offence was due to the act or default of some other person who was not under his control, or to reliance on information supplied by such a person;
 - (b) that the sale of which the offence consisted was not a sale under his name or mark; and
 - (c) that he did not know and could not reasonably be expected to know at the time the offence was committed that his act or omission would amount to an offence under these Regulations.
- (5) If in any case the defence provided by this regulation involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person accused shall not, without leave of the court, be entitled to rely on that defence unless —
- (a) at least seven clear days before the hearing; and
 - (b) where he has previously appeared before a court in connection with the alleged offence, before the expiration of one month from his first such appearance,
- he has served on the prosecution a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

Procedure where a sample is to be analysed

18.—(1) An authorised officer who has procured a sample under Article 29 of the Order and who considers it should be analysed shall divide the sample into three parts.

(2) If the sample consists of sealed containers and opening them would, in the opinion of the authorised officer, impede a proper analysis, the authorised officer shall divide the sample into parts by putting the containers into three lots, and each lot shall be treated as being a part.

(3) The authorised officer shall —

- (a) if necessary place each part in a suitable container and seal it;
- (b) mark each part or container;
- (c) as soon as reasonably practicable, give one part to the owner and notify him in writing that the sample will be analysed;
- (d) submit one part for analysis in accordance with Article 30 of the Order; and
- (e) retain one part for future submission under regulation 19.

Secondary analysis by the Government Chemist

19.—(1) Where a sample has been retained under regulation 18 and —

- (a) proceedings are intended to be or have been commenced against a person for an offence under these Regulations; and
- (b) the prosecution intends to adduce as evidence the result of the analysis mentioned in regulation 18,

paragraphs (2) to (7) apply.

(2) The authorised officer —

- (a) may of his own volition; or
- (b) shall —

- (i) if requested by the prosecutor (if a person other than the authorised officer);
- (ii) if the court so orders; or
- (iii) (subject to paragraph (6)) if requested by the defendant,

send the retained part of the sample to the Government Chemist for analysis.

(3) The Government Chemist shall analyse the part sent to him under paragraph (2) and send to the authorised officer a certificate specifying the results of analysis.

(4) Any certificate of the results of analysis sent by the Government Chemist shall be signed by him or on his behalf, but the analysis may be carried out by any person under the direction of the person who signs the certificate.

(5) The authorised officer shall immediately on receipt supply the prosecutor (if a person other than the authorised officer) and the defendant with a copy of the Government Chemist's certificate of analysis.

(6) Where a request is made under paragraph (2)(b)(iii) the authorised officer may give notice in writing to the defendant requesting payment of a fee specified in the notice to defray some or all of the Government Chemist's charges for performing the functions under paragraph (3), and in the absence of agreement by the defendant to pay the fee specified in the notice the authorised officer may refuse to comply with the request.

(7) In this regulation "defendant" includes a prospective defendant.

Application of various provisions of the Order

20.—(1) The following provisions of the Order apply for the purposes of these Regulations with the modification that any reference in those provisions to the Order or Part thereof shall be construed as a reference to these Regulations —

- (a) Article 2(4) (extending meaning of "sale" etc);
- (b) Article 3 (application to food offered as prizes etc.);
- (c) Article 30(8) (which relates to documentary evidence) and
- (d) Article 43 (protection of public analyst acting in good faith).

(2) In the application of Article 33 of the Order (powers of entry) for the purposes of these Regulations, the reference in paragraph (1) to the Order shall be construed as including a reference to Regulation 1935/2004 or as appropriate to Regulation 2023/2006.

(3) Article 4 of the Order (presumptions that food is intended for human consumption) applies for the purposes of these Regulations with the modification that any reference in those provisions to the Order shall be construed as including a reference to Regulation 1935/2004 or, as appropriate Regulation 2023/2006, and to these Regulations and that the references to "sold" and "sale" shall be deemed to include references to "placed on the market" and "placing on the market" respectively.

Amendment of the Ceramic Articles in Contact with Food Regulations (Northern Ireland) 2006

21.—(1) The Ceramic Articles in Contact with Food Regulations (Regulations) 2006(a) are amended in accordance with paragraph (2).

(2) In Schedule 3 (declaration of compliance), for sub-paragraph (d) of paragraph 1 substitute the following —

“(d) confirmation that the ceramic article or articles meet the relevant requirements in

- (i) these Regulations; or

(a) S.R. 2006 No. 217

- (ii) (aa) 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^(a) as amended by Commission Directive 2005/31/EC^(b); and
- (bb) Regulation (EC) No. 1935/2004 of the European Parliament and of the Council on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC^(c).

Amendments to the 2006 Regulations

22.—(1) The 2006 Regulations are amended in accordance with paragraphs (2), (3) and (4).

(2) In paragraph (1) of regulation 2 (interpretation) omit the definition of “the 2005 Regulations”.

(3) In paragraph (1)(b) of regulation 11 (method of testing the capability of materials or articles to transfer constituents, and methods of analysis), for “regulation 7(2) of the 2005 Regulations” substitute “regulation 9(2) of the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2007”.

(4) In paragraphs (2) and (3) of regulation 20 (secondary analysis by the Chief Agricultural Analyst) for “Chief Agricultural Analyst” substitute “Government Chemist” and in paragraphs (4), (5) and (6) of that regulation for “Chief Agricultural Analyst’s” substitute “Government Chemist’s”

Revocations

23. The Materials and Articles in Contact with Food Regulations (Northern Ireland) 2005 and Regulation 24 of the 2006 Regulations are revoked.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 8th October 2007.



Don Hill

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

(a) OJ No. L277, 20.10.1984, p.12
(b) OJ No. L110, 30.4.2005, p.36
(c) OJ No. L338, 13.11.2004, p.4

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Materials and Articles in Contact with Food Regulations (Northern Ireland) S.R. 2005 No.210 (“the 2005 Regulations”) and re-enact or re-enact with amendments provisions contained in those Regulations. These Regulations provide for the enforcement of Regulation (EC) No. 1935/2004 of the European Parliament and of the Council on materials and articles intended to come into contact with food and repealing Directives 80/590/EEC and 89/109/EEC (OJ No. L338, 13.11.2004, p.4) (“Regulation 1935/2004”).

The Regulations also provide for the enforcement of Commission Regulation (EC) No. 2023/2006 on good manufacturing practice for materials and articles intended to come into contact with food (OJ No. L384, 29.12.2006, p.75 (“Regulation 2023/2006”), and implement Commission Directive 2007/42/EC relating to materials and articles made of regenerated cellulose film intended to come into contact with foodstuffs (OJ No. L172, 30.6.2007, p.71) (“Directive 2007/42”). This Directive repealed and consolidated Commission Directive 93/10/EEC (OJ No. L93, 17.4.1993, p.27) as last amended by Commission Directive 2004/14/EC (OJ No. L27, 30.1.2004, p.48).

These Regulations provide that references to a certain EC instrument or specified parts of certain EC instruments are to be construed as references to the instrument or specified part of it as it may be amended from time to time (*regulation 2(4)*).

These Regulations do not apply to materials or articles outside the scope of Regulation 1935/2004 (*regulation 3*). The materials identified in that Regulation as being outside its scope are materials and articles supplied as antiques, covering or coating materials forming part of the food and which may be consumed with it, and fixed public or private water supply equipment.

Part 2 of these Regulations contains provisions which make it an offence to contravene certain requirements of Regulation 1935/2004, (*regulation 4*), and of Regulation 2023/2006 (*regulation 5*). Regulation 1935/2004 is the principal framework Regulation on materials and articles in contact with food.. This Part also provides for designation of the competent authorities for the various purposes identified in Regulations 1935/2004 and 2023/2006 (*regulations 6 and 7*).

Part 3 contains regulations which re-enact, without substantive amendments, the provisions of the 2005 Regulations relating to vinyl chloride (*regulations 8 and 9*).

Part 4 contains regulations that re-enact provisions of the 2005 Regulations relating to regenerated cellulose film (“RCF”), with minor amendments to implement Directive 2007/42 (*regulations 10 & 11*).

In particular regulation 10 of these Regulations —

- (a) controls what substances may be used in the manufacture of RCF, which may vary according to whether or not it is coated with plastics (*paragraph (3)*);
- (b) regulates what substances may be used to manufacture plastic coatings for RCF, and under what conditions (*paragraph (4)*);
- (c) creates a conditional derogation from paragraph (3) in respect of substances used as colourants or adhesives in the manufacture of non-plastic coated RCF (*paragraph (5)*);
- (d) creates offences in relation to the sale, import or business use of non-compliant RCF (*paragraphs (6) & (7)*); and
- (e) creates a conditional requirement for RCF, when marketed prior to the retail stage, to be accompanied by a declaration of legislative compliance (*paragraph (8)*).

Regulation 11 applies to plastic coated RCF the existing controls (derived from Commission Directive 2002/72/EC) on migration of constituents of plastic materials and articles into food, in particular by —

- (a) specifying overall migration limits for plastic coated RCF (*paragraphs (1) & (2)*);

- (b) applying to plastic coated RCF the specific migration limits applicable to certain substances used in the manufacture of plastic materials and articles (*paragraphs (3) & (4)*); and
- (c) applying the prescribed methods and procedures for checking compliance with migration limits (*paragraphs (5) & (6)*).

Regulation 12 contains savings and transitional provisions which —

- (a) preserve the defences available under the Materials and Articles in Contact with Food Regulations (Northern Ireland) 1987 for any RCF manufactured before 8th June 1994 that may still be in circulation; and
- (b) create a defence in relation to RCF manufactured in or imported into the European Community before 29th January 2006.

Part 5 of these Regulations contains general administrative and enforcement provisions which —

- (a) penalise contravention of these Regulations or obstruction of those enforcing them (*regulation 13*);
- (b) designate enforcement authorities for various functions under the Regulations (*regulation 14*);
- (c) provide for the prosecution of a person who causes the commission of an offence by another person, whether or not proceedings are taken against the original offender (*regulation 15*);
- (d) specify a time limit for commencing a prosecution (*regulation 16*);
- (e) provide for a defence of due diligence to an offence under these Regulations (*regulation 17*);
- (f) specify the procedure to be followed when sending a sample for analysis (*regulation 18*);
- (g) make provision for a reference sample to be analysed by the Laboratory of the Government Chemist (*regulation 19*); and
- (h) apply certain provisions of the Food Safety (Northern Ireland) Order 1991 (*regulation 20*).

In Part 5 these Regulations also —

- (a) make amendments to the Plastic Materials and Articles in Contact with Food (No.2) Regulations (Northern Ireland) 2006 (S.R. 2006 No.326); (*regulation 21*) and
- (b) revoke the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2005 and subsequent amending legislation (*regulation 22*).