

EXPLANATORY MEMORANDUM TO
The Materials and Articles in Contact with Food
(Amendment) Regulations (Northern Ireland) 2017

SR 2017 No. 157

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) and 47(2) of the Food Safety (Northern Ireland) Order 1991.
- 1.3 The rule is due to come into operation on 14th September 2017.

2. Purpose

- 2.1 This Rule will provide for the enforcement, in Northern Ireland, of Commission Regulation (EU) No. 10/2011 (“the principal Regulation”) on plastic materials and articles intended to come into contact with food) as recently amended by Commission Regulation (EU) No. 2016/1416 (“the new EU Regulation”) by amending the Materials and Articles in Contact with Food Regulations (Northern Ireland) 2012.
- 2.2 The Rule also applies certain provisions of the Food Safety (Northern Ireland) Order 1991 with modifications of Article 9(1), enabling an improvement notice to be served requiring compliance with specified requirements of the EU Regulation. The provisions, as applied, make the failure to comply with an improvement notice an offence.

3. Background

- 3.1 The general principles governing the safety of all materials and articles intended to come into contact with foods are established in Regulation (EC) No. 1935/2004 (“the framework Regulation”). This lays down the framework for regulation of all such materials and articles intended to come into contact with food. The principal Regulation on plastic materials and articles in contact with food establishes the specific rules for plastic materials and articles intended to come into contact with food.
- 3.2 Harmonised EU rules on food contact plastics are laid down in the principal Regulation and this is routinely amended to improve the clarity of the rules and to keep up with technological innovation, by adding new substances that may be used in the manufacture of food contact plastics. This arises from improving technical and scientific knowledge that enables experts within the European Food Safety Authority (EFSA) to evaluate and re-evaluate risk to public health arising from the migration of chemicals from food contact plastics into food. The latest of these amendments are contained in the new EU Regulation which the proposed statutory rule would implement.
- 3.3 The new EU Regulation came into force on 14 September 2016 and is directly applicable throughout the EU. There is a transitional period of one year for materials and articles that were compliant before entry into force of this Regulation, whilst the migration limits for aluminium and for zinc, set out in

point 2(a) of the Annex and the assignments of food simulants in point 3(c) of the Annex will apply from 14 September 2018.

- 3.4 The new EU Regulation amends Articles 3, 6, 11, 13, 17 and 18 of the principal Regulation. It also makes amendments to the provisions concerning food simulants to correct the definition of ‘fatty foods’ and to assign a food simulant category for peeled fresh fruit and vegetables in the list of simulants to be used for migration testing of food contact plastics not yet in contact with food in Table 2 of the principal Regulation.
- 3.5 The Authorised Union list is amended to include new substances and amend the entries for existing substances following risk assessments published by EFSA. The new EU Regulation also updates the Annexes. For certain substances the restrictions established at Community level have been amended on the basis of new information becoming available. As such Annexes I, II, III IV and V are amended accordingly.

4. Matters of Special Interest to the Health Committee

N/A

5. Consultation

- 5.1 A shortened eight week consultation was conducted in Northern Ireland from 12 April to 2 June 2017. A wide range of enforcement authorities and businesses were consulted and the consultation was available on the FSA website. One response was received to the NI consultation which related specifically to the EU regulation which is already directly applicable across all member states.

6. Position in Great Britain

- 6.1 Similar legislation is being made in England, Wales and Scotland.

7. Equality Impact

- 7.1 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.

8. Regulatory Impact

- 8.1 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 new Regulations.

9. Financial Implications

- 9.1 N/A

10. Section 24 of the Northern Ireland Act 1998

- 10.1 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.

11. EU Implications

- 11.1 N/A