

STATUTORY INSTRUMENTS

2012 No. 2619

The Materials and Articles in Contact with Food (England) Regulations 2012

PART 1

Preliminary

Modifications etc. (not altering text)

- C1** Pt. 1 applied in part (with modifications) (N.I.) (1.10.2023) by [The Windsor Framework \(Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions\) Regulations 2023 \(S.I. 2023/959\)](#), regs. 1(2), 4(b), **Sch. 2** (with regs. 7, 8)

Title, application and commencement

1. These Regulations may be cited as the Materials and Articles in Contact with Food (England) Regulations 2012, apply in relation to England only and come into force on 20th November 2012.

Interpretation

- 2.—(1) In these Regulations —

“the Act” means the Food Safety Act 1990;

^{F1}
...

^{F2}
...

“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](#)^{M1};

“Regulation 1895/2005” means Commission Regulation (EC) No. [1895/2005](#) on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food^{M2};

“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^{M3};

[^{F3}“Regulation 282/2008” means [Commission Regulation \(EC\) No. 282/2008](#) on recycled plastic materials and articles intended to come into contact with foods and amending Regulation (EC) No. [2023/2006](#);

“Regulation 450/2009” means Commission Regulation (EC) No. [450/2009](#) on active and intelligent materials and articles intended to come into contact with food^{M4};

“Regulation 10/2011” means Commission Regulation (EU) No. 10/2011 on plastic materials and articles intended to come into contact with food^{M5};

[^{F4}“Regulation 2018/213” means [Commission Regulation \(EU\) No. 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;]

“authorised officer” means any person, whether or not an officer of the authority concerned, who is authorised in writing by an authority having responsibility for execution and enforcement under regulation 20 to act in matters arising under these Regulations;

“food authority” does not include the appropriate Treasurer referred to in section 5(1)(c) of the Act (which deals with the Inner Temple and the Middle Temple) nor a port health authority;

“port health authority” means —

- (a) in relation to the London port health district (within the meaning given to that phrase for the purposes of the Public Health (Control of Disease) Act 1984 ^{M6} by section 7(1) of that Act), the Common Council of the City of London; and
- (b) in relation to any port health district constituted by order under section 2(3) of the Public Health (Control of Disease) Act 1984, a port health authority for that district constituted by order under section 2(4) of that Act;

“preparation” includes manufacture and any form of treatment or process, and “prepare” is to be construed accordingly.

[^{F5}(2) Expressions used in these Regulations and in Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006, Regulation 282/2008, Regulation 450/2009, Regulation 10/2011 or Regulation 2018/213 bear the same meaning in these Regulations as they bear in those Regulations.]

[^{F6}(3) Any reference in these Regulations to an ^{F7}... instrument defined in regulation 2(1) is a reference to that ^{F7}... instrument as amended from time to time.]

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| F1 | Words in reg. 2(1) omitted (31.12.2022) by virtue of The Food and Feed (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/1351) , regs. 1(1), 2(2)(a)(i) |
| F2 | Words in reg. 2(1) omitted (31.12.2022) by virtue of The Food and Feed (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/1351) , regs. 1(1), 2(2)(a)(ii) |
| F3 | Words in reg. 2(1) inserted (25.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (England) Regulations 2020 (S.I. 2020/1410) , regs. 1(2), 4(2)(a)(i) |
| F4 | Words in reg. 2(1) inserted (25.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (England) Regulations 2020 (S.I. 2020/1410) , regs. 1(2), 4(2)(a)(ii) |
| F5 | Reg. 2(2) substituted (25.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (England) Regulations 2020 (S.I. 2020/1410) , regs. 1(2), 4(2)(b) |
| F6 | Reg. 2(3) substituted (25.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (England) Regulations 2020 (S.I. 2020/1410) , regs. 1(2), 4(2)(c) |
| F7 | Word in reg. 2(3) omitted (31.12.2022) by virtue of The Food and Feed (Miscellaneous Amendments) Regulations 2022 (S.I. 2022/1351) , regs. 1(1), 2(2)(b) |

Marginal Citations

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| M1 | OJ No. L338, 13.11.2004, p.4, amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council (OJ No. L188, 18.7.2009, p.14). |
| M2 | OJ No. L302, 19.11.2005, p.28. |
| M3 | OJ No. L384, 29.12.2006, p.75. |
| M4 | OJ No. L135, 30.5.2009, p.3. |
| M5 | OJ No. L12, 15.1.2011, p.1, last amended by Commission Regulation (EU) No. 1282/2011 (OJ No. L328, 10.12.2011, p.22). |
| M6 | 1984 c.22 . |

Scope

3. The provisions of these Regulations do not apply in relation to those materials and articles specified in paragraph (3) of Article 1 (purpose and subject matter) of Regulation 1935/2004.

PART 2

General Requirements for Materials and Articles

Offences of contravening specified provisions of Regulation 1935/2004

4.—(1) No person may place on the market or use, in the course of a business in connection with the storage, preparation, packaging, sale or service of food any material or article that does not comply with the requirements of Article 3(1) (general requirements) or Article 4(1),(2),(3) or (4) (special requirements for active and intelligent materials and articles).

(2) No person may place on the market any material or article that does not comply with the requirements of Article 3(2), 4(5) or (6) or 15(1),(3),(4),(7) or (8) as read with Article 15(2) (labelling).

(3) Any person who contravenes paragraph (1) or (2) or Article 11(4) or (5) (^{F8} ... authorisation) or 17(2) (traceability) is guilty of an offence.

(4) In this regulation a reference to a numbered Article is a reference to that Article in Regulation 1935/2004.

F8 Word in reg. 4(3) omitted (31.12.2020) by virtue of [The Materials and Articles in Contact with Food \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/704\)](#), regs. 1, 4; 2020 c. 1, Sch. 5 para. 1(1)

Offence of contravening Article 4 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 and Regulation 2023/2006

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

- (a) in respect of Articles 9 (application for authorisation of a new substance) ^{F9}..., the Food Standards Agency; and
- (b) in respect of Articles [^{F10}16] (declaration of compliance) and 17(2) (traceability), the Food Standards Agency, each food authority in its area and each port health authority in its district.

(2) The competent authority for the purposes of Article 6(2) (quality control system) and 7(3) (documentation) of Regulation 2023/2006 is each food authority in its area.

F9 Words in reg. 6(1)(a) omitted (31.12.2020) by virtue of [The Materials and Articles in Contact with Food \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/704\)](#), regs. 1, 5(a); 2020 c. 1, Sch. 5 para. 1(1)

F10 Word in reg. 6(1)(b) substituted (31.12.2020) by [The Materials and Articles in Contact with Food \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/704\)](#), regs. 1, 5(b); 2020 c. 1, Sch. 5 para. 1(1)

PART 3

Requirements for Active and Intelligent Materials and Articles

Offences of contravening specified provisions of Regulation 450/2009

7.—(1) Subject to the transitional provisions contained in Article 14 (entry into force and application) of Regulation 450/2009, any person who places on the market any active or intelligent material or article which does not comply with the requirements of Article 4 of that Regulation is guilty of an offence ^{M7}.

^{F11}(2)

<p>F11 Reg. 7(2) omitted (25.12.2020) by virtue of The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (England) Regulations 2020 (S.I. 2020/1410), regs. 1(2), 4(3)</p> <hr/> <p>Marginal Citations</p> <p>M7 Article 4(e) does not apply until the date of application of the EU list of authorised substances that may be used in active and intelligent components.</p>

Competent authorities for the purposes of Regulation 450/2009

8. The competent authorities for the purposes of Article 13 of Regulation 450/2009 are the Food Standards Agency, each food authority in its area and each port health authority in its district.

PART 4

Requirements for Ceramic Articles

<p>Modifications etc. (not altering text)</p> <p>C2 Pt. 4 applied in part (with modifications) (N.I.) (1.10.2023) by The Windsor Framework (Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions) Regulations 2023 (S.I. 2023/959), regs. 1(2), 4(b), Sch. 2 (with regs. 7, 8)</p>
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Interpretation of this Part

9. In this Part —
- (a) “ceramic article” means an article to which Regulation 1935/2004 applies by virtue of its Article 1(2) as read with 1(3) that —
 - (i) is 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,
 - (ii) is first shaped, with the shape thus obtained having been permanently fixed by firing, and
 - (iii) may be glazed, enamelled and/or decorated; ^{F12}...

^{F13}(b)

- F12** Word in reg. 9(a)(ii) omitted (31.12.2022) by virtue of [The Food and Feed \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/1351\)](#), regs. 1(1), **2(3)(a)**
- F13** Reg. 9(b) omitted (31.12.2022) by virtue of [The Food and Feed \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/1351\)](#), regs. 1(1), **2(3)(b)**

Limits for lead and cadmium and declaration of compliance

[^{F14}**10.**—[^{F15}(1) The quantities of lead and cadmium transferred from ceramic articles must not exceed the limits set out in paragraph (4) as read with paragraphs (3) and (5).]

(2) Unless it is demonstrated that the materials used to make the ceramic article did not contain lead or cadmium, the quantities of lead and cadmium transferred from ceramic articles must be determined by means of a test, the conditions of which are specified in Schedule 2, using the method of analysis described in Schedule 3.

(3) Where a ceramic article consists of a vessel fitted with a ceramic lid, the lead or cadmium limits (or both) which may not be exceeded (mg/dm² or mg/litre) must be that which applies to the vessel alone. The vessel alone and the inner surface of the lid must be tested separately and under the same conditions. The sum of the two lead or cadmium extraction levels thus obtained must be related as appropriate to the surface area or the volume of the vessel alone.

(4) A ceramic article is to be recognised as satisfying the requirements of these Regulations relating to such articles if the quantities of lead and/or cadmium extracted during the test carried out under the conditions laid down in Schedule 2 and Schedule 3 do not exceed the following limits—
Pb Cd 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/dm² 0,07 mg/dm². Category 2— All other articles which can be filled 4,0 mg/l 0,3 mg/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.

(5) However, where a ceramic article does not exceed the above quantities by more than 50 %, that article is nevertheless to be recognised as satisfying the requirements of these Regulations relating to such articles 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 Schedule 3 and the average quantities of lead and/or cadmium extracted from those articles do not exceed the limits set, with none of those articles exceeding those limits by more than 50 %.]

- F14** Reg. 10 substituted (31.12.2020) by [The Materials and Articles in Contact with Food \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/704\)](#), regs. 1, 6; 2020 c. 1, Sch. 5 para. 1(1)
- F15** Reg. 10(1) substituted (31.12.2020 immediately after IP completion day) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(3), **4(17)**

[^{F16}**10A.**—[^{F17}(1) No person may place on the market a ceramic article that does not comply with the requirements of regulation 10(1) as read with regulation 10(2).]

(2) At the marketing stages up to and including the retail stage, ceramic articles which are not yet in contact with foodstuffs must be accompanied by a written declaration in accordance with Article 16 of Regulation 1935/2004. That declaration is to be issued by the manufacturer or by a seller in Great Britain and must contain the information laid down in Schedule 4.

(3) Appropriate documentation to demonstrate that the ceramic articles comply with the migration limits for lead and cadmium set out in regulation 10 must be made available by the manufacturer or the importer to the competent authorities on request. That documentation must contain the results

of the analysis carried out, the test conditions and the name and the address of the laboratory that performed the testing.

(4) The documentation specified in paragraph (3) is not required where documentary evidence is provided to show that the materials used to make the ceramic article did not contain lead or cadmium.

(5) Paragraphs (2) and (3) do not apply in relation to a ceramic article which is second-hand.]

- F16** Reg. 10A inserted (31.12.2020) by [The Materials and Articles in Contact with Food \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/704\)](#), regs. 1, 7 (as amended by [S.I. 2020/1504](#), regs. 1(2), [16\(2\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)
- F17** Reg. 10A(1) substituted (31.12.2020 immediately after IP completion day) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(3), [4\(18\)](#)

PART 5

Requirements for Regenerated Cellulose Film

Interpretation of this Part

11.—(1) In this Part —

- (a) “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;
- (b) “URCF” means uncoated regenerated cellulose film;
- (c) “CRCF” means coated regenerated cellulose film with coating derived from cellulose; and
- (d) “PRCF” means coated regenerated cellulose film with coating consisting of plastics.

(2) 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.

^{F18}(3)

- F18** [Reg. 11\(3\)](#) omitted (31.12.2022) by virtue of [The Food and Feed \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/1351\)](#), regs. 1(1), [2\(4\)](#)

Controls and limits

12.—(1) URCF and CRCF may be manufactured using only the substances or groups of substances listed in [^{F19}Schedule 5] (list of substances authorised in the manufacture of regenerated cellulose film) and subject to the restrictions set out in [^{F20}that Schedule] but, by way of derogation, substances other than those listed in [^{F19}Schedule 5] may be used when these substances are employed either as —

- (a) dyes and pigments; or
- (b) adhesives,

provided that there is no trace of migration of the substances, detectable by a validated method, into or on to foodstuffs.

(2) PRCF may be manufactured, prior to coating, using only substances or groups of substances listed in the first part of [F21Schedule 5] and subject to the restrictions set out in that part.

(3) The coating to be applied to PRCF may be manufactured using only substances or groups of substances listed in Annex I to Regulation 10/2011 and subject to the restrictions in that Annex.

(4) Materials and articles made of PRCF must comply with Article 12 (overall migration limit) as read with Article 17 (expression of migration test results) and Article 18 (rules for assessing compliance with migration limits) of Regulation 10/2011.

(5) Printed surfaces of regenerated cellulose film must not come into contact with foodstuffs.

(6) Any material or article made of regenerated cellulose film that is not by its nature clearly intended to come into contact with food must, at a marketing stage other than the retail stage, be accompanied by a written declaration attesting that it complies with the legislation applicable to it.

(7) Where special conditions of use are indicated, the material or article made of regenerated cellulose film must be labelled accordingly.

(8) No person may place on the market any regenerated cellulose film which has been manufactured in contravention of the requirements of paragraphs (1) to (4), or which fails to comply with [F22paragraphs (5) or (7)].

- F19** Words in reg. 12(1) substituted (31.12.2022) by [The Food and Feed \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/1351\)](#), regs. 1(1), **2(5)(a)(i)**
- F20** Words in reg. 12(1) substituted (31.12.2022) by [The Food and Feed \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/1351\)](#), regs. 1(1), **2(5)(a)(ii)**
- F21** Words in reg. 12(2) substituted (31.12.2022) by [The Food and Feed \(Miscellaneous Amendments\) Regulations 2022 \(S.I. 2022/1351\)](#), regs. 1(1), **2(5)(b)**
- F22** Words in reg. 12(8) substituted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(4)**

PART 6

Requirements for Plastic Materials and Articles

Interpretation of Part 6 and the Schedule

13. In this Part and in the Schedule any reference to a numbered Article or Annex is a reference to that Article of or Annex to Regulation 10/2011.

Offences of contravening specified provisions of Regulation 10/2011

14.—(1) Subject to the transitional arrangements set out in Article 22(4) and (5) and Article 23 ^{M8}, any person who places on the market a plastic material or article that fails to comply with a requirement of Regulation 10/2011 specified in column 1 of the Schedule is guilty of an offence.

^{F23}(2)

- F23** Reg. 14(2) omitted (25.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(5)**

Marginal Citations

M8 Article 22(4) provides that until 31 December 2015 certain additives used in glass fibre sizing must be assessed under Article 19. Article 22(5) provides that materials and articles lawfully placed on the market before 1 May 2011 may be placed on the market until 31 December 2012. Article 23 provides that as regards certain uses of additives Article 5 applies from 31 December 2015 and that the provisions of Articles 18(2) and (4) and Article 20 apply from 31 December 2012.

Competent authorities for the purposes of Regulation 10/2011

[^{F24}**15.** The competent authorities for the purposes of Articles 8 and 16(1) of and Annex 1, Table 3 (notes on verification of compliance), Notes (23) and (27) to Regulation 10/2011 are the Food Standards Agency, each food authority in its area and each port health authority in its district.]

F24 Reg. 15 substituted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(6)**

[^{F25}PART 6A

Requirements for Recycled Plastic Materials and Articles

F25 Pt. 6A inserted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(7)**

Interpretation of this Part

15A. In this Part any reference to a numbered Article is a reference to that Article of Regulation 282/2008.

Offences of contravening Article 3(1) of Regulation 282/2008

15B. Subject to the transitional provisions contained in Article 14, any person who places on the market a material or article that fails to comply with Article 3(1) (requirements for plastic materials and articles) is guilty of an offence.

Competent authorities for the purposes of Regulation 282/2008

15C. The competent authorities for the purposes of Article 10 are the Food Standards Agency and each food authority in its area.]

PART 7

Requirements for certain epoxy derivatives

Restrictions on the use of certain epoxy derivatives (BADGE, BFDGE and NOGE)

16.—(1) In this Part —

- (a) any reference to a numbered Article or Annex is a reference to that Article or Annex in Regulation 1895/2005; and

(b) [^{F26}paragraph (2) is] subject to Article 1(3) (scope) ^{M9}.

(2) Subject to Article 6(1),(2) and (4) (transitional provisions) ^{M10}, no person may place on the market or use, in the course of a business in connection with the storage, preparation, packaging, sale or service of food —

- (a) any material or article in contravention of Article 3 (prohibition on use or presence of BFDGE) or Article 4 (prohibition on use or presence of NOGE); or
- (b) any material or article that fails to comply with the restrictions contained in Article 2 (BADGE) as read with Annex I (specific migration limit for BADGE and certain of its derivatives).

^{F27}(3)

(4) Any person who contravenes [^{F28}paragraph (2)] is guilty of an offence.

- F26** Words in reg. 16(1)(b) substituted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(8)(a)**
- F27** Reg. 16(3) omitted (25.12.2020) by virtue of [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(8)(b)**
- F28** Words in reg. 16(4) substituted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(8)(c)**

Marginal Citations

- M9** Article 3 contains an exception relating to certain containers and storage tanks and pipelines belonging to them.
- M10** Article 6(1) (relevant date 1 March 2003) and (2) (relevant date 1 January 2005) provide for transitional arrangements for the application of Articles 2, 3 and 4 to specified materials and articles; Article 6(4) allows the marketing of specified materials and articles if certain labelling requirements are met.

Competent authorities for the purposes of Regulation 1895/2005

17. The competent authority for the purpose of Article 6(4) is each food authority in its area and each port health authority in its district.

[^{F29}PART 7A

Requirements for bisphenol A

- F29** Pt. 7A inserted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(9)**

Interpretation of Part 7A

17A. In this Part, any reference to a numbered Article is a reference to the Article so numbered in Regulation 2018/213.

Offences of contravening Article 2 of Regulation 2018/213

17B. Subject to the transitional provisions contained in Article 6, any person who places on the market a material or article that fails to comply with Article 2 is guilty of an offence.

Competent authorities for the purposes of Regulation 2018/213

17C. The competent authorities for the purposes of Article 4(3) are the Food Standards Agency and each food authority in its area.]

PART 8

Requirements for Vinyl chloride

18.—(1) Materials and articles, other than those materials and articles controlled by Regulation 10/2011, 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; 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.

(2) No person may —

- (a) place on the market; or
- (b) use in the course of a business in connection with the storage, preparation, packaging, selling or service of food,

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

[^{F30}(3) The criteria applicable to the method of determining the level of vinyl chloride in materials and articles and of determining vinyl chloride released by materials and articles are as set out in paragraphs (4), (5), and (6).

(4) The level of vinyl chloride in materials and articles and the level of vinyl chloride released by materials and articles to foodstuffs are determined by means of gas-phase chromatography using the ‘headspace’ method;

(5) For the purposes of determining vinyl chloride released by materials and articles to foodstuffs, the detection limit is 0.01 mg/kg;

(6) Vinyl chloride released by materials and articles to foodstuffs is in principle determined in the foodstuffs. When the determination in certain foodstuffs is shown to be impossible for technical reasons, competent authorities may permit determination by simulants for these particular foodstuffs.]

F30 Reg. 18(3)-(6) inserted (31.12.2020) by The Materials and Articles in Contact with Food (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/704), regs. 1, 8; 2020 c. 1, Sch. 5 para. 1(1)

PART 9

Enforcement

Offences and penalties

[^{F31}19.—(1) Any person who contravenes [^{F32}regulation 10A(1)], 12(8) or 18(2) is guilty of an offence.

(2) Any person who fails to comply with a compliance notice served on them under regulation 19A is guilty of an offence.

(3) Any person who intentionally obstructs a person acting in the execution of Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006, Regulation 282/2008, Regulation 450/2009, Regulation 10/2011, Regulation 2018/213 or these Regulations is guilty of an offence.

(4) Any person who, without reasonable excuse, fails to provide any assistance or information a person may reasonably require for the performance of their functions under the Regulations mentioned in paragraph (3) is guilty of an offence.

(5) Any person who, in purported compliance with any requirement under paragraph (4), knowingly or recklessly supplies information that is false or misleading in any material particular is guilty of an offence.

(6) A person guilty of an offence is liable—

(a) in the case of an offence created by regulation 17B—

(i) on conviction on indictment to a fine or to a term of imprisonment not exceeding two years or both; or

(ii) on summary conviction to a fine or to a term of imprisonment not exceeding six months or both;

(b) in the case of an offence created by paragraphs (1), (2), (3), (4) or (5) of this regulation or by regulation 4(3), 5, 7(1), 14(1), 15B or 16(4) on summary conviction to a fine.

(7) Nothing in paragraph (3) or (4) is to be construed as requiring a person to answer any question or give any information if to do so might incriminate that person.]

F31 Reg. 19 substituted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(10)**

F32 Words in reg. 19(1) substituted (31.12.2020 immediately after IP completion day) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(3), **4(19)**

[^{F33} Compliance notices

19A.—(1) If an authorised officer has reasonable grounds for believing that any person has not complied with, is not complying with, or is not likely to comply with a provision specified in regulation 19B (which provisions concern declarations of compliance with legislative requirements or supporting documentation), the officer may serve a compliance notice on that person.

(2) A compliance notice must state—

(a) the reason for the service of the notice and the steps the person on whom the notice has been served must take;

(b) the date and, if appropriate, the time by which each step must be taken;

(d) that a failure to comply with the notice is an offence; and

(e) the details of the right to appeal against the notice under regulation 19C.

(3) An authorised officer may serve a notice on a person withdrawing, varying or suspending a compliance notice.

F33 Regs. 19A-19C inserted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(11)**

19B. The provisions are—

- [^{F34}(a) paragraphs (2) and (3) of regulation 10A;]
- (b) paragraph (6) of regulation 12;
 - (c) Article 16 of Regulation 1935/2004;
 - (d) Article 5 of Regulation 1895/2005;
 - (e) Articles 10(3) and 12 of Regulation 282/2008;
 - (f) Articles 12 and 13 of Regulation 450/2009;
 - (g) the second sentence of Article 8, Article 15 as read with Annex 4 and Article 16 of Regulation 10/2011;
 - (h) Article 4 of Regulation 2018/213.

F33 Regs. 19A-19C inserted (25.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (England) Regulations 2020 (S.I. 2020/1410), regs. 1(2), **4(11)**

F34 Reg. 19B(a) substituted (31.12.2020 immediately after IP completion day) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (England) Regulations 2020 (S.I. 2020/1410), regs. 1(3), **4(20)**

Appeal against a compliance notice

19C.—(1) Any person served with a compliance notice may appeal against that notice to a magistrates' court.

(2) The procedure on appeal to a magistrates' court is by way of complaint for an order, and the Magistrates' Courts Act 1980 applies to the proceedings.

(3) The period within which an appeal may be brought is one month from the date on which the compliance notice was served on the person wishing to appeal and the making of a complaint for an order is deemed for the purposes of this paragraph to be the bringing of the appeal.

(4) A compliance notice is not suspended pending an appeal unless—

- (a) an authorised officer suspends it under regulation 19A(3); or
- (b) the court directs that it be suspended.

(5) The court may—

- (a) confirm the notice or any requirement contained in it;
- (b) vary the notice or any requirement contained in it; or
- (c) revoke the notice or any requirement contained in it.]

F33 Regs. 19A-19C inserted (25.12.2020) by The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (England) Regulations 2020 (S.I. 2020/1410), regs. 1(2), **4(11)**

Execution and enforcement

[^{F35}**20.**—(1) Each food authority in its area is to execute and enforce Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006, Regulation 282/2008, Regulation 450/2009, Regulation 10/2011, Regulation 2018/213 and these Regulations.

(2) Each port health authority in its district is to execute and enforce Regulation 1935/2004, Regulation 1895/2005, Regulation 450/2009, Regulation 10/2011, Regulation 2018/213 and these Regulations.

- (3) The Food Standards Agency may execute and enforce the provisions of—
- (a) Articles 16 and 17(2) of Regulation 1935/2004;
 - (b) Article 10 of Regulation 282/2008;
 - (c) Article 13 of Regulation 450/2009;
 - (d) Article 8 and 16(1) of and Annex 1, Table 3 (notes on verification of compliance), Notes (23) and (27) to Regulation 10/2011; and
 - (e) Article 4(3) of Regulation 2018/213.]

F35 Reg. 20 substituted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(12)**

Offences by corporate bodies or Scottish partnerships

21.—(1) Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person purporting to act in such a capacity,

that individual as well as the body corporate shall be deemed to be guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Where an offence under these Regulations which has been committed by a Scottish partnership is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a partner, that partner as well as the partnership shall be deemed to be guilty of that offence and liable to be proceeded against and punished accordingly.

Offences due to the act or default of a third party

22. Where the commission by any person of an offence under these Regulations is due to the 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

23.—(1) No prosecution for an offence under these Regulations shall be begun after the expiry of three years from the commission of the offence or one year from its discovery by the prosecutor, whichever is the earlier.

- (2) Paragraph (1) does not apply to an offence under [^{F36}regulation 19(3) or (4)] .

F36 Words in reg. 23(2) substituted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(13)**

General defences

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

(2) Without prejudice to the generality of paragraph (1), a person accused of an offence under [^{F37}regulation 4(3), 7(1), 14(1), 15B, 16(4), 17B or 19(1)] who did not import or prepare the material or article in respect of which the offence is alleged to have been committed shall be taken to have established the defence provided by paragraph (1) if the requirements of paragraphs (3) or (4) are satisfied.

(3) The requirements of this paragraph are satisfied if it is proved that —

- (a) the commission of the offence was due to the act or default of some other person who was not under the control of the accused, or to reliance on information supplied by such a person;
- (b) either —
 - (i) the accused 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 the accused to rely on checks carried out by the person who supplied the accused with that material or article; and
- (c) the accused did not know and had no reason to suspect at the time the offence was committed that the act or omission would amount to an offence under these Regulations.

(4) The requirements of this paragraph are satisfied if the offence is one of placing on the market and it is proved that —

- (a) the commission of the offence was due to the act or default of some other person who was not under the control of the accused, or to reliance on information supplied by such a person;
- (b) the placing on the market of which the offence consisted was not done under the name or mark of the accused; and
- (c) the accused did not know and could not reasonably be expected to know at the time the offence was committed that the 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 the act or default of another person, or to reliance on information supplied by another person, the 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 the accused has previously appeared before the court in connection with the alleged offence, within one month of the first such appearance,

the accused has served on the prosecutor a written notice giving such information identifying or assisting in the identification of that other person as was then in the possession of the accused.

F37 Words in reg. 24(2) substituted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), **4(14)**

Procedure where a sample is to be analysed

25.—(1) An authorised officer who has procured a sample under section 29 of the Act 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 is reasonably practicable, give one part to the owner and notify the owner in writing that the sample will be analysed;
- (d) submit one part for analysis in accordance with section 30 of the Act; and
- (e) retain one part for future submission under regulation 26.

Secondary analysis by the Government Chemist

26.—(1) Where a sample has been retained under regulation 25(3)(e) 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 25(1),

paragraphs (2) to (7) apply.

(2) The authorised officer —

- (a) may of the officer's 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 accused,

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

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

(4) Any certificate of the results of analysis transmitted by the Government Chemist shall be signed by or on behalf of the Government Chemist, 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 accused 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 accused 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 accused to pay the fee specified in the notice the authorised officer may refuse to comply with the request.

(7) In this regulation “the accused” includes a person against whom an authorised officer is intending to commence proceedings.

Application of various provisions of the Act

27.—(1) The following provisions of the Act apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act or Part of it is to be construed as a reference to these Regulations —

- (a) section 2 (extending meaning of “sale” etc);
- (b) section 30(8) (analysis etc. of samples)^{M11}.

(2) In the application of section 32 of the Act (powers of entry) for the purposes of these Regulations, the reference to the Act in subsection (1) is to be construed as including a reference to Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006, [^{F38}Regulation 282/2008, Regulation 450/2009, Regulation 10/2011 or Regulation 2018/213] as appropriate.

(3) The following provisions of the Act apply for the purposes of these Regulations with the modification that any reference in those provisions to the Act is to be construed as including a reference to Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006, [^{F39}Regulation 282/2008, Regulation 450/2009, Regulation 10/2011 or Regulation 2018/213], as appropriate, and to these Regulations —

- (a) section 3 (presumptions that food intended for human consumption) with the modifications that the references to “sold” and “sale” is to be deemed to include references to “placed on the market” and “placing on the market” respectively;
- (b) section 44 (protection of officers acting in good faith).

- F38** Words in reg. 27(2) substituted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), 4(15)
- F39** Words in reg. 27(3) substituted (25.12.2020) by [The Food and Feed Hygiene and Safety \(Miscellaneous Amendments\) \(England\) Regulations 2020 \(S.I. 2020/1410\)](#), regs. 1(2), 4(15)

Marginal Citations

- M11** Section 30(8) sets out the evidential status of certificates of analysis and examination provided by food analysts and examiners.

PART 10

General and supplementary

Consequential amendment to the Food Safety (Sampling and Qualifications) Regulations 1990

28. In the Food Safety (Sampling and Qualifications) Regulations 1990 ^{M12}, in Schedule 1 (provisions to which those Regulations do not apply) —

- (a) omit the title and reference of the Plastic Materials and Articles in Contact with Food (England) Regulations 2009 ^{M13}; and
- (b) for the title and reference of the Materials and Articles in Contact with Food (England) Regulations 2010 ^{M14} substitute the title and reference of these Regulations.

Marginal Citations

- M12** [S.I. 1990/2463](#), amended by [S.I. 2009/205](#) and [S.I. 2010/2225](#); there are other amending instruments but none is relevant.
- M13** [S.I. 2009/205](#), amended by [S.I. 2010/2225](#) and [S.I. 2011/231](#).
- M14** [S.I. 2010/2225](#).

Amendment to the Food Labelling Regulations 1996

29.—(1) The Food Labelling Regulations 1996 ^{M15} are amended in accordance with paragraph (2).

(2) In regulation 2(1) (interpretation), for the definition of “ingredient” substitute the following definition —

““ingredient” means —

- (a) any substance, including any additive or food enzyme and any constituent of a compound ingredient, which is used in the preparation of a food and which is still present in the finished product, even if in altered form; or
- (b) any released active substance within the meaning of Article 3(f) of Commission Regulation (EC) No. 450/2009 on active and intelligent materials and articles intended to come into contact with food,

and a “compound ingredient” shall be composed of two or more such substances;.”.

(3) Paragraphs (1) and (2) expire on 13th December 2014.

Marginal Citations

M15 S.I. 1996/1499. The definition of ingredient was previously amended by S.I. 2009/3235 and S.I. 2010/2225.

Statutory Review

30.—(1) The Food Standards Agency must from time to time —

- (a) carry out a review of the operation and effect of regulations 1 to 27;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Food Standards Agency must, so far as is reasonable, have regard to [^{F40}the operation of the relevant retained EU instruments].

(3) The report must in particular —

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if they do, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

(6) In this regulation “the [^{F41}relevant retained] EU instruments” means ^{F42}... Regulation 1935/2004, Regulation 1895/2005, Regulation 2023/2006, Regulation 450/2009 and Regulation 10/2011.

F40 Words in reg. 30(2) substituted (31.12.2022) by *The Food and Feed (Miscellaneous Amendments) Regulations 2022* (S.I. 2022/1351), regs. 1(1), **2(6)(a)**

F41 Words in reg. 30(6) inserted (31.12.2022) by *The Food and Feed (Miscellaneous Amendments) Regulations 2022* (S.I. 2022/1351), regs. 1(1), **2(6)(b)(i)**

F42 Words in reg. 30(6) omitted (31.12.2022) by virtue of *The Food and Feed (Miscellaneous Amendments) Regulations 2022* (S.I. 2022/1351), regs. 1(1), **2(6)(b)(ii)**

Revocations

31. The following Regulations are revoked —

- (a) The Ceramic Articles in Contact with Food (England) Regulations 2006 ^{M16};
- (b) The Plastic Materials and Articles in Contact with Food (England) Regulations 2009;
- (c) The Materials and Articles in Contact with Food (England) Regulations 2010;
- (d) The Plastic Materials and Articles in Contact with Food (England) (Amendment) Regulations 2011 ^{M17}

Marginal Citations

M16 [S.I. 2006/1179](#), amended by [S.I. 2007/2790](#).

M17 [S.I. 2011/231](#).

Signed by authority of the Secretary of State for Health.

Department of Health

Anna Soubry
Parliamentary Under-Secretary of State,

Changes to legislation:

There are currently no known outstanding effects for the The Materials and Articles in Contact with Food (England) Regulations 2012.