
STATUTORY INSTRUMENTS

2020 No. 1410

The Food and Feed Hygiene and Safety (Miscellaneous Amendments) (England) Regulations 2020

Amendment of the Materials and Articles in Contact with Food (England) Regulations 2012

4.—(1) The Materials and Articles in Contact with Food (England) Regulations 2012⁽¹⁾ are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “Regulation 2023/2006” insert—

““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](#)⁽²⁾”;

(ii) after the definition of “Regulation 10/2011” insert—

““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⁽³⁾”;

(b) for paragraph (2), substitute—

“(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.”;

(c) for paragraph (3), substitute—

“(3) Any reference in these Regulations to an EU instrument defined in regulation 2(1) is a reference to that EU instrument as amended from time to time.”.

(3) In regulation 7 (offences of contravening specified provisions of Regulation 450/2009), omit paragraph (2).

(4) In regulation 12 (controls and limits), in paragraph (8), for “paragraphs (5), (6) or (7)” substitute “paragraphs (5) or (7)”.

(5) In regulation 14 (offences of contravening specified provisions of Regulation 10/2011), omit paragraph (2).

(6) For regulation 15 (competent authorities for the purposes of Regulation 10/2011), substitute—

“**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

⁽¹⁾ [S.I. 2012/2619](#) will be amended by [S.I. 2019/704](#) after the making of this statutory instrument.

⁽²⁾ OJ No. L86, 28.3.2008, p.9, as last amended by Commission Regulation (EU) 2015/1906 (OJ No. L278, 23.10.2015, p.11).

⁽³⁾ OJ No. L41, 14.2.2018, p. 6.

the Food Standards Agency, each food authority in its area and each port health authority in its district.”.

(7) After regulation 15 insert—

“PART 6A

Requirements for Recycled Plastic Materials and Articles

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.”.

(8) In regulation 16 (restrictions on the use of certain epoxy derivatives (BADGE, BFDGE and NOGE))—

- (a) in paragraph (1)(b), for “paragraphs (2) and (3) are” substitute “paragraph (2) is”;
- (b) omit paragraph (3);
- (c) in paragraph (4), for “paragraph (2) or (3)” substitute “paragraph (2)”.

(9) After regulation 17 (competent authorities for the purposes of Regulation 1895/2005) insert—

“PART 7A

Requirements for bisphenol A

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.”.

(10) For regulation 19 (offences and penalties) substitute—

“**19.**—(1) Any person who contravenes regulation 10(3), 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.”

(11) After regulation 19 insert—

“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.

19B. The provisions are—

(a) paragraphs (4) and (6) of regulation 10;

(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.

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(4) 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.”.

(12) For regulation 20 (execution and enforcement), substitute—

“**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.”.

(13) In regulation 23 (time limit for prosecutions), in paragraph (2), for “regulation 7(2), 14(2) or 19(2) or (3)” substitute “regulation 19(3) or (4)”.

(14) In regulation 24 (general defences), in paragraph (2) for “regulation 4(3), 7(1), 14(1), 16(4) or 19(1)” substitute “regulation 4(3), 7(1), 14(1), 15B, 16(4), 17B or 19(1)”.

(4) 1980 c.43.

(15) In paragraphs (2) and (3) of regulation 27 (application of various provisions of the Act) for “Regulation 450/2009 or Regulation 10/2011” substitute “Regulation 282/2008, Regulation 450/2009, Regulation 10/2011 or Regulation 2018/213”.

(16) In the Schedule (specified provisions of Regulation 10/2011)—

(a) for the text in the first column of the seventh row (which relates to Article 11) of the table, substitute “Article 11(1) and Annex 1, as read with Article 11(3) and (4)”;

(b) omit the entries in the final row of the table.

(17) For regulation 10(1) substitute—

“(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).”.

(18) For regulation 10A(1) substitute—

“(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).”.

(19) In regulation 19(1), for “regulation 10(3)” substitute “regulation 10A(1)”.

(20) In regulation 19B, for paragraph (a) substitute—

“(a) paragraphs (2) and (3) of regulation 10A;”.