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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 230**

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

**Citation, commencement and extent**

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

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

(3) These Regulations extend to Scotland only.

**Interpretation**

2. In these Regulations—

“ceramic article” means an article—

- (a) manufactured from a mixture of inorganic materials with a generally high argillaceous or silicate content to which small quantities of organic materials may have been added. Such an article is first shaped and the shape thus obtained is permanently fixed by firing. It may be glazed, enamelled and/or decorated; and
- (b) which, in its finished state, is intended to come into contact with foodstuffs, or which is in contact with foodstuffs, and is intended for that purpose;

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

“the Community” means the member States, Norway, Iceland and Liechtenstein;

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

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

**Limits on the transfer of lead and cadmium**

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

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

(3) No person may—

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

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

## **Declaration of Compliance**

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

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

(3) A manufacturer or importer of a ceramic article into the Community shall on request make available to an authority specified in regulation 5 appropriate documentation to demonstrate compliance with the requirements of regulation 3(1), including:

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

## **Enforcement**

5. Each food authority shall execute and enforce these Regulations within its area.

## **Offences and penalties**

6.—(1) A person who contravenes or fails to comply with the provisions of regulations 3(3) or 4(1) or (3) is guilty of an offence.

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

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 6 months or to both; or
- (b) on conviction on indictment, to a fine or to a term of imprisonment not exceeding two years or to both.

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

## **Application of the Food Safety Act 1990**

7. The following provisions of the Food Safety Act 1990 apply for the purposes of these Regulations, with reference in those provisions to the Act or a Part of it being construed as a reference to these Regulations—

- (a) section 20 (offences due to fault of another person);
- (b) section 21(1), (5) and (6) (defence of due diligence);
- (c) section 33 (obstruction etc of officers);
- (d) section 34 (time limit for prosecutions), with the modification that—
  - (i) the time limit referred to in section 34(b) shall be 1 year from the date on which evidence sufficient in the opinion of the prosecutor to warrant proceedings came to the knowledge of the prosecutor; and
  - (ii) the reference to section 35(2) shall be construed as a reference to regulation 6 of these Regulations;

- (e) section 35(1) to (3) (punishment of offences), in so far as it relates to offences under section 33 as applied by sub-paragraph (c);
- (f) section 36 (offences by bodies corporate);
- (g) section 36A(1) (offences by Scottish partnerships); and
- (h) section 44 (protection of officers acting in good faith).

### **Revocations**

**8.—(1)** The Ceramic Ware (Safety) Regulations 1988(2), in so far as they extend to Scotland, are hereby revoked.

(2) In the Official Feed and Food Controls (Scotland) Regulations 2006(3), Schedule 3 (definition of relevant food law), sub-paragraph (b), omit “except in so far as it involves the regulation of food contact materials under the Ceramic Ware (Safety) Regulations 1988”.

St Andrew’s House,  
Edinburgh  
28th April 2006

*LEWIS MACDONALD*  
Authorised to sign by the Scottish Ministers

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(1) Section 36A was inserted by the 1999 Act, section 40(1) and Sch. 5, para. 16.  
(2) S.I.1988/1647.  
(3) S.S.I. 2005/616.