

SL(5)120 - The Materials and Articles in Contact with Food (Wales) (Amendment) Regulations 2017

Background and Purpose

These **Regulations** amend the **Materials and Articles in Contact with Food (Wales) Regulations 2012** ("the principal Regulations").

The amendments—

- (a) provide for the continuing enforcement of EU Regulation 10/2011 on plastic materials and articles intended to come into contact with food;
- (b) apply certain provisions of the Food Safety Act 1990, with modifications, to the principal Regulations;
- (c) make minor amendments about competent authorities and enforcement authorities.

Procedure

Negative

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Implications arising from exiting the European Union

These Regulations form part of "EU-derived domestic legislation" under clause 2 of the European Union (Withdrawal) Bill ("the Bill") as introduced, therefore these Regulations will be retained as domestic law and will continue to have effect in Wales after exit day.

The Bill gives the Welsh Ministers power to modify these Regulations in order to deal with deficiencies arising from withdrawal, subject to certain limitations (for example, the Welsh Ministers will not be able to use this power to do something that is inconsistent with modifications to "retained direct EU legislation" made by UK Ministers under the Bill).

The Regulations provide for the enforcement of EU Regulation 10/2011; EU Regulation 10/2011 currently has direct effect in EU member states, including Wales. On exit, EU Regulation 10/2011 will be frozen and will be retained as / converted into domestic law called "retained direct EU legislation".

The Bill will not give the Welsh Ministers (or the National Assembly for Wales) power to modify any retained direct EU legislation, including EU Regulation 10/2011 which is concerned with the devolved area of food. Power to modify all retained direct EU legislation is given to UK Ministers; this includes the power to modify retained direct EU legislation in devolved areas without the need for the consent of the National Assembly for Wales or the Welsh Ministers.



Therefore, if UK Ministers use their powers to modify EU Regulation 10/2011 as retained direct EU legislation, the power of the Welsh Ministers to modify these Regulations will be limited so that the Welsh Ministers cannot do anything that is inconsistent with the modification made by UK Ministers.

Government Response

No government response is required.

Legal Advisers
Constitutional and Legislative Affairs Committee
17 August 2017

