Ministry of Public Health, Welfare and Sport

Regulation of the Minister for Medical Care of

, -WJZ, amending the Commodities Act Regulation on packaging and consumer products in connection with the Decision of the Benelux Committee of Ministers on metal and alloy materials and articles intended to come into contact with foodstuffs

The Minister for Medical Care,

Having regard to:
- the Decision of the Benelux Committee of Ministers on metal and alloy materials and articles intended to come into contact with foodstuffs (M (2022) 12);
- Article 3(1)(a) and Article 4(1) of the Commodities Act Decree on packaging and consumer products;

Hereby decrees the following:

Article I

Chapter IV of Part A of the Annex to the Commodities Act Regulation on packaging and consumer products is amended as follows:

A

Section 1. Description is replaced as follows:
1. Description

1.1. In this Regulation, the following terms and definitions shall apply:
alloy: a metallic material, homogeneous on a macroscopic scale, consisting of two or more elements so combined that they cannot be readily separated by mechanical means;
metals: substances characterised by the following physico-chemical properties in solid form:
a. reflectivity responsible for characteristic metallic lustre;
b. electrical conductivity;
c. heat conductivity;
d. mechanical properties such as strength and ductility.
1.2. This Chapter applies to packaging and consumer products made wholly or partly of metals or alloys, and whether or not coated.

B

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Section 4. Requirements for the final product is amended as follows:
1. In the table in section 4.3.:
a. ‘arsenic: 0.01’ is replaced by ‘arsenic: 0.002’;
b. ‘cadmium: 0.01’ is replaced by ‘cadmium: 0.005’;
c. ‘chromium: 0.1’ is replaced by ‘chromium: 0.25’;
d. ‘cobalt: 0.05’ is replaced by ‘cobalt: 0.02’;
e. ‘copper: 5’ is replaced by ‘copper: 4’;
f. ‘lithium compounds, total: 0.6 (as lithium)’ is replaced by ‘lithium compounds, total: 0.048 (as lithium)’;
g. ‘manganese: 0.6’ is replaced by ‘manganese: 1.8’;
h. ‘vanadium: 0.05’ is replaced by ‘vanadium: 0.01’;
i. the following substances with associated SML (mg/kg) are added:

barium:	1.2
beryllium:	0.01
iron:	40
mercury:	0.003
molybdenum:	0.12
thallium:	0.0001
tin:	100 (unless otherwise provided for in Regulation (EC) No 1881/2006)
silver:	0.08

2. Section 4.5. is deleted, renumbering sections 4.6. to 4.9. as 4.5. to 4.8.
3. A new section is added, reading:
4.9. The compliance of the materials and articles shall be demonstrated by the operator by means of a written declaration in accordance with Article 16 of Regulation (EC) No 1935/2004 and section 0.9 of Chapter 0 of Part A of the Annex.

Article II

This Regulation shall enter into force on the day following the date of issue of the Government Gazette in which it is published.

This regulation and the explanatory notes shall be published in the Government

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Gazette.

The Minister for Medical Care,

Explanatory Notes

I. General

1. Introduction

Resolution CM/Res(2013)9 of the Committee of Ministers of the Council of Europe of 11 June 2013 on metals and alloys used in food contact materials and articles (hereinafter: Resolution) aims at harmonising national requirements on the relevant food contact materials in order to ensure a high level of public health protection. This Resolution calls on the Member States of the Council of Europe to take legislative or other measures in accordance with the principles and guidelines set out in the Resolution.

With the Decision of the Benelux Committee of Ministers on metal and alloy materials and articles intended to come into contact with foodstuffs (M (2022) 12) (hereinafter: Benelux Decision), the Benelux countries wish to jointly implement the Resolution, within the framework of European law for the placing on the market in the European Union of food contact materials. This shall harmonise the requirements to be applied in the three countries. Consequently, it is established that the same high level of public health protection is always provided throughout Benelux and the Benelux internal market is further deepened, since the free movement of the goods in question cannot in any way be hindered by divergent national requirements in that regard.

In the Netherlands, legal requirements were already in place for these food contact materials. The Regulation ensures that, where necessary, the requirements are brought into line with the Benelux Decision.

2. Consultation

The draft of this Regulation was submitted to the participants in the Regular Consultation on the Commodities Act[1]. This consultation did not give rise to any substantive comments.

3. Notification

The draft version of this regulation has been reported to the European Commission under article 5 (1) of Directive (EU) 2015/1535[2]. Notification to the European Commission is required, as article I of this regulation contains technical provisions as defined by Directive (EU) 2015/1535. In response to this notification **PM**

4. Impact on regulatory burden

This regulation does not impact the administrative burden on citizens and businesses. There is no information cost. Compliance costs are low. In some cases, the Specific Migration Limit (hereinafter: SML) of substances is tightened; In those cases, companies shall have to check whether their products still comply with the

[1] Representatives of industry and commerce, consumers, relevant ministries and the Dutch Food and Consumer Product Safety Authority (NVWA) participate in the ROW.
[2] Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 concerning an information procedure on technical provisions and rules regarding the services of the information society (codification) (PbEU 2015, L 241).

legislation and, if necessary, adapt the products to the new requirements. For a number of substances, the SML shall be extended. This Regulation shall harmonise legislation in the Benelux countries, thus facilitating trade with the other Benelux countries.

The Advisory Board on Regulatory Burden **PM**

5. Enforceability and feasibility

The draft of this Regulation was submitted to the Dutch Food and Consumer Product Safety Authority (hereinafter: NVWA) to assess the possible consequences for enforceability and feasibility. The NVWA **PM**

II. Explanatory Notes by Article

Article I

The table below shows how the Benelux Decision was implemented in the Commodities Act Regulation on packaging and consumer products.

Benelux Decision provision	Provision in Part A of the Annex to the Commodities Act Regulation on packaging and consumer products and	Description of policy space	Explanation of choice in filling the policy space
Article 1	Chapter IV, section 1.1. Chapter 0, section 0.5.1. (a)		
Article 2	Chapter IV, section 1.2. Article 1 of the Commodities Act Decree on packaging and consumer products		
Article 3	Article 2(3) of the Commodities Act Decree on packaging and consumer products		
Article 4 and Chapter 1 of the Annex	Chapter IV, table in section 4.3. Chapter 0, section 0.4.2. (e)		
Article 5	Chapter 0, sections 0.3. (e) and 0.7.(4)		
Article 6	No implementation	Policy space to require special labelling or symbol	Policy space is not used
Article 7	Chapter IV, section 4.10.		
Article 8	Article 13d of the Commodities Act		
Article 9	Appointment of Food and Consumer Product Safety		

	Authority supervisory officials under Article 25 of the Commodities Act		
Article 10	Requires no implementation		

Article I, section B(2)

Section 4.5. can be deleted as tin is included in the table in section 4.3.

Article II

In relation to Article 10(2) of the Benelux Decision, this Regulation shall enter into force immediately 1 day after publication.

The Minister for Medical Care,