
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 127

**The Plastic Materials and Articles in Contact
with Food (Scotland) Regulations 2008**

PART 1

Preliminary

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Plastic Materials and Articles in Contact with Food (Scotland) Regulations 2008, and come into force—

- (a) for the purpose of regulation 26(c), on 1st July 2008, and
- (b) for all other purposes, on 1st May 2008.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990;

“BADGE” has the meaning it bears in Article 1(1)(a) of Regulation 1895/2005;

“BFDGE” has the meaning it bears in Article 1(1)(b) of Regulation 1895/2005;

“business” has the meaning it bears in the Act;

“capable” means capable as established under regulation 13;

“Directive 82/711” means Council Directive [82/711/EEC](#) laying down the basic rules necessary for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs(1);

“Directive 85/572” means Council Directive [85/572/EEC](#) laying down the list of simulants to be used for testing migration of constituents of plastic materials and articles intended to come into contact with foodstuffs(2);

“Directive 88/388” means Council Directive [88/388/EEC](#) on the approximation of the laws of the Member States relating to flavourings for use in foodstuffs and to source materials for their production(3);

“Directive 89/107” means Council Directive [89/107/EEC](#) on the approximation of the laws of the Member States concerning food additives authorised in foodstuffs intended for human consumption(4);

(1) O.J. No. L 297, 23.10.82, p.26; as amended by Commission Directive [93/8/EEC](#) (O.J. No. L 90, 14.4.93, p.22) and Commission Directive [97/48/EC](#) (O.J. No. L 222, 12.8.97, p.10)

(2) O.J. No. L 372, 31.12.85, p.14.

(3) O.J. No. L 345, 14.12.88, p.29; as corrected by a corrigendum dated 15th July 1988 (O.J. No. L 184, 15.7.88, p.61).

(4) O.J. No. L 40, 11.2.89, p.27; as amended by European Parliament and Council Directive 94/34 (O.J. No. L 237, 10.9.94, p.1).

“the Directive” means Commission Directive [2002/72/EC](#) relating to plastic materials and articles intended to come into contact with foodstuffs⁽⁵⁾;

“EFSA” means the European Food Safety Authority;

“fatty foods” means foods for which, in migration testing, stimulant D is specified in Directive [85/572/EEC](#);

“food” is to be construed in accordance with section 16(5) of the Act;

“good technical quality” means good technical quality as regards the purity criteria;

“handling of food” means use in connection with the storage, preparation, packaging, sale or serving of food;

“import” means import in the course of a business;

“infants” means children under the age of twelve months;

“material or article” means a material or article falling within the definition of materials and articles in Article 1(2) of Regulation [1895/2005](#);

“monomer” means any substance which is included for the purposes of the Directive among monomers and other starting substances;

“NOGE” has the meaning it bears in Article 1(1)(c) of Regulation [1895/2005](#);

“plastic functional barrier” means a barrier consisting of one or more layers of plastics which ensure that the finished material or article complies with Article 3 of Regulation [1935/2004](#) and with the Directive;

“plastic material or article” means anything which for the purposes of the Directive is included among those plastic materials and articles and parts thereof to which the Directive applies;

“plastic multi layer material or article” means a plastic material or article composed of two or more layers of materials each consisting exclusively of plastics, which are bound together by means of adhesives or other means;

“purity criteria” means purity criteria in accordance with Commission Directive [95/31/EC](#) laying down specific criteria of purity concerning sweeteners for use in foodstuffs⁽⁶⁾, Commission Directive [95/45/EC](#) laying down purity criteria concerning colours for use in foodstuffs⁽⁷⁾ and Commission Directive [96/77/EC](#) laying down specific purity criteria for food additives other than colour sweeteners⁽⁸⁾;

“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](#)⁽⁹⁾;

“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⁽¹⁰⁾;

(5) O.J. No. L 220, 15.8.02, p.18; as amended by Commission Directive [2004/1/EC](#) (O.J. No. L 7, 13.1.04, p.45), Commission Directive [2004/19/EC](#) (O.J. No. L 71, 10.3.04, p.8), Commission Directive [2005/79/EC](#) (O.J. No. L 302, 19.11.05, p.35), and Commission Directive [2007/19/EC](#) (O.J. No. L 97, 12.4.2007, p.50).

(6) O.J. No. L 178, 28.7.95, p.1; as amended by Commission Directive [98/66/EC](#) (O.J. No. L 257, 19.9.98, p.35), Commission Directive [2000/51/EC](#) (O.J. No. L 198, 4.8.00, p.41), Commission Directive [2001/52/EC](#) (O.J. No. L 190, 12.7.01, p.18) and Commission Directive [2004/46/EC](#) (O.J. No. L 114, 21.4.04, p.15).

(7) O.J. No. L 226, 22.9.95, p.1; as amended by Commission Directive [1999/75/EC](#) (O.J. L 206, 5.8.99, p.19), Commission Directive [2001/50/EC](#) (O.J. No. L 190, 12.7.01, p.14) and Commission Directive [2004/47/EC](#) (O.J. L 113, 20.4.04, p.24).

(8) O.J. No. L 339, 30.12.96, p.1; as amended by Commission Directive [2001/30/EC](#) (O.J. No. L 146, 31.5.01, p.1), Commission Directive [2002/82/EC](#) (O.J. No. L 292, 28.10.02, p.1), Commission Directive [2003/95/EC](#) (O.J. No. L 283, 31.10.03, p.71) and Commission Directive [2004/45/EC](#) (O.J. No. L 113, 20.4.04, p.19).

(9) O.J. No. L 338, 13.11.2004, p.4.

(10) O.J. No. L 302, 19.11.05, p.28.

“the 1998 Regulations” means the Plastic Materials and Articles in Contact with Food Regulations 1998⁽¹¹⁾;

“the 2006 Regulations” means the Plastic Materials and Articles in Contact with Food (Scotland) (No. 2) Regulations 2006⁽¹²⁾;

“the 2007 Regulations” means the Materials and Articles in Contact with Food (Scotland) Regulations 2007⁽¹³⁾;

“sell” includes offer or expose for sale or have in possession for sale, and “sale” is to be construed accordingly; and

“young children” means children aged between one and three years.

(2) For the purposes of these Regulations the supply otherwise than on sale, in the course of a business, of any material or article is deemed to be a sale.

(3) Any other expression used in these Regulations and in the Directive, Directive 82/711, Directive 85/572 or Regulation 1895/2005 bears the same meaning in these Regulations as it bears in that Directive or Regulation.

(4) Except in regulation 11(3) and Part 5 of Schedule 3, any reference to a numbered Annex is a reference to that Annex in the Directive.

(5) Any reference to an Annex to the Directive is a reference to that Annex as amended from time to time.

⁽¹¹⁾ S.I.1998/1376 as amended by S.S.I. 2000/431, 2002/498, 2003/9, 2004/524 and 2005/92. It was revoked by S.S.I. 2006/314.

⁽¹²⁾ S.S.I. 2006/517.

⁽¹³⁾ S.S.I. 2007/471.