
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, revoke the Plastic Materials and Articles in Contact with Food (Scotland) Regulations 2008 and re-enact those Regulations with changes. The main changes implement the further amendments made to Commission Directive [2002/72/EC](#) by Commission Directive [2008/39/EC](#), which—

- (a) updates the lists of authorised substances; and
- (b) changes the approach of Directive [2002/72/EC](#) in respect of additives in that there is now to be a positive Community list of authorised additives.

The Regulations in Part 2—

- (a) prohibit specified activities in relation to any plastic material or article (as defined in regulation 2) which fails to meet the appropriate required standards set out in the Regulations (regulation 3);
- (b) prohibit the use of monomers and additives in the manufacture of plastic materials and articles other than in accordance with specified conditions (regulation 4 and Schedule 1 in the case of monomers and regulation 5 and Schedule 1 in the case of additives);
- (c) specify the required standards relating to the capability of a monomer or an additive to transfer its constituents to food (regulation 6 for monomers and regulation 7 for additives);
- (d) specify the required standard for products obtained by bacterial fermentation (regulation 8);
- (e) specify the required standard relating to overall migration limits from plastic materials or articles to food (regulation 9);
- (f) specify the required standard relating to the migration of primary aromatic amines from plastic materials or articles to food (regulation 10);
- (g) specify the required standard relating to plastic multi-layer materials and articles (regulation 11);
- (h) provide for the execution and enforcement of Regulation 1895/2005 on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food, which contains Community provisions relating to the epoxy derivatives known as BADGE, BFDGE and NOGE (regulation 12);
- (i) specify the methods for determining the capability of a plastic material or article to transfer the constituents to food, and for detecting the presence of any such constituents in food (regulation 3 and Schedules 2 and 3); and
- (j) provide that prior to the retail stage plastic materials and articles must be accompanied by certain specified written information, including a declaration of legislative compliance (regulation 14 and Schedule 4).

The Regulations in Part 3—

- (a) designate food authorities as the enforcement authorities in their areas (regulation 15);
- (b) specify the offences that may be committed under these Regulations and set out the maximum penalties on conviction (regulation 16);

Status: This is the original version (as it was originally made).

- (c) provide general defences in proceedings for an offence under the Regulations (regulation 17);
- (d) provide a transitional defence relating to the sale of glass jars that contain certain foods for infants and young children and that have been sealed with a PVC gasket containing epoxidised soybean oil (regulation 18);
- (e) specify the procedure to be followed when sending a sample for analysis (regulation 19); and
- (f) make provision for secondary analysis by the Government Chemist (regulation 20).

The Regulations in Part 4—

- (a) apply sections of the Food Safety Act 1990 (regulation 21); and
- (b) make consequential amendments and revocations (regulations 22, 23 and 24).

A full regulatory impact assessment of the effect that this instrument will have on business costs has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Food Standards Agency, 6th Floor, St Magnus House, 25 Guild Street, Aberdeen AB11 6NJ.