
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 30

**The Plastic Materials and Articles in Contact
with Food (Scotland) Regulations 2009**

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 2009 and come into force on 7th March 2009.

(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, simulant D is specified in Directive 85/572;

“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 layers or coatings” means plastic layers or plastic coatings forming gaskets in lids that together are composed of two or more layers of different types of materials;

“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 [2008/60/EC](#) laying down specific purity criteria concerning sweeteners for use in foodstuffs⁽⁶⁾, Commission Directive [2008/128/EC](#) laying down specific purity criteria concerning colours for use in foodstuffs⁽⁷⁾ and Commission Directive [2008/84/EC](#) laying down specific purity criteria on food additives other than colours and 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), Commission Directive [2007/19/EC](#) (O.J. No. L 97, 12.4.07, p.50) and Commission Directive [2008/39/EC](#) (O.J. No. L 63, 7.3.08, p.6).

(6) O.J. No. L 158, 18.6.08, p.17.

(7) O.J. No. L 6, 10.1.09, p.20.

(8) O.J. No. L 253, 20.9.08, p.1.

(9) O.J. No. L 338, 13.11.04, 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 2007 Regulations” means the Materials and Articles in Contact with Food (Scotland) Regulations 2007⁽¹²⁾;

“the 2008 Regulations” means the Plastic Materials and Articles in Contact with Food (Scotland) Regulations 2008⁽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. 2007/471 as amended by S.S.I. 2008/127 and 261.

⁽¹³⁾ S.S.I. 2008/127; as amended by S.S.I. 2008/261.