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WELSH STATUTORY INSTRUMENTS

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**2008 No. 1237**

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

**PART 1**

Preliminary

**Title, application and commencement**

1. The title of these Regulations is the Plastic Materials and Articles in Contact with Food (Wales) Regulations 2008, apply in relation to Wales and come into force —

- (a) for the purposes of regulation 29(c) on 1 July 2008;
- (b) for all other purposes on 1 May 2008.

**Interpretation**

2.—(1) In these Regulations —

“the Act” means the Food Safety Act 1990;

“the 1998 Regulations” means the Plastic Materials and Articles in Contact with Food Regulations 1998(1);

“the 2007 Regulations” means the Materials and Articles in Contact with Food (Wales) Regulations 2007(2);

“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(3);

“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(4);

“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(5);

“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(6);

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(1) [S.I. 1998/1376](#), as amended in relation to Wales by [S.I. 2001/1263 \(W.70\)](#), [S.I. 2002/2834 \(W.272\)](#), [S.I. 2003/302 \(W.44\)](#), [S.I. 2005/182 \(W.15\)](#) and [S.I. 2005/1649 \(W.130\)](#). It was revoked by [S.I. 2006/2982 \(W.273\)](#).

(2) [S.I. 2007/3252 \(W.287\)](#).

(3) OJNo. L297, 23.10.1982, p.26. This was last amended by Commission Directive [97/48/EC](#) (OJ No. L222, 12.8.1997, p.10).

(4) OJ No. L372, 31.12.1985, p.14. This was last amended by Commission Directive [2007/19/EC](#) (OJ No. L97, 12.4.2007 p.50).

(5) OJ No. L184, 15.7.1988, p.61.

(6) OJ No. L40, 11.2.1989, p. 27.

“the Purity Directives” means Commission Directive [95/31/EC](#) laying down specific criteria of purity concerning sweeteners for use in foodstuffs(7), Commission Directive [95/45/EC](#) laying down purity criteria concerning colours for use in foodstuffs(8) and Commission Directive [96/77/EC](#) laying down specific purity criteria for food additives other than colours or sweeteners(9);

“the Directive” means Commission Directive [2002/72/EC](#) relating to plastic materials and articles intended to come into contact with foodstuffs (10);

“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](#)(11);

“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(12);

“authorised officer” means any person, whether or not an officer of the enforcement authority, who is authorised by it in writing to act in matters arising under these Regulations;

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

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

“business” is to be construed in accordance with section 1(3) of the Act;

“capable” means capable as established under regulation 13;

“EFSA” means the European Food Safety Authority;

“enforcement authority” means an authority having responsibility under regulation 15 for executing and enforcing these Regulations;

“fatty foods” means foods for which, in migration testing, simulant 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 that is included for the purposes of the Directive among monomers and other starting substances;

“NOGE” has the meaning given in Article 1(1)(c) of Regulation 1895/2005;

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

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(7) OJ No. L178, 28.7.95, p.1. This was last amended by Commission Directive [2004/46](#), OJ No. L114, 21.4.2004, p.15.

(8) OJ No. L226, 22.9.95, p.1. This was last amended by Commission Directive [2004/47](#), OJ No. L113, 20.4.2004, p.24.

(9) OJ No. L339, 30.12.96, p.1. This was last amended by Commission Directive [2003/95](#), OJ No. L283, 31.10.2003, p.71.

(10) OJ No. L220, 15.8.2002, p.18. This was amended by Commission Directives [2004/1/EC](#) (OJ No. L7, 13.1.2004, p.45), [2004/19/EC](#) (OJ No. L71, 10.3.2004, p.8), [2005/79/EC](#) (OJ No. L302, 19.11.2005, p.35), and [2007/19/EC](#) (published in revised and corrected form in OJ No. L97, 12.4.2007, p.50).

(11) OJ No. L338, 13.11.2004, p.4).

(12) OJ No. L302, 19.11.2005, p.28.

“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;

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

“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 in Part 5 of Schedule 3, any reference to a numbered Annex is a reference to that Annex to the Directive.

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