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*Status: Point in time view as at 09/02/2005. This version of this Instrument contains provisions that are prospective.*  
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*This Statutory Instrument has been printed in substitution of the SI of the same number and is being issued free of charge to all known recipients of that Statutory Instrument.*

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## STATUTORY INSTRUMENTS

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**2005 No. 325**

### **FOOD, ENGLAND**

#### **The Plastic Materials and Articles in Contact with Food (Amendment) (England) Regulations 2005**

*Made - - - - 9th February 2005*

*Laid before Parliament 1st March 2005*

*Coming into force - - 11th March 2005*

The Secretary of State, in exercise of the powers conferred on him by sections 16(2), 17(1), 26(1)(a) and (3) and 48(1) of the Food Safety Act 1990<sup>(1)</sup> and now vested in him<sup>(2)</sup>, having had regard, in accordance with section 48(4A) of that Act, to relevant advice given by the Food Standards Agency, and after consultation as required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety<sup>(3)</sup>, makes the following Regulations:

PROSPECTIVE

#### **Title, application and commencement**

1. These Regulations may be cited as the Plastic Materials and Articles in Contact with Food (Amendment) (England) Regulations 2005, shall apply in relation to England only and shall come into force on 11th March 2005.

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- (1) 1990 c. 16.
- (2) Functions formerly exercisable by “the Ministers” (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable, in relation to England, by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the Food Standards Act 1999 (1999 c. 28). Those functions, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. 1999/672 as read with section 40(3) of the 1999 Act. Those functions, so far as exercisable in relation to Scotland, were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (1998 c. 46) as read with section 40(2) of the 1999 Act. Section 17(1) was amended by paragraph 12(a), and section 48 by paragraph 21, of Schedule 5 to the 1999 Act. Regulation 13(4) of S.I. 2000/656 expressly authorises the Secretary of State to amend existing Regulations made by the Minister of Agriculture, Fisheries and Food (whether or not with others) under the Food Safety Act 1990.
- (3) OJ No. L31, 1.2.2002, p.1. That Regulation was last amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (OJ No. L245, 29.9.2003, p.4).

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## Commencement Information

II Reg. 1 in force at 11.3.2005, see [reg. 1](#)

## Amendments to the Plastic Materials and Articles in Contact with Food Regulations 1998

2. The Plastic Materials and Articles in Contact with Food Regulations 1998(4) are amended, in so far as they apply in relation to England, in accordance with regulations 3 to 16 of these Regulations.

3. In regulation 2 (interpretation) —

(a) in paragraph (1) —

(i) for the definition of “additive” substitute ““additive” means a substance as defined in paragraph 1 of the general introduction to Annex III to the Directive as read with paragraph 3 of Article 4 of the Directive;”;

(ii) in the definition of “Council Directive 82/711”, omit the words “as amended” to the end;

(iii) after the definition of “Council Directive 82/711” insert the following definitions —

““Council 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);

““Council 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);”;

(iv) omit the definition of “EEA Agreement”;

(v) for the definition of “EEA State” substitute ““EEA State” means a Member State (other than the United Kingdom), Norway, Iceland and Liechtenstein;”;

(vi) after the definition of “EEA State” insert the following definition —

““EFSA” means the European Food Safety Authority;”;

(vii) after the definition of “preparation” insert the following definition —

““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);”;

(b) after paragraph (5) add —

(4) [S.I. 1998/1376](#), amended in relation to England by [S.I. 2000/3162](#), [S.I. 2002/2364](#), [S.I. 2002/3008](#) and [S.I. 2004/3113](#).  
(5) OJ No. L184, 15.7.88, p.61. This Directive was last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Commission (OJ No. L284, 31.10.2003, p.1).  
(6) OJ No. L40, 11.2.89, p.27. This Directive was last amended by Regulation (EC) No 1882/2003.  
(7) OJ No. L178, 28.7.95, p.1. This Directive 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 Directive 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 Directive was last amended by Commission Directive 2003/95 (OJ No. L283, 31.10.2003, p.71).

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“(6) Any reference in these Regulations to a Community instrument shall be construed as a reference to that instrument as amended at the time the Plastic Materials and Articles in Contact with Food (Amendment) (England) Regulations 2005 were made.”.

4. In regulation 4 (restriction on the use of monomers in the manufacture of plastic materials and articles) —

- (a) in paragraph (2) omit sub-paragraphs (a) and (b);
- (b) in paragraph (5)(b)(ii) after the word “material” in each case insert the words “or article”.

5. In regulation 5 (restriction on the use of additives in the manufacture of plastic materials and articles) —

- (a) in paragraph (1) add after sub-paragraph (d) —
  - “(e) any food additive authorised by Council Directive 89/107 or any flavouring authorised by Council Directive 88/388 that migrates into food —
    - (i) in a quantity that has a technological function in the final food product, or
    - (ii) where the food is of a type for which the use of any such food additive or flavouring is so authorised, in quantities exceeding the limits provided for in Council Directive 89/107 or Council Directive 88/388 as appropriate, or in Schedule 2 to these Regulations, whichever is the lower.”;
- (b) in paragraph (4)(b)(ii) after the word “material” in each case insert the words “or article”.

6. After regulation 5A insert the following regulation —

**“Applications for inclusion of an additive in the Community list of authorised additives**

**5B.—**(1) This regulation applies where a person wishes to make an application for the inclusion of an eligible additive in the Community list referred to in Article 4 of the Directive.

(2) An application mentioned in paragraph (1) including supporting data must be made to EFSA before 1st January 2007.

(3) If, during examination of the data referred to in paragraph (2), EFSA calls for supplementary information, the eligible additive may, if permitted to be used under English law, continue to be so used until EFSA has issued an opinion, provided such information is submitted within the time limits specified by EFSA.

(4) For the purposes of this regulation an eligible additive is one whose use is permitted in one or more Member States before 1st January 2007.”.

7. For regulation 8 (labelling) substitute the following —

“At marketing stages other than the retail stage a person who is in possession of any plastic material or article intended to come into contact with food shall ensure that the plastic material or article is accompanied by a written declaration which —

- (a) attests that it complies with the legislation applicable to it; and
- (b) provides, in respect of substances that are subject to a restriction on quantities migrating into food, information obtained from experimental data or theoretical calculation concerning —
  - (i) the levels of migration specific to those substances;
  - (ii) where appropriate, purity criteria in accordance with the purity Directives.”.

8. In regulation 10 (offences) —

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- (a) in paragraph (1) for the figure “8(1)” substitute the figure “8”;
- (b) after paragraph (24) add —
  - “(25) In any proceedings for an offence under these Regulations it shall be a defence to prove that —
    - (a) the act constituting the offence was committed in relation to a plastic material or article which was manufactured or imported into the European Community before 1st March 2006; and
    - (b) the act constituting the offence would not have constituted an offence under these Regulations if the amendments made to them by the Plastic Materials and Articles in Contact with Food (Amendment) (England) Regulations 2005 had not been in force at the time that act occurred.”.

**9.** In Schedule 1, Part I —

- (a) in Section A (monomers authorised without time limit) —
  - (i) insert in the appropriate numerical order the entries set out in Schedule 1 to these Regulations;
  - (ii) for items 15A, 39, 70, 120B, 147, 147A, 147B and 188 substitute the entries set out in Schedule 2 to these Regulations;
  - (iii) omit items 76B and 76C with their corresponding entries;
- (b) omit Sections B and C.

**10.** In Schedule 1, Part II (supplementary) paragraph 4 —

- (a) at the end of note (21) for “and 18670,” substitute “,18670, 54880 and 59280”;
- (b) after note (25) add the following —
  - “(27) QMA(T) in this case means that the restriction shall not be exceeded by the sum of the residual quantities of the following substances having PM/REF Nos. 10599/90A, 10599/91, 10599/92A and 10599/93.
  - (28) SML(T) in this case means that the restriction shall not be exceeded by the sum of the migration levels of the following substances having PM/REF Nos. 13480 and 39680.
  - (29) SML(T) in this case means that the restriction shall not be exceeded by the sum of the migration levels of the following substances having PM/REF Nos. 22775 and 69920.
  - (32) Compliance testing when there is a fat contact should be performed using isooctane as substitute of simulant D (unstable).
  - (33) QMA(T) in this case means that the restriction shall not be exceeded by the sum of the residual quantities of the following substances having PM/REF Nos. 14800 and 45600.”

**11.** In Schedule 2, Part I (incomplete list of additives used in the manufacture of plastic materials and articles) —

- (a) insert in appropriate numerical order the entries set out in Schedule 3 to these Regulations;
- (b) for items 60A and 198A substitute the entries set out in Schedule 4 to these Regulations;
- (c) omit items 112, 173A, 195C and 240 with their corresponding entries.

**12.** In Schedule 2, Part II (incomplete list of additives used in the manufacture of plastic materials and articles to which paragraph 5 of Part III of Schedule 2 applies) —

- (a) insert in appropriate numerical order the entries set out in Schedule 5 to these Regulations;

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(b) omit items 28, 80 and 111A with their corresponding entries.

**13.** In Schedule 2, Part III (supplementary) —

(a) in paragraph 4 —

(i) in note (8), insert in the appropriate numerical order “38000” and “67896”;

(ii) in note (10), after “levels” insert “(expressed as iodine)”;

(iii) at the end of note (21), for “and 18670,” substitute “,18670, 54880 and 59280”;

(iv) after note (24) add the following —

“(26) QMA(T) in this case means that the restriction shall not be exceeded by the sum of the residual quantities of the following substances mentioned as reference Nos. 14950, 15700, 16240, 16570, 16600, 16630, 18640, 19110, 22332, 22420, 22570, 25210, 25240 and 25270.

(27) QMA(T) in this case means that the restriction shall not be exceeded by the sum of the residual quantities of the following substances having PM/REF Nos. 10599/90A, 10599/91, 10599/92A and 10599/93.

(28) SML(T) in this case means that the restriction shall not be exceeded by the sum of the migration levels of the following substances having PM/REF Nos. 13480 and 39680.

(29) SML(T) in this case means that the restriction shall not be exceeded by the sum of the migration levels of the following substances having PM/REF Nos. 22775 and 69920.

(30) SML(T) in this case means that the restriction shall not be exceeded by the sum of the migration levels of the following substances having PM/REF Nos. 86480, 86960 and 87120.

(31) Compliance testing when there is a fat contact should be performed using saturated fatty food simulants as simulant D.

(32) Compliance testing when there is a fat contact should be performed using isooctane as substitute of simulant D (unstable).

(33) QMA(T) in this case means that the restriction shall not be exceeded by the sum of the residual quantities of the following substances having PM/REF Nos. 14800 and 45600.

(34) SML(T) in this case means that the restriction shall not be exceeded by the sum of the migration levels of the following substances having PM/REF Nos. 55200, 55280 and 55360.”;

(b) in paragraph 5 for “1st January 2004” substitute “1st July 2006”.

**14.** In Schedule 2A (products obtained by bacterial fermentation) for the entry in the column headed “restrictions and specifications” substitute the following —

“In compliance with specifications included in Schedule 2B”.

**15.** For the table in Schedule 2B (specifications) substitute the table set out in Schedule 6 to these Regulations.

**16.** For paragraph 4(b) of Part I (basic rules) of Schedule 4 (overall and specific migration testing using food simulants) substitute the following —

“(b) omit the migration, the substitute or the alternative tests where —

(i) there is conclusive proof that the migration limits cannot be exceeded in any foreseeable conditions of use of the material or article, or

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(ii) the conditions for non-compulsory testing set out in article 8.2 or 8.3 of the Directive are met.”.

#### Commencement Information

|            |   |
|------------|---|
| <b>I2</b>  | Reg. 2 in force at 11.3.2005, see <a href="#">reg. 1</a>  |
| <b>I3</b>  | Reg. 3 in force at 11.3.2005, see <a href="#">reg. 1</a>  |
| <b>I4</b>  | Reg. 4 in force at 11.3.2005, see <a href="#">reg. 1</a>  |
| <b>I5</b>  | Reg. 5 in force at 11.3.2005, see <a href="#">reg. 1</a>  |
| <b>I6</b>  | Reg. 6 in force at 11.3.2005, see <a href="#">reg. 1</a>  |
| <b>I7</b>  | Reg. 7 in force at 11.3.2005, see <a href="#">reg. 1</a>  |
| <b>I8</b>  | Reg. 8 in force at 11.3.2005, see <a href="#">reg. 1</a>  |
| <b>I9</b>  | Reg. 9 in force at 11.3.2005, see <a href="#">reg. 1</a>  |
| <b>I10</b> | Reg. 10 in force at 11.3.2005, see <a href="#">reg. 1</a> |
| <b>I11</b> | Reg. 11 in force at 11.3.2005, see <a href="#">reg. 1</a> |
| <b>I12</b> | Reg. 12 in force at 11.3.2005, see <a href="#">reg. 1</a> |
| <b>I13</b> | Reg. 13 in force at 11.3.2005, see <a href="#">reg. 1</a> |
| <b>I14</b> | Reg. 14 in force at 11.3.2005, see <a href="#">reg. 1</a> |
| <b>I15</b> | Reg. 15 in force at 11.3.2005, see <a href="#">reg. 1</a> |
| <b>I16</b> | Reg. 16 in force at 11.3.2005, see <a href="#">reg. 1</a> |

Signed by authority of the Secretary of State for Health

9th February 2005

*Melanie Johnson*  
Parliamentary Under Secretary of State  
Department of Health

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PROSPECTIVE

## SCHEDULE 1

Regulation 9(a)(i)

(ENTRIES TO BE INSERTED IN SECTION A OF PART I OF SCHEDULE 1)

**Commencement Information**I17 Sch. 1 in force at 11.3.2005, see [reg. 1](#)

| <i>Item</i> | <i>1<br/>PM/REF No.</i> | <i>2<br/>CAS No.</i> | <i>3<br/>Name</i>   | <i>4<br/>Restrictions and specifications</i>          |
|-------------|-------------------------|----------------------|---|---|
| 6A          | 10599/90A               | 061788–89–4          | Acids, fatty, unsaturated (C <sub>18</sub> ), dimers, distilled                   | QMA(T) = 0.05 mg/6 dm <sup>2</sup> (27);              |
| 6B          | 10599/91                | 061788–89–4          | Acids, fatty, unsaturated (C <sub>18</sub> ), dimers, non distilled               | QMA(T) = 0.05 mg/6 dm <sup>2</sup> (27);              |
| 6C          | 10599/92A               | 068783–41–5          | Acids, fatty, unsaturated (C <sub>18</sub> ), dimers, hydrogenated, distilled     | QMA(T) = 0.05 mg/6 dm <sup>2</sup> (27);              |
| 6D          | 10599/93                | 068783–41–5          | Acids, fatty, unsaturated (C <sub>18</sub> ), dimers, hydrogenated, non distilled | QMA(T) = 0.05 mg/6 dm <sup>2</sup> (27);              |
| 37A         | 13323                   | 000102–40–9          | 1,3–Bis(2–hydroxyethoxy) benzene  | SML = 0.05 mg/kg                                      |
| 68MA        | 14800                   | 003724–65–0          | Crotonic acid   | QMA(T) = 0.05 mg/6 dm <sup>2</sup> (33);              |
| 87A         | 16210                   | 006864–37–5          | 3,3'–Dimethyl–4,4'–diaminodicyclohexylmethane                                     | SML = 0.05 mg/kg (32). To be used only in polyamides. |
| 89A         | 16540                   | 000102–09–0          | Diphenyl carbonate  | SML = 0.05 mg/kg                                      |
| 101A        | 17110                   | 016219–75–3          | 5–Ethylidenebicyclo[2,2,1]hept–2–ene  | QMA = 0.05 mg/6 dm <sup>2</sup> . The ratio surface / |



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| <i>Item</i> | <i>1<br/>PM/REF No.</i> | <i>2<br/>CAS No.</i> | <i>3<br/>Name</i>                             | <i>4<br/>Restrictions and specifications</i>               |
|-------------|-------------------------|----------------------|---|--|
|             |                         |                      |   | quantity of food shall be lower than 2 dm <sup>2</sup> /kg |
| 118MA       | 18700                   | 000629–11–8          | 1,6–Hexanediol                                | SML = 0.05 mg/kg   |
| 120ZA       | 18896                   | 001679–51–2          | 4–(Hydroxymethyl)–1–cyclohexene               | SML = 0.05 mg/kg   |
| 135BM       | 20440                   | 000097–90–5          | Methacrylic acid, diester with ethyleneglycol | SML = 0.05 mg/kg   |
| 142A        | 21400                   | 054276–35–6          | Methacrylic acid, sulphopropyl ester          | QMA = 0.05 mg/6 dm <sup>2</sup>                            |
| 156XA       | 22775                   | 000144–62–7          | Oxalic acid                                   | SML(T) = 6 mg/kg <sup>(29)</sup>                           |
| 161A        | 23070                   | 000102–39–6          | (1,3–Phenylenedioxy)diacetic acid             | QMA = 0.05 mg/6 dm <sup>2</sup>                            |

## SCHEDULE 2

Regulation 9(a)(ii)

(ENTRIES TO BE SUBSTITUTED FOR ENTRIES  
IN SECTION A OF PART I OF SCHEDULE 1)

**Commencement Information**

**I18** Sch. 2 in force at 11.3.2005, see [reg. 1](#)

| <i>Item</i> | <i>1<br/>PM/REF No.</i> | <i>2<br/>CAS No.</i> | <i>3<br/>Name</i>                   | <i>4<br/>Restrictions and specifications</i>   |
|-------------|-------------------------|----------------------|-------------------------------------|--|
| 15A         | 11530                   | 00999–61–1           | Acrylic acid, 2–hydroxypropyl ester | QMA = 0.05 mg/6 dm <sup>2</sup> for the sum of acrylic acid, 2–hydroxypropyl ester and acrylic acid, 2–hydroxyisopropyl ester and in compliance with |



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| Item | 1<br>PM/REF No. | 2<br>CAS No. | 3<br>Name  | 4<br>Restrictions and specifications                     |
|------|-----------------|--------------|--|--|
|      |                 |              |  | the specifications laid down in Schedule 2B              |
| 39   | 13480           | 000080-05-7  | 2,2-Bis(4-hydroxyphenyl) propane   | SML(T) = 0.6 mg/kg <sup>(28)</sup>                       |
| 70   | 14950           | 003173-53-3  | Cyclohexyl isocyanate  | QM(T) = 1 mg/kg in FP (expressed as NCO) <sup>(26)</sup> |
| 120B | 18898           | 000103-90-2  | N-(4-Hydroxyphenyl) acetamide  | SML = 0.05 mg/kg   |
| 147  | 22150           | 000691-37-2  | 4-Methyl-1-pentene   | SML = 0.05 mg/kg   |
| 147A | 22331           | 025513-64-8  | Mixture of (35-45% w/w) 1,6-diamino-2,2,4-trimethylhexane and (55-65% w/w) 1,6-diamino-2,4,4-trimethylhexane     | QMA = 5 mg/6 dm <sup>2</sup>                             |
| 147B | 22332           | —            | Mixture of (40% w/w) 2,2,4-trimethylhexane-1,6-diisocyanate and (60% w/w) 2,4,4-trimethylhexane-1,6-diisocyanate | QM(T) = 1 mg/kg (expressed as NCO) <sup>(26)</sup>       |
| 188  | 24190           | 065997-05-9  | Rosin Wood   |  |

## SCHEDULE 3

Regulation 11(a)

(ENTRIES TO BE INSERTED IN PART I OF SCHEDULE 2)

**Commencement Information**I19 Sch. 3 in force at 11.3.2005, see [reg. 1](#)

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| Item | 1<br>PM/REF No. | 2<br>CAS No. | 3<br>Name                                       | 4<br>Restrictions and specifications   |
|------|-----------------|--------------|---|--|
| 18A  | 34850           | 143925-92-2  | Amines, bis(hydrogenated tallow alkyl) oxidised | <p>QM = For use only:</p> <p>(a) (a) in polyolefines at 0.1% (w/w) but not in LDPE when it is in contact with foods for which the Directive <a href="#">85/572/EEC</a> establishes a reduction factor less than 3;</p> <p>(b) (b) in PET at 0.25% (w/w) in contact with foods other than those for which the simulant D is laid down in Directive <a href="#">85/572/EEC</a></p> |

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| <i>Item</i> | <i>1<br/>PM/REF No.</i> | <i>2<br/>CAS No.</i> | <i>3<br/>Name</i>   | <i>4<br/>Restrictions and specifications</i>                      |
|-------------|-------------------------|----------------------|---|---|
| 18B         | 34895                   | 000088-68-6          | 2-Aminobenzamide  | SML = 0.05 mg/kg. To be used only for PET for water and beverages |
| 37AA        | 39680                   | 000080-05-7          | 2,2-Bis(4-hydroxyphenyl)propane   | SML(T) = 0.6 mg/kg <sup>(28)</sup>                                |
| 51A         | 42880                   | 008001-79-4          | Castor oil  |   |
| 61A         | 45600                   | 003724-65-0          | Crotonic acid   | QMA(T) = 0.05 mg/6 dm <sup>2</sup> <sup>(33)</sup>                |
| 61B         | 45640                   | 005232-99-5          | 2-Cyano-3,3-diphenylacrylic acid, ethyl ester   | SML = 0.05 mg/kg  |
| 69A         | 46700                   | —                    | 5,7-di-tert-Butyl-3-(3,4- and 2,3-dimethylphenyl)-3H-benzofuran-2-one containing: <ul style="list-style-type: none"> <li>(a) (5)7-di-tert-butyl-3-(3,4-dimethylphenyl)-3H-benzofuran-2-one (80-100% w/w); and</li> <li>(b) (5)7-di-tert-butyl-3-(2,3-dimethylphenyl)-3H-benzofuran-2-one (0-20% w/w)</li> </ul> | SML = 5 mg/kg   |
| 69B         | 46720                   | 004130-42-1          | 2,6-Di-tert-butyl-4-ethylphenol   | QMA = 4.8 mg/6 dm <sup>2</sup>                                    |

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| <i>Item</i> | <i>1<br/>PM/REF No.</i> | <i>2<br/>CAS No.</i> | <i>3<br/>Name</i>   | <i>4<br/>Restrictions and specifications</i>  |
|-------------|-------------------------|----------------------|---|---|
| 109A        | 56535                   | —                    | Glycerol, esters with nonanoic acid   |   |
| 131A        | 59280                   | 000100–97–0          | Hexamethylenetetramine  | SML(T) = 15 mg/kg <sup>(21)</sup> (expressed as Formaldehyde)   |
| 178A        | 68078                   | 027253–31–2          | Neodecanoic acid, cobalt salt   | SML(T) = 0.05 mg/kg (expressed as Neodecanoic acid) and SML(T) = 0.05 mg/kg <sup>(13)</sup> (expressed as Cobalt). Not for use in polymers contacting foods for which simulant D is laid down in Directive <a href="#">85/572/EEC</a> |
| 182A        | 69920                   | 000144–62–7          | Oxalic acid   | SML(T) = 6 mg/kg <sup>(29)</sup>  |
| 195D        | 76866                   | —                    | Polyesters of 1,2–propanediol and/or 1,3– and/or 1,4–butanediol and/or polypropyleneglycol with adipic acid, which may be end–capped with acetic acid or fatty acids C <sub>12</sub> –C <sub>18</sub> or n–octanol and / or n–decanol | SML = 30 mg/kg  |
| 240ZA       | 85601                   | —                    | Silicates, natural (with the exception of asbestos)   |   |
| 280B        | 95000                   | 028931–67–1          | Trimethylolpropane trimethacrylatemethyl methacrylate copolymer   |   |

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## SCHEDULE 4

Regulation 11(b)

(ENTRIES TO BE SUBSTITUTED FOR ENTRIES IN PART I OF SCHEDULE 2)

**Commencement Information****I20** Sch. 4 in force at 11.3.2005, see [reg. 1](#)

| <i>Item</i> | <i>1<br/>PM/REF No.</i> | <i>2<br/>CAS No.</i> | <i>3<br/>Name</i>   | <i>4<br/>Restrictions and<br/>specifications</i>   |
|-------------|-------------------------|----------------------|---|--|
| 60A         | 45450                   | 068610-51-5          | p-Cresol-<br>dicyclopentadiene-<br>isobutylene,<br>copolymer                                | SML = 5 mg/kg  |
| 198A        | 77895                   | 068439-49-6          | Polyethyleneglycol<br>(EO = 2-6)<br>monoalkyl (C <sub>16</sub> -<br>C <sub>18</sub> ) ether | SML = 0.05<br>mg/kg and in<br>compliance with<br>the specifications<br>laid down in<br>Schedule 2B |

## SCHEDULE 5

Regulation 12(a)

(ENTRIES TO BE INSERTED IN PART II OF SCHEDULE 2)

**Commencement Information****I21** Sch. 5 in force at 11.3.2005, see [reg. 1](#)

| <i>Item</i> | <i>1<br/>PM/REF No.</i> | <i>2<br/>CAS No.</i> | <i>3<br/>Name</i>   | <i>4<br/>Restrictions and<br/>specifications</i>                  |
|-------------|-------------------------|----------------------|---|---|
| 4A          | 34650                   | 151841-65-5          | Aluminium<br>hydroxybis [2,2'-<br>methylenebis<br>(4,6-di-tert-<br>butylphenyl)<br>phospate | SML = 5 mg/kg   |
| 7A          | 38000                   | 000553-54-8          | Benzoic acid,<br>lithium salt   | SML(T) =<br>0.6 mg/kg <sup>(8)</sup><br>(expressed as<br>Lithium) |
| 18A         | 40720                   | 025013-16-5          | tert-Butyl-4-<br>hydroxyanisole<br>(= BHA)  | SML = 30 mg/kg  |

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| <i>Item</i> | <i>1<br/>PM/REF No.</i> | <i>2<br/>CAS No.</i> | <i>3<br/>Name</i>   | <i>4<br/>Restrictions and specifications</i>                      |
|-------------|-------------------------|----------------------|---|---|
| 27B         | 46640                   | 000128-37-0          | 2,6-Di-tert-butyl-p-cresol (= BHT)  | SML = 3.0 mg/kg   |
| 54A         | 54880                   | 000050-00-0          | Formaldehyde  | SML(T) = 15 mg/kg <sup>(21)</sup>                                 |
| 54B         | 55200                   | 001166-52-5          | Gallic acid, dodecyl ester  | SML(T) = 30 mg/kg <sup>(34)</sup>                                 |
| 54C         | 55280                   | 001034-01-1          | Gallic acid, octyl ester  | SML(T) = 30 mg/kg <sup>(34)</sup>                                 |
| 54D         | 55360                   | 000121-79-9          | Gallic acid, propyl ester   | SML(T) = 30 mg/kg <sup>(34)</sup>                                 |
| 79A         | 67896                   | 020336-96-3          | Myristic acid, lithium salt   | SML(T) = 0.6 mg/kg <sup>(8)</sup> (expressed as Lithium)          |
| 83A         | 71935                   | 007601-89-0          | Perchloric acid, sodium salt monohydrate                                    | SML 0.05 mg/kg <sup>(31)</sup>                                    |
| 88A         | 76680                   | 068132-00-3          | Polycyclopentadiene hydrogenated  | SML = 5 mg/kg <sup>(1)</sup>                                      |
| 100A        | 86480                   | 007631-90-5          | Sodium bisulphite   | SML(T) = 10 mg/kg <sup>(30)</sup> (expressed as SO <sub>2</sub> ) |
| 102A        | 86920                   | 007632-00-0          | Sodium nitrite  | SML = 0.6 mg/kg   |
| 102B        | 86960                   | 007757-83-7          | Sodium sulphite   | SML(T) = 10 mg/kg <sup>(30)</sup> (expressed as SO <sub>2</sub> ) |
| 102C        | 87120                   | 007772-98-7          | Sodium thiosulphate   | SML(T) = 10 mg/kg <sup>(30)</sup> (expressed as SO <sub>2</sub> ) |
| 110A        | 94400                   | 036443-68-2          | Triethyleneglycol bis[3-(3-tert-butyl-4-hydroxy-5-methylphenyl) propionate] | SML = 9 mg/kg   |

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## SCHEDULE 6

Regulation 15

## (ENTRIES TO BE SUBSTITUTED FOR SCHEDULE 2B)

**Commencement Information**I22 Sch. 6 in force at 11.3.2005, see [reg. 1](#)

| <i>Item</i> | <i>PM/REF No.</i> | <i>Specifications</i>   |
|-------------|-------------------|---|
|             | 11530             | Acrylic acid, 2-hydroxypropyl ester.<br>It may contain up to 25% (m/m) of acrylic acid, 2-hydroxyisopropyl ester (CAS No. 002918-23-2)  |
| 2           | 16690             | Divinylbenzene<br>It may contain up to 45% (m/m) of Ethylvinylbenzene   |
| 3           | 18888             | 3-Hydroxybutanoic acid-3-hydroxypentanoic acid, copolymer<br>Definition<br>The copolymers are produced by the controlled fermentation of <i>Alcaligenes eutrophus</i> using mixtures of glucose and propanoic acid as carbon sources. The organism used has not been genetically engineered and has been derived from a single wild-type organism <i>Alcaligenes eutrophus</i> strain H16 NCIMB 10442. Master stocks of the organism are stored as freeze-dried ampoules. A submaster / working stock is prepared from the master stock and stored in liquid nitrogen and used to prepare inocula for the fermenter. Fermenter samples will be examined daily both microscopically and for any changes in colonial morphology on a variety of agars at different temperatures. The copolymers are isolated from heat treatment bacteria by controlled digestion of the other cellular components, washing and drying. These copolymers are normally offered as formulated, melt formed granules containing additives such as nucleating agents, plasticisers, fillers, stabilisers and pigments which all conform to the general and individual specifications.<br>Chemical name<br>Poly(3-D-hydroxybutanoate-co-3-D-hydroxypentanoate)<br>CAS number<br>080181-31-3<br>Structural formula<br>CH <sub>3</sub> |



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| Item | PM/REF No. | Specifications   |
|------|------------|--|
|      |            | $\begin{array}{cccc} \text{CH}_3 & & \text{O} & & \text{CH}_2 & & \text{O} \\   & &    & &   & &    \\ (-\text{O}-\text{CH}-\text{CH}_2-\text{C}-)_m & - & (\text{O}-\text{CH}-\text{CH}_2-\text{C}-)_n & & & & \end{array}$ <p>where <math>n / (m + n)</math> greater than 0 and less or equal to 0.2</p> |
|      |            | Average molecular weight   |
|      |            | Not less than 150 000 Daltons (measured by gel permeation chromatography)  |
|      |            | Assay  |
|      |            | Not less than 98% poly(3-D-hydroxybutanoate-co-3-D-hydroxypentanoate) analysed after hydrolysis as a mixture of 3-D-hydroxybutanoic and 3-D-hydroxypentanoic acids   |
|      |            | Description  |
|      |            | White to off-white powder after isolation  |
|      |            | Characteristics  |
|      |            | Identification tests:  |
|      |            | Solubility   |
|      |            | Soluble in chlorinated hydrocarbons such as chloroform or dichloromethane but practically insoluble in ethanol, aliphatic alkanes and water  |
|      |            | Restriction  |
|      |            | QMA for crotonic acid is 0.05 mg/6 dm <sup>2</sup>   |
|      |            | Purity   |
|      |            | Prior to granulation the raw material copolymer powder must contain:   |
|      |            | — nitrogen   |
|      |            | Not more than 2 500 mg/kg of plastic   |
|      |            | — zinc   |
|      |            | Not more than 100 mg/kg of plastic   |
|      |            | — copper   |
|      |            | Not more than 5 mg/kg of plastic   |
|      |            | — lead   |
|      |            | Not more than 2 mg/kg of plastic   |
|      |            | — arsenic  |
|      |            | Not more than 1 mg/kg of plastic   |
|      |            | — chromium   |
|      |            | Not more than 1 mg/kg of plastic   |
| 4    | 23547      | Polydimethylsiloxane (Mw > 6800)   |
|      |            | Minimum viscosity 100 × 10 <sup>-6</sup> m <sup>2</sup> /s (= 100 centistokes) at 25°C   |
| 5    | 25385      | Triallylamine  |
|      |            | 40 mg/kg hydrogel at a ratio of 1 kg food to a maximum of 1.5 grams of hydrogel. For use only in hydrogels intended for non-direct food contact use.   |
| 6    | 38320      | 4-(2-Benzoxazolyl)-4'-(5-methyl-2-benzoxazolyl) stilbene   |
|      |            | Not more than 0.05% w/w (quantity of substance used / quantity of the formulation)   |

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| <i>Item</i> | <i>PM/REF No.</i> | <i>Specifications</i>   |
|-------------|-------------------|---|
| 7           | 43680             | Chlorodifluoromethane<br>Content of chlorofluoromethane less than 1 mg/kg of the substance  |
| 8           | 47210             | Dibutylthiostannoic acid polymer<br>Molecular unit = (C <sub>8</sub> H <sub>18</sub> S <sub>3</sub> Sn <sub>2</sub> ) <sub>n</sub> (n = 1.5–2)  |
| 9           | 76721             | Polydimethylsiloxane (Mw > 6800)<br>Minimum viscosity 100 × 10 <sup>-6</sup> m <sup>2</sup> /s (= 100 centistokes) at 25°C  |
| 10          | 77895             | Polyethyleneglycol (EO = 2–6) monoalkyl (C <sub>16</sub> –C <sub>18</sub> ) ether<br>The composition of this mixture is as follows: <ul style="list-style-type: none"> <li>— polyethyleneglycol (EO = 2–6) monoalkyl (C<sub>16</sub>–C<sub>18</sub>) ether (approximately 28%)</li> <li>— fatty alcohols (C<sub>16</sub>–C<sub>18</sub>) (approximately 48%)</li> <li>— ethyleneglycol monoalkyl (C<sub>16</sub>–C<sub>18</sub>) ether (approximately 24%)</li> </ul>   |
| 11          | 83595             | Reaction product of di-tert-butylphosphonite with biphenyl, obtained by condensation of 2,4-di-tert-butylphenol with Friedel Craft reaction product of phosphorus trichloride and biphenyl<br><b>Composition</b> <ul style="list-style-type: none"> <li>— 4,4'-Biphenylene-bis [0,0-bis (2,4-di-tert-butylphenyl) phosphonite] (CAS No. 38613-77-3) (36–46% w/w<sup>(1)</sup>)</li> <li>— 4,3'-Biphenylene-bis [0,0-bis (2,4-di-tert-butylphenyl) phosphonite] (CAS No. 118421-00-4) (17–23% w/w<sup>(1)</sup>)</li> <li>— 3,3'-Biphenylene-bis [0,0-bis (2,4-di-tert-butylphenyl) phosphonite] (CAS No. 118421-01-5) (1–5% w/w<sup>(1)</sup>)</li> <li>— 4-Biphenylene-0,0-bis [0,0-bis (2,4-di-tert-butylphenyl) phosphonite] (CAS No. 91362-37-7) (11–19% w/w<sup>(1)</sup>)</li> <li>— Tris (2,4-di-tert-butylphenyl) phosphite (CAS No. 31570-04-4) (9–18% w/w<sup>(1)</sup>)</li> <li>— 4,4'-Biphenylene-0,0-bis (2,4-di-tert-butylphenyl) phosphonate-0,0-bis (2,4-di-tert-butylphenyl) phosphonite (CAS No. 112949-97-0) (&lt;5% w/w<sup>(1)</sup>)</li> </ul> <b>Other specifications</b> <ul style="list-style-type: none"> <li>— Phosphor content of minimum 5.4% to maximum 5.9%</li> <li>— Acid value of maximum 10 mg KOH per gram</li> <li>— Melt range of 85–110°C</li> </ul> |
| 12          | 88640             | Soybean oil, epoxidized<br>Oxirane < 8%, iodine number < 6  |

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| <i>Item</i> | <i>PM/REF No.</i> | <i>Specifications</i>  |
|-------------|-------------------|--|
| 13          | 95859             | <p>Waxes, refined, derived from petroleum based or synthetic hydrocarbon feedstocks</p> <p>Phosphor content of minimum 5.4% to maximum 5.9%</p> <p>— Content of mineral hydrocarbons with carbon number less than 25: not more than 5% (w/w)</p> <p>— Viscosity not less than <math>11 \times 10^{-6} \text{ m}^2/\text{s}</math> (= 11 centistokes) at 100°C</p> <p>— Average molecular weight not less than 500</p>    |
| 14          | 95883             | <p>White mineral oils, paraffinic, derived from petroleum hydrocarbon feedstocks</p> <p>The product shall have the following specifications:</p> <p>— Content of mineral hydrocarbons with carbon number less than 25: not more than 5% (w/w)</p> <p>— Viscosity not less than <math>8.5 \times 10^{-6} \text{ m}^2/\text{s}</math> (= 8.5 centistokes) at 100°C</p> <p>— Average molecular weight not less than 480</p> |

PROSPECTIVE

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations, which apply in relation to England only, further amend the Plastic Materials and Articles in Contact with Food Regulations 1998 (S.I. 1998/1376, “the 1998 Regulations”), which extend to the whole of Great Britain. These Regulations implement in England Commission Directive 2004/19/EC amending Commission Directive 2002/72/EC relating to plastic materials and articles intended to come into contact with foodstuffs (OJ No. L220, 15.8.2002, p.18), (“the Directive”).

2. The Regulations amend the 1998 Regulations by —

- (a) amending the definition of “additive” to maintain consistency with the Directive (regulation 3(a)(i));
- (b) removing references to lists of substances whose authorisations are now spent (regulation 4(a));

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- (c) extending to articles the provisions of regulation 4(5) of the 1998 Regulations that formerly only applied to materials (*regulation 4(b)*);
- (d) adding a restriction on the use of additives in the manufacture of plastic materials and articles which relates to substances also used as food additives or flavourings (*regulation 5(a)*);
- (e) extending to articles the provisions of regulation 5(4) of the 1998 Regulations that formerly only applied to materials (*regulation 5(b)*);
- (f) making provision for the procedure to be followed and the time limits to be observed by any person wishing to have an additive included in the Community list of authorised additives (*regulation 6*);
- (g) amending the labelling requirements for plastic materials and articles at the pre-retail stage so as to require additional information to be given (*regulation 7*);
- (h) making a consequential amendment to regulation 10 (offences) brought about by the amendment to the labelling requirements (*regulation 8(a)*);
- (i) providing a defence to breach of the 1998 Regulations as last amended by these Regulations in respect of plastic materials or articles manufactured or imported into the European Community before 1st March 2006 (*regulation 8(b)*).

**3.** They also amend the Schedules to the 1998 Regulations by —

- (a) inserting new entries, and amending or removing some existing ones, in the list of monomers authorised without time limit in Section A of Part I of Schedule 1 (*regulation 9(a) and Schedules 1 & 2*);
- (b) removing the lists of entries for monomers authorised with a time limit that has now expired (*regulation 9(b)*);
- (c) adding further supplementary specifications in Part II of Schedule 1 (*regulation 10*);
- (d) inserting new entries and amending or removing some existing entries in the list of additives used in the manufacture of plastic materials articles in Part I of Schedule 2 (*regulation 11 and Schedules 3 & 4*);
- (e) inserting new entries and removing some existing entries in the list of additives used in the manufacture of plastic materials and articles set out I Part II of Schedule 2 (*regulation 12 and Schedule 5*);
- (f) adding further supplementary specifications to Part III of Schedule 2, and extending the time limit applicable to substances listed in Part II of that Schedule (*regulation 13*);
- (g) amending the restrictions and specifications in the entry in Schedule 2A relating to products obtained by bacterial fermentation (*regulation 14*);
- (h) inserting new entries and amending or removing some existing ones in the specifications set out in Schedule 2B (*regulation 15 and Schedule 6*);
- (i) adding a provision to the basic rules for overall and specific migration testing using food simulants set out in Part I of Schedule 4, to allow for migration testing to be omitted in the specific circumstances provided for in the Directive (*regulation 16*).

**4.** A regulatory impact assessment has been prepared for these Regulations and has been placed in the Library of each House of Parliament, together with a transposition note setting out how the main elements of Commission Directive [2004/19/EC](#) are transposed into domestic law by these Regulations. Copies may be obtained from the Chemical Safety Division of the Food Standards Agency, Aviation House, 125 Kingsway, London WC2B 6NH.

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