

---

WELSH STATUTORY INSTRUMENTS

---

**2005 No. 182 (W.15)**

**FOOD, WALES**

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

*Made* - - - - 1 February 2005

*Coming into force* - - 28 February 2005

The National Assembly for Wales, in exercise of the powers conferred 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 i<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:

**Title, application and commencement**

1. These Regulations may be cited as the Plastic Materials and Articles in Contact with Food (Amendment) (Wales) Regulations 2005, apply in relation to Wales only and come into force on 28 February 2005.

**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<sup>(4)</sup> are amended, in so far as they apply in relation to Wales, in accordance with regulations 3 to 6.

3. In regulation 2(1) (interpretation) —

- (a) at the end of the definition of “Commission Directive 2002/16” add the words “as amended by Commission Directive 2004/13/EC”<sup>(5)</sup>;
- (b) at the end of the definition of “the Directive” add the words “as amended by Commission Directive 2004/1/EC”<sup>(6)</sup>.

---

(1) 1990 c. 16.

(2) Functions of “the Secretary of State” 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 Food Standards Act 1999.

(3) OJ No. L31, 1.2.2002, p.1.

(4) S.I. 1998/1376, amended by S.I. 2001/1263 (W.70), S.I. 2002/2834 (W.272) and S.I. 2003/302 (W.44).

(5) OJ No. L27, 30.1.2004, p.46.

(6) OJ No. L7, 13.1.2004, p.45.

4. In the following provisions, substitute the figure “2006” for the figure “2005” —
- (a) regulation 4A(1)(a);
  - (b) regulation 5(1)(b)(i);
  - (c) regulation 8A(1);
  - (d) in section A of Part I of Schedule 1, at item 40 in column 4 (restrictions and specifications).
5. In Part I of Schedule 2, at item 27A in column 4 (restrictions and specifications), after the words “For use only as a blowing agent” add the words “Use prohibited as from 2 August 2005”.
6. In regulation 10 (offences) —
- (a) for paragraph (19) substitute the following provision —

“(19) In any proceedings for an offence under regulation 3(1)(a) or (b) in relation to the requisite standards applicable to adhesives and materials and articles covered by a surface coating it shall be a defence to prove that —

    - (a) the adhesive, material or article was brought into contact with food before 28 February 2003;
    - (b) the date of filling (or subject to paragraph (24) of this regulation a coded indication of the date of filling) of the material or article concerned appeared on the adhesive, material or article at the time of sale; and
    - (c) the labelling or marking with the particulars mentioned in subparagraph (b) at the time of sale complied with the requirements as regards labelling relating to durability contained in Article 2.1(a) of Directive [2000/13/EC](#) of the European Parliament and of the Council.”;
  - (b) omit paragraph (20);
  - (c) immediately after paragraph (22) add —

“(23) In any proceedings for an offence under regulations 3(1)(a) or (b) in relation to the sale as from 2 August 2005 of a plastic material or article containing azodicarbonamide with reference number 36640 in Part I of Schedule 2 it shall be a defence to prove that—

    - (a) the plastic material or article was brought into contact with food before 2 August 2005,
    - (b) the date of filling (or subject to paragraph (24) of this regulation a coded indication of the date of filling) of the material or article concerned appeared on the plastic material or article at the time of sale, and
    - (c) the labelling or marking with the particulars mentioned in subparagraph (b) at the time of sale complied with the requirements as regards labelling relating to durability contained in Article 2.1(a) of Directive [2000/13/EC](#) of the European Parliament and the Council.
- (24) For the purposes of paragraph (19)(b) and paragraph (23)(b) of this regulation the date signified by a coded indication shall have been made available on request to the Food Standards Agency and the enforcement authority.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(7)

1 February 2005

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

---

## EXPLANATORY NOTE

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

1. These Regulations, which apply in relation to Wales 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 Commission Directive 2004/13/EC amending Commission Directive 2002/16/EC relating to the use of certain epoxy derivatives in materials and articles intended to come into contact with foodstuffs (OJ No. L51, 22.2.2002, p.27) and also implement Commission Directive 2004/1/EC amending Commission Directive 2002/72/EC in relation to the use of azodicarbonamide as a blowing agent (OJ No. L220, 15.8.2002, p.18).

2. The Regulations amend the 1998 Regulations by —

- (a) extending by a year the provisional authorisation of 2,2-bis(hydroxyphenyl)propane bis(2,3-epoxypropyl)ether (“BADGE”) (regulation 4);
- (b) prohibiting the use of the blowing agent azodicarbonamide as from 2 August 2005 (regulation 5);
- (c) amending the defence available under regulation 10 paragraph (19) of the 1998 Regulations to allow for a date code as an alternative to the date of filling itself appearing on materials and articles covered by a surface coating, the defence being conditional on the meaning of the code having been disclosed on request to the Food Standards Agency and the enforcement authority (regulation 6(a));
- (d) creating a defence relating to azodicarbonamide similar to that which applies to materials and articles covered by a surface coating (regulation 6(c)).

3. A regulatory appraisal has been prepared for these Regulations and has been placed in the Library of the National Assembly for Wales, together with a transposition note setting out how the main elements of Commission Directive 2004/13/EC are transposed into domestic law by these Regulations. Copies may be obtained from the Food Standards Agency, 11th Floor, Southgate House, Cardiff CF10 1EW.