

Commission Directive 2002/72/EC of 6 August 2002 relating to plastic materials and articles intended to come into contact with foodstuffs (Text with EEA relevance) (repealed)

[^{X1}COMMISSION DIRECTIVE 2002/72/EC
of 6 August 2002

relating to plastic materials and articles intended to come into contact with foodstuffs
(Text with EEA relevance)] (repealed)

[^{X1}THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/109/EEC of 21 December 1988 on the approximation of the laws of the Member States relating to materials and articles intended to come into contact with foodstuffs⁽¹⁾, and in particular Article 3 thereof,

After consulting the Scientific Committee on Food,

Whereas:

- (1) Commission Directive 90/128/EEC of 23 February 1990 relating to plastic materials and articles intended to come into contact with foodstuffs⁽²⁾, as last amended by Directive 2002/17/EC⁽³⁾, has been frequently and substantially amended; for reasons of clarity and rationality, it should therefore be consolidated.
- (2) Article 2 of Directive 89/109/EEC lays down that materials and articles, in their finished state, must not transfer their constituents to foodstuffs in quantities which could endanger human health or bring about an unacceptable change in the composition of the foodstuffs.
- (3) In order to achieve this objective in the case of plastic materials and articles, a suitable instrument is a specific Directive within the meaning of Article 3 of Directive 89/109/EEC, the general provisions of which are also applicable to the case in question.
- (4) The scope of this Directive must coincide with that of Council Directive 82/711/EEC⁽⁴⁾.
- (5) Since the rules established in this Directive are not suitable for ion-exchange resins, these materials and articles will be covered by a subsequent specific Directive.
- (6) Silicones should be regarded as elastomeric materials rather than plastic materials and therefore should be excluded from the definition of plastic.
- (7) The establishment of a list of approved substances accompanied by a limit on overall migration and, where necessary, by other specific restrictions will be sufficient to achieve the objective laid down in Article 2 of Directive 89/109/EEC.
- (8) Besides the monomers and other starting substances fully evaluated and authorised at Community level, there are also monomers and starting substances evaluated and

authorised in at least one Member State which may continue to be used pending their evaluation by the Scientific Committee on Food and the decision on their inclusion in the Community list; this Directive will accordingly be extended in due course to the substances and sectors provisionally excluded.

- (9) The current list of additives is an incomplete list inasmuch as it does not contain all the substances which are currently accepted in one or more Member States; accordingly, these substances continue to be regulated by national laws pending a decision on inclusion in the Community list.
- (10) This Directive establishes specifications for only a few substances. The other substances, which may require specifications, therefore remain regulated in this respect by national laws pending a decision at Community level.
- (11) For certain additives the restrictions established in this Directive cannot yet be applied in all situations pending the collection and evaluation of all the data needed for a better estimation of the exposure of the consumer in some specific situations; therefore, these additives appear in a list other than that of the additives fully regulated at Community level.
- (12) Directive 82/711/EEC lays down the basic rules necessary for testing migration of the constituents of plastic materials and articles and Council Directive 85/572/EEC⁽⁵⁾ establishes the list of simulants to be used in the migration tests.
- (13) The determination of a quantity of a substance in a finished material or article is simpler than the determination of its specific migration level. The verification of compliance through the determination of quantity rather than specific migration level should therefore be permitted under certain conditions.
- (14) For certain types of plastics the availability of generally recognised diffusion models based on experimental data allows the estimation of the migration level of a substance under certain conditions, therefore avoiding complex, costly and time-consuming testing.
- (15) The overall migration limit is a measure of the inertness of the material and prevents an unacceptable change in the composition of the foodstuffs, and, moreover, reduces the need for a large number of specific migration limits or other restrictions, thus giving effective control.
- (16) Council Directive 78/142/EEC⁽⁶⁾ lays down limits for the quantity of vinyl chloride present in plastic materials and articles prepared with this substance and for the quantity of vinyl chloride released by these materials and articles, and Commission Directives 80/766/EEC⁽⁷⁾ and 81/432/EEC⁽⁸⁾ establish the Community methods of analysis for controlling these limits.
- (17) In view of potential liability, there is a need for the written declaration provided for in Article 6(5) of Directive 89/109/EEC whenever professional use is made of plastic materials and articles which are not by their nature clearly intended for food use.
- (18) Commission Directive 80/590/EEC⁽⁹⁾ determines the symbol that may accompany any material and article intended to come into contact with foodstuffs.

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- (19) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of ensuring the free movement of plastic materials and articles intended to come into contact with foodstuffs, to lay down rules on the definition of plastics and permitted substances. This Directive confines itself to what is necessary in order to achieve the objectives pursued in accordance with the third paragraph of Article 5 of the Treaty.
- (20) In accordance with Article 3 of Directive 89/109/EEC, the Scientific Committee on Food has been consulted on the provisions liable to affect public health.
- (21) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health.
- (22) This Directive should be without prejudice to the deadlines set out in Annex VII, Part B within which the Member States are to comply with Directive 90/128/EEC, and the acts amending it,

HAS ADOPTED THIS DIRECTIVE:]

Editorial Information

- X1** Substituted by [Corrigendum to Commission Directive 2002/72/EC of 6 August 2002 relating to plastic materials and articles intended to come into contact with foodstuffs \(Official Journal of the European Communities L 220 of 15 August 2002\)](#).

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- (1) [^{XI}OJ L 40, 11.2.1989, p. 38.
- (2) OJ L 75, 21.3.1990, corrected by OJ L 349, 13.12.1990, p. 26.
- (3) OJ L 58, 28.2.2002, p. 19.
- (4) OJ L 297, 23.10.1982, p. 26. Directive as last amended by Directive 97/48/EC (OJ L 222, 12.8.1997, p. 10).
- (5) OJ L 372, 31.12.1985, p. 14.
- (6) OJ L 44, 15.2.1978, p. 15.
- (7) OJ L 213, 16.8.1980, p. 42.
- (8) OJ L 167, 24.6.1981, p. 6.
- (9) OJ L 151, 19.6.1980, p. 21.]

Editorial Information

- XI** Substituted by Corrigendum to Commission Directive 2002/72/EC of 6 August 2002 relating to plastic materials and articles intended to come into contact with foodstuffs (Official Journal of the European Communities L 220 of 15 August 2002).