

2008 No. 261

FOOD

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

Made - - - - - *26th June 2008*

Laid before the Scottish Parliament *27th June 2008*

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(2), 17(1) and (2), 26(1)(a) and 48(1) of the Food Safety Act 1990(a), and all other powers enabling them to do so.

In accordance with section 48(4A) of the Food Safety Act 1990, they have had regard to relevant advice given by the Food Standards Agency(b).

There has been 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(c).

Citation and commencement

1. These Regulations may be cited as the Plastic Materials and Articles in Contact with Food (Scotland) Amendment Regulations 2008 and come into force on 1st July 2008 with the exception of regulation 2(3) which comes into force on 30th June 2008.

Amendments to the Plastic Materials and Articles in Contact with Food (Scotland) Regulations 2008

2.—(1) The Plastic Materials and Articles in Contact with Food (Scotland) Regulations 2008(d) are amended in accordance with paragraphs (2) to (4).

(a) 1990 c.16; section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990; sections 16(2) and 48(1) were amended by the Food Standards Act 1999 (c.28) (“the 1999 Act”), Schedule 5, paragraph 8; section 17(1) and (2) was amended by the 1999 Act, Schedule 5, paragraphs 8 and 12; section 26(3) was amended by the 1999 Act, Schedule 6 as read with section 45 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6); section 48(4) is disapplied in respect of these Regulations by virtue of section 48(4C) which was inserted by S.I. 2004/2990; amendments made by Schedule 5 to the 1999 Act are to be taken as pre-commencement enactments for the purposes of the Scotland Act 1998 (c.46) (“the 1998 Act”) by virtue of section 40(2) of the 1999 Act. The functions of the Secretary of State, in so far as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act. In so far as not so transferred, and insofar as relating to food (including drink) including the primary production of food those functions were transferred to the Scottish Ministers by S.I. 2005/849.

(b) Section 48(4A) was inserted by paragraph 21 of Schedule 5 to the 1999 Act.

(c) O.J. No. L 31, 1.2.02, p.1, as amended by Regulation (EC) No. 1642/2003 of the European Parliament and of the Council (O.J. No. L 245, 29.9.03, p.4), Commission Regulation (EC) No. 575/2006 (O.J. No. L 100, 7.4.06, p.3) and Commission Regulation (EC) No. 202/2008 (O.J. No. L 60, 5.3.08, p.17).

(d) S.S.I. 2008/127.

(2) For regulation 19(3)(a) (other transitional defences and savings) substitute–

“(a) in the case of–

- (i) a lid containing a gasket that does not comply with the restrictions and specifications for Ref. Nos. 30340, 30401, 56800, 76815, 76866, 88640 and 93760 contained in the Annex to Commission Regulation (EC) No. 372/2007 laying down transitional migration limits for plasticisers in gaskets in lids intended to come into contact with foods(a), that the derogation contained in Article 1 of Commission Regulation (EC) No. 597/2008 amending Commission Regulation (EC) No. 372/2007(b) is applicable; or
- (ii) a lid containing a gasket that does not comply with the restriction and specifications for Ref. No. 36640 contained in Annex III to the Directive or a plastic material or article which does not comply with the restrictions and specifications for phthalates under Ref. Nos. 74530, 74640, 74880, 75100 and 75105 contained in Annex III, that the act constituting the alleged offence was committed in relation to a lid or a plastic material or article which was manufactured or imported into the European Community before 1st July 2008; or”

(3) Omit regulation 26(c)(revocations).

(4) For “stimulant” substitute “simulant” in each place it appears in regulations 2(1) (interpretation) and 9(3) (required standards relating to overall migration limits), Schedule 2 (Provisions Applicable when Testing Compliance with the Migration Limits), paragraphs 6(1) and 9, and Schedule 3 (Overall and Specific Migration Testing Using Food Simulants), Part 3, paragraphs 3 and 4, Part 4, paragraph 4, Part 6, paragraph 1 and Part 7, paragraphs 1 and 3.

Amendment to the Plastic Materials and Articles in Contact with Food (Lid Gaskets) (Scotland) Regulations 2007

3. In regulation 2(1) (interpretation) of the Plastic Materials and Articles in Contact with Food (Lid Gaskets) (Scotland) Regulations 2007(c) at the end of the definition of “the Commission Regulation” insert “as amended by Commission Regulation (EC) No. 597/2008(d)”.

Amendment to the Materials and Articles in Contact with Food (Scotland) Regulations 2007

4. In regulation 11(5) (migration limits for regenerated cellulose film coated with plastics) of the Materials and Articles in Contact with Food (Scotland) Regulations 2007(e), for “regulation 11” substitute “regulation 13”.

S ROBISON

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
26th June 2008

(a) O.J. No. L 92, 3.4.2007, p.9; as amended by Commission Regulation (EC) No. 597/2008 (O.J. No. L 164, 25.06. 2008, p.17).
(b) O.J. No. L 164, 25.06.2008, p.12.
(c) S.S.I. 2007/433.
(d) O.J. No. L 164, 25.06.2008, p.12.
(e) S.S.I. 2007/471; as amended by S.S.I. 2008/127.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for enforcement of Commission Regulation (EC) No. 597/2008 amending Commission Regulation (EC) No. 372/2007 laying down transitional migration limits for plasticisers in gaskets in lids intended to come into contact with foods (O.J. No. L 164, 25.06.2008, p.12) (“the Commission Regulation”).

The Commission Regulation extends the application of Commission Regulation (EC) No. 372/2007 until 30th April 2009.

These Regulations provide for the enforcement of the Commission Regulation by amending regulation 19(3)(a) of the Plastic Materials and Articles in Contact with Food (Scotland) Regulations 2008 (“the principal Regulations”) (regulation 2(2)), omitting regulation 26(c) of those Regulations and by amending the definition of “the Commission Regulation” in the Plastic Materials and Articles in Contact with Foods (Lid Gaskets) (Scotland) Regulations 2007.

These Regulations also correct errors in the principal Regulations and make a minor amendment to the Materials and Articles in Contact with Food (Scotland) Regulations 2007 consequential to an error in the principal Regulations.

No regulatory impact assessment has been prepared in relation to these Regulations.

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