

## SCHEDULE 5

Regulations 9 and 11

### Applicable Provisions when Testing Compliance with the Migration Limits

#### General Provisions

1. When the results of the migration tests specified in this Schedule and, where appropriate Schedule 6, are analytically determined, the specific gravity of any simulants used shall be assumed to be 1, so that milligrams of any substance released per litre of simulant will correspond numerically to milligrams of that substance released per kilogram of that simulant.

2. Where any migration test specified in this Schedule and, where appropriate, Schedule 6 is carried out on any sample taken from any plastic material or article and the quantities of food or simulant placed in contact with the sample differ from those employed in the actual conditions under which the plastic material or article is used or is to be used, the results obtained should be corrected by applying the formula  $M = ((m \cdot a_2 / a_1 \cdot q) \cdot 1000)$  where —

- (a) M is the migration in mg/kg;
- (b) m is the mass in the mg of substance released by the sample as determined by the migration test;
- (c)  $a_1$  is the surface area in square decimetres of the sample in contact with the food or simulant during the migration test;
- (d)  $a_2$  is the surface area in square decimetres of the plastic material or article in actual conditions of use; and
- (e) q is the quantity in grams of food in contact with the plastic material or article in actual conditions of use.

3.—(1) Subject to sub-paragraph (2), any testing of migration from any plastic material or article shall be carried out on that plastic material or article.

(2) In any case where determination in accordance with sub-paragraph (1) above is impracticable, such testing shall be carried out, using either specimens taken from that plastic material or article, or where appropriate, specimens representative of that plastic material or article.

(3) Any sample used for such testing shall be placed in contact with the simulant or food, as the case may be, in a manner representing the contact conditions in actual use, and for this purpose the testing shall be carried out in such a way that only those parts of the sample intended to come into contact with food in actual use will be in contact with the simulant or food.

(4) Any migration testing of caps, gaskets, stoppers or similar devices for sealing shall be carried out on these articles by applying them to the containers for which they are intended in a manner which corresponds to the conditions of closing in normal or foreseeable use.

4.—(1) Any sample of plastic material or article shall be placed in contact with the appropriate simulant or the food for a period and at a temperature which are chosen by reference to the contact conditions in actual use in accordance with the provisions of this Schedule and, where appropriate, Schedule 6.

(2) At the end of the period referred to in sub-paragraph (1), analytical determination of the total quantity of substances (overall migration), each specific quantity of a substance (specific migration) or, as the case may be, both that total and that specific quantity released by the sample shall be carried out on the simulant or food, as the case may be.

(3) Verification that migration into food complies with a migration limit specified in regulation 9, Schedule 1 or Schedule 2 shall be carried out under the most extreme conditions of time and temperature foreseeable in actual use in accordance with the provisions of this Schedule.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

(4) Verification that migration into food simulants complies with a migration limit specified in regulation 9, Schedule 1 or Schedule 2 shall be carried out in accordance with the provisions of this Schedule and using conventional migration tests, the basic rules for which are set out in Schedule 6.

5. Where a plastic material or article is intended to come into repeated contact with food, any migration test shall (subject to paragraph 7 below) be carried out three times on a single sample in accordance with the conditions laid down in this Schedule and, where appropriate, Schedule 6 using separate samples of the simulant or, as the case may be food, on each occasion, and the level of the migration found in the third test shall be treated as the level relevant to that test.

### **Special provisions relating to overall migration**

6.—(1) Subject to sub-paragraph (2), any method of analytical determination may be used to prove excess of an overall migration limit in relation to a plastic material or article.

(2) In any proceedings for an offence under these Regulations where it is alleged that a plastic material or article does not comply with regulation 9 it shall be a defence for the person charged to prove that—

- (a) if an aqueous simulant specified in Schedule 6 had been used, and the analytical determination of the total quantity of substances released by a sample of the plastic material or article tested had been carried out by evaporation of the simulant and weighing of the residue; or
- (b) if rectified olive oil or any of its substitutes had been used as a simulant and—
  - (i) a sample of the plastic material or article had been weighed before and after contact with the simulant;
  - (ii) the simulant absorbed by the sample had been extracted and determined quantitatively;
  - (iii) the quantity of simulant so found had been subtracted from the weight of the sample measured after contact with the simulant; and
  - (iv) the difference between the initial and corrected final weights had been determined to represent the overall migration of the sample examined,

there would have been no such excess so determined.

7.—(1) Where a plastic material or article is intended to come into repeated contact with food and it is technically impossible to carry out the test described in paragraph 5, the test shall be so modified as to enable the level of migration occurring during the third such test to be determined and, subject to sub-paragraph (2), such a determination may be used to prove excess of an overall migration limit in relation to a plastic material or article.

(2) In any proceedings for an offence under these Regulations where it is alleged, following determination under sub-paragraph (1) above, that a plastic material or article does not comply with regulation 9 it shall be a defence for the person charged to prove that, if—

- (a) three identical samples of the plastic material or article had been procured;
- (b) one of them had been subjected to the appropriate test according with paragraph 4 above and the overall migration determined ( $M_1$ );
- (c) the second and third samples had been subjected to the same conditions of temperature but the period of contact had been two and three times that specified and overall migration had been determined in each case ( $M_2$  and  $M_3$  respectively); and
- (d) the plastic material or article had been deemed to comply with the overall migration limit relevant to it provided that either  $M_1$  or  $M_3 - M_2$  did not exceed that overall migration limit,

the plastic material or article would not have been deemed to exceed that limit.

**8.—**(1) Any plastic material or article which exceeds its overall migration limit by an amount not exceeding the analytical tolerance specified in sub-paragraph (2) shall be deemed for the purposes of these Regulations not to exceed its overall migration limit.

(2) The following analytical tolerances shall be applied for limits of overall migration—

- (a) 20 mg/kg or, as the case may be, 3 milligrams per square decimetre in migration tests using as a simulant rectified olive oil or substitutes;
- (b) 12mg/kg or, as the case may be, 2 milligrams per square decimetre in migration tests using other simulants referred to in Schedule 6.