

**2008 No. 1642**

**FOOD, ENGLAND**

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

<i>Made</i>	- - - -	<i>23rd June 2008</i>
<i>Laid before Parliament</i>		<i>24th June 2008</i>
<i>Coming into force</i>		
<i>for the purpose of regulation 4</i>		<i>30th June 2008</i>
<i>for all other purposes</i>		<i>1st July 2008</i>

The Secretary of State makes 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 now vested in him(b).

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

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), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

**Title and commencement**

**1.** These Regulations may be cited as the Plastic Materials and Articles in Contact with Food (England) (Amendment) Regulations 2008 and come into force —

- (a) for the purpose of regulation 4 on 30th June 2008, and

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(a) 1990 c.16, section 1(1) and (2) (definition of “food”) was substituted by S.I. 2004/2990. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 (1999 c.28), “the 1999 Act”. Section 48 was also amended by S.I. 2004/2990. Section 26(3) was amended by Schedule 6 to the 1999 Act. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting Out Act 1994 (1994 c.40), Schedule 6 to the 1999 Act and S.I. 2004/2990.

(b) 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 1999 Act. Functions of “the Ministers” so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as read with section 40(3) of the 1999 Act, and thereafter transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c.32). 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.

(c) OJ No. L31, 1.2.2002, p.1.). That Regulation was last amended by Commission Regulation (EC) No. 202/2008 (OJ No. L60, 5.3.2008, p.17).

(b) for all other purposes the 1st July 2008.

### **Amendments to the Plastic Materials and Articles in Contact with Food (England) Regulations 2008**

2. The Plastic Materials and Articles in Contact with Food (England) Regulations 2008(a) are amended in accordance with regulations 3 to 5.

3. For paragraph (3) of regulation 22 (other transitional defences and savings) substitute the following —

“(3) In any proceedings for an offence under these Regulations other than an offence referred to in regulation 21(1), it shall be a defence to prove —

- (a) in the case of lids containing a gasket that do not comply with the restrictions and specifications for Ref. No.’s 30340, 30401, 56800, 76815, 76866, 88640 or 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(b), that the derogation contained in Article 1 of the Commission Regulation 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(c) is applicable; or
- (b) in the case of lids containing a gasket that do not comply with the restrictions and specifications for Ref. No. 36640 (azodicarbonamide) contained in Annex III or in the case of plastic materials or articles which do not comply with the restrictions and specifications for phthalates under Ref. No.’s 74560, 74640, 74880, 75100 or 75105 contained in that Annex, that the act constituting the alleged offence was committed in relation to a plastic material or article which was manufactured or imported into the European Community before 1st July 2008; or
- (c) in any case other than those mentioned in sub-paragraph (a) or (b), that the act constituting the alleged offence was committed in relation to a plastic material or article which was manufactured or imported into the European Community before 1st May 2009; and
- (d) that the act constituting the alleged offence would not otherwise have constituted an offence under these Regulations if the amendments to the Directive made by Commission Directive 2007/19/EC had not been implemented in England at the time the matter occurred.”

4. In regulation 29 (revocations), omit paragraph (c).

### **Amendment to the Materials and Articles in Contact with Food (England) Regulations 2007**

5. In paragraph (5) of regulation 11 (migration limits for regenerated cellulose film coated with plastics) of the Materials and Articles in Contact with Food (England) Regulations 2007(d), for the expression “as read with regulation 11” substitute “as read with regulation 13”.

### **Amendment of the Plastic Materials and Articles in Contact with Food (Lid Gaskets) (England) Regulations 2007**

6. In regulation 2 (interpretation) of the Plastic Materials and Articles in Contact with Food (Lid Gaskets) (England) Regulations 2007(e), for the definition of “the Commission Regulation” substitute the following definition —

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(a) S.I. 2008/916.  
(b) OJ No. L92, 3.4.2007, p.9.  
(c) Commission Regulation (EC) No. 597/2008 (OJ No. L164, 25.6.2008, p.12).  
(d) S.I. 2007/2790, as amended by S.I. 2008/916.  
(e) S.I. 2007/2786.

“the Commission Regulation” means Commission Regulation (EC) No 372/2007 laying down transitional migration limits for plasticisers in gaskets in lids intended to come into contact with foods as amended by the Commission Regulation 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<sup>(a)</sup>”.

Signed by authority of the Secretary of State for Health.

23rd June 2008

*Dawn Primarolo*  
Minister of State,  
Department of Health

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(a) Commission Regulation (EC) No. 597/2008 (OJ No. L164, 25.6.2008, p.12).

## EXPLANATORY NOTE

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

1. These Regulations provide for the execution and enforcement in England of the Commission Regulation 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, (“the new Commission Regulation”). The new Commission Regulation extends the relevant deadline for such materials and articles to 30th April 2009. It had not been published in the Official Journal at the time this instrument was made, but was adopted on 20th May 2008 under the document reference SANCO/2008/01414-00-00.

2. These Regulations provide for the execution and enforcement of the new Commission Regulation by amending regulation 22(3)(a) of the Plastic Materials and Articles in Contact with Food (England) Regulations 2008 (“the principal Regulations”) (*regulation 3*), and omitting regulation 29(c) of those Regulations (*regulation 4*).

3. These Regulations also correct two errors in the principal Regulations (*regulations 3 and 5*), and make a consequential amendment (*regulation 6*).

4. A full impact assessment has not been prepared for these Regulations because no impact on the private or voluntary sectors is foreseen.

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