
EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend, in relation to Wales, the Plastic Materials and Articles in Contact with Food Regulations 1998, so as to implement—

- (a) Commission Directive [2001/62/EC](#) amending Directive [90/128/EEC](#) relating to plastic materials and articles intended to come into contact with foodstuffs (OJNo. L221, 17.8.2001, p.18);
- (b) Commission Directive [2002/16/EC](#) on the use of certain epoxy derivatives in materials intend to come into contact with foodstuffs (OJ No. L51, 22.2.2002, p.27); and
- (c) (in minor respects) Commission Directive [2002/17/EC](#) amending Directive [90/128/EEC](#) relating to plastic materials and articles intended to come into contact with foodstuffs (OJ No. L58, 28.2.2002, p.19).

2. The Regulations also reflect the revocation, with effect from 4th September 2002, of Directive [90/128/EEC](#) relating to plastic materials and articles intended to come into contact with foodstuffs (OJ No. L75, 21.3.1990) as amended and its re-enactment in consolidated form by Commission Directive [2002/72/EC](#) relating to plastic materials and articles intended to come into contact with foodstuffs (OJ No. L220, 15.8.2002, p.18).

3. The Regulations amend the 1998 Regulations by—

- (a) adding a provision declaring that, in addition to regulating (as previously) the contact with food of certain types of plastic materials and articles, the 1998 Regulations now also include provisions which regulate the contact with food of certain other types of food contact materials, namely adhesives and materials or articles covered by surface coatings (*regulation 3*);
- (b) providing for the definition of “plastic material or article” to have an extended meaning where that term is used in the context of provisions added to the 1998 Regulations in implementation of Commission Directive [2002/16/EC](#) (*regulation 4(a)(vii) and (c)*);
- (c) extending, so as to apply to adhesives and materials and articles covered by surface coatings, the provisions in the 1998 Regulations which—
 - (i) give to the term “sale” an extended meaning for the purposes of those Regulations,
 - (ii) prohibit the use, sale or importation of plastic materials and articles not meeting specified standards,
 - (iii) make available the defence of “due diligence” in the case of offences relating to plastic materials and articles,
 - (iv) create a presumption as to the accuracy of any particulars shown in relation to a plastic material or article which may come into contact with food, and
 - (v) apply for the purposes of those Regulations, in relation to plastic materials and articles, various provisions of the Food Safety Act 1990 (*regulations 4(b), 5, 12(b), 13 and 14 respectively*);
- (d) adding to the provisions restricting the use of certain substances as monomers or additives in the manufacture of plastic materials or articles, provisions restricting the use of 2,2-bis(4-hydroxyphenyl) propane bis(2,3-epoxypropyl) ether, (“BADGE”), bis(hydroxyphenyl) methane bis(2,3-epoxypropyl) ethers (“BFDGE”) and novolac

Status: This is the original version (as it was originally made).

- glycidyl ethers (“NOGE”) as monomers or additives in such manufacture (*regulations 6(a) and 8(a)*);
- (e) changing (from 31st December 2001 to 31st December 2004) the date beyond which the monomers listed in Section B of Schedule 1 to the 1998 Regulations may no longer be used in the manufacture of plastic materials or articles and modifying the list of the types of plastic materials and articles to which the restrictions on the use of monomers in their manufacture do not apply (*regulation 6(b) and (c)*);
 - (f) introducing new restrictions on the manufacture of plastic materials and articles using BADGE, BFDGE or NOGE other than as monomers or additives (*regulation 7*);
 - (g) amending the provisions governing the testing of the capability of plastic materials and articles to transfer their constituents to food, in particular by adding provisions governing the testing of that capability in the case of BADGE, BFDGE and NOGE (*regulations 9 and 18*);
 - (h) adding a provision restricting the extent to which certain plastic materials or articles are allowed to transfer certain substances to food (*regulation 10*);
 - (i) introducing new restrictions on the manufacture of adhesives or materials and articles covered by surface coatings using BADGE, BFDGE or NOGE and new provisions governing the testing of the capability of such adhesives, materials or articles to transfer those substances to food (*regulation 11*);
 - (j) making it an offence to contravene any of the restrictions referred to in sub-paragraphs (d), (f) or (i) above and including transitional provisions (*regulation 12 (a) and (c)*);
 - (k) adding new substances to the list of monomers which may be used in the manufacture of plastic materials or articles and amending the conditions of use of certain monomers used in such manufacture (*regulation 15*);
 - (l) adding new substances to the non-exhaustive list of additives used in the manufacture of plastic materials or articles, amending the conditions of use of certain additives used in such manufacture and deleting one additive from that list (*regulations 8(a) and 16*);
 - (m) adding certain substances to the list of substances whose specifications are set out in Schedule 2B to the 1998 Regulations (*regulation 17*); and
 - (n) making a consequential amendment to the Food Safety (Sampling and Qualifications) Regulations 1990 (*regulation 19*).
4. A regulatory appraisal, which includes a compliance cost assessment of the effect that they are likely to have on business costs, has been prepared for these Regulations.