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## EXPLANATORY NOTE

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

1. These Regulations, which apply in relation to Wales, revoke the Plastic Materials and Articles in Contact with Food (Wales) Regulations 2006, ([S.I. 2006/2982 \(W.273\)](#)), and re-enact those Regulations with certain changes. The main changes are —

- (a) implementation of the further amendments made to Commission Directive [2002/72/EC](#) and to Council Directive 85/572/EEC by Commission Directive [2007/19/EC](#) (corrected version at OJNo. L 97, 12.4.2007, p.50) (“the new Commission Directive”), which introduces new specifications and restrictions relating to plastic multi-layer materials and articles and to substances used in the manufacture of plastic materials and articles in contact with food in general, and amends certain specifications relating to migration testing in fatty foods; and
- (b) provision that a reference in these Regulations to an Annex to Commission Directive [2002/72/EC](#) is to be construed as a reference to that Annex as it may be amended from time to time.

2. The Regulations in Part 2 —

- (a) prohibit specified activities in relation to any plastic material or article (as defined in regulation 2) which fails to meet the appropriate required standards set out in the Regulations (*regulation 3*);
- (b) prohibit the use of monomers and additives in the manufacture of plastic materials and articles other than in accordance with specified conditions (*regulation 4 and Schedule 1 in the case of monomers and regulation 5 and Schedule 1 in the case of additives*);
- (c) specify the required standards relating to the capability of a monomer or an additive to confer its constituents to food (*regulation 6 for monomers and regulation 7 for additives*);
- (d) specify the required standard for products obtained by bacterial fermentation (*regulation 8*);
- (e) specify the required standard relating to overall migration limits from plastic materials or articles to food (*regulation 9*);
- (f) specify the required standards relating to the migration of primary aromatic amines from plastic materials or articles to food (*regulation 10*);
- (g) specify the required standard relating to plastic multi-layer materials and articles (*regulation 11*);
- (h) provide for the execution and enforcement of Regulation 1895/2005 on the restriction of use of certain epoxy derivatives in materials and articles intended to come into contact with food (OJ No. L302, 19.11.2005, p.28), which contains Community provisions relating to the epoxy derivatives known as BADGE, BFDGE and NOGE (*regulation 12*);
- (i) specify the methods for determining the capability of a plastic material or article to transfer its constituents to food, and for detecting the presence of any such constituents in food (*regulation 13 and Schedules 2 & 3*);
- (j) provide that prior to the retail stage plastic materials and articles must be accompanied by certain specified written information, including a declaration of legislative compliance (*regulation 14 and Schedule 4*).

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

3. The Regulations in Part 3 —
  - (a) designate food authorities and port health authorities as the enforcement authorities in their respective areas or districts (*regulation 15*);
  - (b) specify the offences that may be committed under these Regulations and set out the maximum penalties on conviction (*regulation 16*);
  - (c) provide that individuals responsible for the actions of a corporate body or Scottish partnership may be co-prosecuted for offences by that body or partnership (*regulation 17*);
  - (d) specify a time limit for commencing a prosecution (*regulation 18*);
  - (e) provide for the prosecution of a person who causes the commission of an offence by another person, whether or not proceedings are taken against the original offender (*regulation 19*);
  - (f) provide for a defence of diligence to offences under these Regulations (*regulation 20*);
  - (g) provide a defence relating to the sale of glass jars that contain certain foods for infants and young children and that have been sealed with a PVC gasket containing epoxidised soybean oil (*regulation 21*);
  - (h) provide for transitional defences in relation to certain plastic materials or articles that have already been manufactured or put into circulation in advance of a change in the law that would otherwise have made their manufacture or circulation unlawful (*regulation 22*);
  - (i) specify the procedure to be followed when sending a sample for analysis (*regulation 23*);
  - (j) make provision for a reference sample to be analysed by the Laboratory for the Government Chemist (*regulation 24*).
4. Part 4 of the Regulations contains provisions relating to the interim period between an application to the European Food Safety Authority for the authorisation of a new additive and the final decision by that Authority (*regulation 25*).
5. The principal Directives implemented by these Regulations are —
  - (a) Council Directive 82/711/EEC (OJ No. L297, 23.10.1982, p.26) laying down the basic rules necessary for testing migration of the constituents of plastic materials and articles intended to come into contact with foodstuffs, as amended by Commission Directives [93/8/EEC](#) (OJ No. L90, 14.4.1993, p.22) and [97/48/EC](#) (OJ No. L222, 12.8.1997, p.10);
  - (b) Council Directive 85/572/EEC laying down the list of simulants to be used for testing migration of constituents of plastic materials and articles intended to come into contact with foodstuffs (OJ No. L372, 31.12.1985, p.14), as amended by the new Commission Directive;
  - (c) Commission Directive [2002/72/EC](#) (OJ No. L220, 15.8.2002, p.18) relating to plastic materials and articles intended to come into contact with foodstuffs, as amended by Commission Directives [2004/1/EC](#) (OJ No. L7, 13.1.2004, p.45), [2004/19/EC](#) (OJ No. L71, 10.3.2004, p.8) and [2005/79/EC](#) (OJ No. L302, 19.11.2005, p.35), and the new Commission Directive.
6. A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Food Standards Agency, 11th Floor, Southgate House, Wood Street, Cardiff CF10 1EW.