STATUTORY RULES OF NORTHERN IRELAND

# 2008 No. 271

# FOOD

## The Plastic Materials and Articles in Contact with Food (Amendment) Regulations (Northern Ireland) 2008

| | |
|---|---|
| *Made - - - -* | *26th June 2008* |
| *Coming into operation* | |
| *for the purpose of regulation 6* | *30th June 2008* |
| *for all other purposes* | *1st July 2008* |

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred on it by Articles 15(2), 16(1) and (2), 25(1)(a), (2)(a) and (3), 32 and 47(2) of the Food Safety (Northern Ireland) Order 1991(**2**).

In accordance with Article 47(3A) of that Order, it 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(**3**), there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

### Citation and commencement

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

(a) for the purpose of regulation 6 on 30th June 2008, and

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

(**1**) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.I) Article 3(6)

(**2**) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R. 2004 Nos. 482 and 505

(**3**) 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)

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

**2.** The Plastic Materials and Articles in Contact with Food Regulations (Northern Ireland) 2008(**4**) are amended in accordance with regulations 3 to 7.

**3.** In regulation 2(1) (interpretation) —

(a) for the definition of "EEA State" substitute —

""EEA State" means a Member State (other than the United Kingdom), Norway, Iceland and Liechtenstein;" and

(b) after the definition of "material or article" insert —

""Member State" means a Member State of the European Communities;"

**4.** In regulation 9(3) for "stimulant" substitute "simulant".

**5.** For regulation 21(3) substitute —

"(3) In any proceedings for an offence under these Regulations other than an offence referred to in regulation 20(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. Nos. 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(**5**), that the derogation contained in Article 1 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(**6**) 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. Nos. 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 Northern Ireland at the time the matter occurred."

**6.** In regulation 27 (revocations), omit paragraph (c).

**7.** For Schedules 1 to 4 substitute Schedules 1 to 4 as set out in the Schedule to these Regulations.

(**4**) S.R. 2008 No. 167
(**5**) OJ No. L92, 3.4.2007, p.9
(**6**) OJ No. L164, 25.6.2008, p.12

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

**8.** In regulation 2(1) (interpretation) of the Plastic Materials and Articles in Contact with Food (Lid Gaskets) Regulations (Northern Ireland) 2007(**7**), for the definition of "the Commission Regulation" substitute —

> ""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 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(**8**)

**Amendment of the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 1991**

**9.** In the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 1991(**9**), in Schedule 1 (provisions to which those Regulations do not apply) for the title and reference of the Plastic Materials and Articles in Contact with Food (No. 2) Regulations (Northern Ireland) 2006 substitute the title and reference of the Plastic Materials and Articles in Contact with Food Regulations (Northern Ireland) 2008.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 26th June 2008.

L.S.

*Andrew McCormick*
A senior officer of the Department of Health,
Social Services and Public Safety

(**7**) S.R. 2007 No. 419
(**8**) OJ No. L164, 25.6.2008, p. 12
(**9**) S.R. 1991 No. 198; the relevant amending Regulation is S.R. 2006 No. 420

SCHEDULE Regulation 7

"SCHEDULE 1 Regulations 4 and 5

Supplementary provisions relating to Annexes II and III

1. In Sections A and B of Annexes II and III (for the purposes of this Schedule referred to together as "the Annexes") —

(a) the PM/REF number of any substance is its EEC packaging material reference number;

(b) the CAS number of any substance is its CAS (Chemical Abstracts Service) Registry Number;

(c) the name of any substance is its chemical name, and to the extent that there is any inconsistency between the CAS number and the name, the name shall take precedence over the CAS number; and

(d) references to specific migration are to be taken to mean specific migration as measured in accordance with Schedules 2 and 3.

2. If a substance appearing in the Annexes as an individual compound also falls within a generic term which appears therein, any restriction applying to that substance shall be that indicated for the individual compound and the entry applying to the generic term shall be treated as varied to such extent as is necessary.

3.—(1) The items identified in Section A or B of Annex II shall be taken to include—

(a) substances undergoing polymerisation (including polycondensation, polyaddition or any other similar process) to manufacture macromolecules;

(b) natural or synthetic macromolecular substances used in the manufacture of modified macromolecules, if the monomers required to synthesise them are not so identified; and

(c) substances used to modify existing natural or synthetic macromolecular substances.

(2) Salts (including double salts and acid salts) of aluminium, ammonium, calcium, iron, magnesium, potassium and sodium of authorised acids, phenols or alcohols are not included in the lists in the Annexes even if they are authorised and intentionally used; however names containing "…acid(s), salts" do appear in the lists if the corresponding free acid(s) is or are not mentioned.

(3) Salts (including double salts and acid salts) of zinc of authorised acids, phenols or alcohols are not included in the lists in the Annexes even if they are authorised and intentionally used. For these salts a Group SML = 25/mg/kg (expressed as Zn) applies. The same restriction for Zn applies to —

(a) substances whose name contains "….acid(s), salts" which appear in the lists, if the corresponding free acid(s) is or are not mentioned; and

(b) substances referred to in note 38 of Annex VI.

4. In the case of substances listed in Section B of Annex III, the specific migration limits specified in column 4 shall have effect where the verification of compliance is carried out in Simulant D or in test media of substitute tests as prescribed in Directive 82/711/EEC and 85/572/EEC.

5. Where an entry in column 4 of the Annexes (restrictions and specifications) includes a bracketed number, that entry shall be subject to a note relating to that number as set out in Annex VI.

## SCHEDULE 2

Regulations 9 and 13

Provisions Applicable 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 3, 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 3 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 $M = (( m.a_2/a_1.q).1000)$ 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 3.

(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 or in Annex II, III or IV (for the purposes of this Schedule and Schedule 3 referred to together