

**S.I. No. 542 of 2002**

**European Communities (Materials and Articles**

**Intended to come into Contact with Foodstuffs) Regulations,  
2002**

I, Mary Harney, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Commission Directive No. 2001/62/EC<sup>1</sup> of 9 August 2001 and Commission Directive No. 2002/17/EC<sup>2</sup> of 21 February 2002, hereby make the following regulations:

<sup>1</sup> O.J. No. L221. 17.08.2001. p. 18

1. (1) These Regulations may be cited as the European Communities (Materials and Articles Intended to come into Contact with Foodstuffs) Regulations 2002.

(2) These Regulations shall come into operation on the 29th day of November 2002.

(3) The European Communities (Materials and Articles Intended to come into Contact with Foodstuffs) Regulations 1991 to 2000, and these Regulations, may be cited together as the European Communities (Materials and Articles Intended to come into Contact with Foodstuffs) Regulations 1991 to 2002.

2. In these Regulations "Principal Regulations" means the European Communities (Materials and Articles Intended to come into Contact with Foodstuffs) Regulations 1991 (S.I. No. 307 of 1991).

3. Regulation 2 of the Principal Regulations is amended -

(a) in paragraph (1) by substituting in the definition of "Commission Directives" the following for paragraphs (n) and (o):

"(n) Commission Directive 97/48/EC<sup>3</sup> of 29 July 1997,

<sup>3</sup> O.J. No. L222/10. 12.08.1997

(o) Commission Directive 1999/91/EC<sup>4</sup> of 23 November 1999,

<sup>4</sup> O.J. No. L310/41. 04.12.1999

(p) Commission Directive 2001/62/EC<sup>1</sup> of 9 August 2001 and

<sup>1</sup> O.J. No. L 221. 17.08.2001 p. 18

(q) Commission Directive 2002/17/EC<sup>2</sup> of 21 February 2002."

2

and

(b) by substituting the following paragraph for paragraph (4) -

"(4) In these regulations a reference to any provision of any of the Annexes to Commission Directive No. 90/128/EEC of 23 February 1990 is a reference to the provisions of such Annex as amended, adapted or extended by the Commission Directives."

4. Regulation 9 of the Principal Regulations is amended -

(a) by substituting the following paragraph for paragraph (2) -

"(2) In this Regulation 'plastics' means the organic macromolecular compounds obtained by polymerisation, polycondensation, polyaddition or any other similar process from molecules with a lower molecular weight or by chemical alteration of natural macromolecules. Other substances or matter may be added to such macromolecular compounds.

However, the following shall not be regarded as 'plastics':

(i) varnished or unvarnished regenerated cellulose film;  
(ii) elastomers and natural and synthetic rubber;  
(iii) paper and paperboard, whether modified or not by the addition of plastics;

crystalline waxes:

(iv) surface coatings obtained from:  
paraffin waxes, including synthetic paraffin waxes and micro-

mixtures of two or more of the waxes listed in the first indent or mixtures of one or more of those waxes with plastics;

(v) ion-exchange resins;

(vi) silicones."

paragraph (4) -

"(4) Before 1 January 2005 a person may use in the manufacture of plastic materials and articles only those monomers and other starting substances listed in Annex II, Sections A and B to Directive 90/128/EEC<sup>5</sup>, subject to the restrictions specified therein."

<sup>5</sup> O.J. No. L75. 21.3.1990. p. 19

(c) by substituting the following paragraph for paragraph (5) -

"(5) From 1 January 2005 a person shall use in the manufacture of plastic materials and articles only those monomers and other starting substances listed in Annex II, Section A to Directive 90/128/EEC<sup>5</sup>, subject to the restrictions specified therein."

<sup>5</sup> O.J. No. L75. 21.3.1990. p. 19

(d) by substituting the following paragraph for paragraph (6) -

"(6) For the purposes of paragraphs (4) and (5) plastic materials and articles do not include:

surface coatings obtained from resinous or polymerised products in liquid, powder or dispersion form, such as varnishes, lacquers, paints, etc.;

epoxy resins;

adhesives and adhesion promoters;

printing inks."

(e) by substituting the following paragraph for paragraph (14) -

"(14) From 1 March 2004 a person shall not engage in the manufacture or importation of plastic materials and articles unless they comply with the provisions of this Regulation."

(f) by the insertion after paragraph (14) of the following paragraphs -

"(15) The verification of compliance with the specific migration limits provided for in paragraph (10) may be ensured by the determination of the quantity of a substance in the finished material or article if a relationship between that quantity and the value of the specific migration of the substance has been established either by adequate experimentation or by the application of generally recognised diffusion models based on scientific evidence. To demonstrate the non-compliance of a material or article, confirmation of the estimated migration value by experimental testing is obligatory.

(16) From 1 January 2004 the verification of compliance with the specific migration limits for the substances in Annex III, Section B of Directive 90/128/EC<sup>5</sup> shall be carried out in accordance with Directives 82/711/EEC<sup>6</sup> and 85/572/EEC<sup>7</sup>.

<sup>6</sup> O.J. No. L297. 23.10.82. p. 26

<sup>5</sup> O.J. No. L75. 21.3.1990. p. 19

(17) From 1 March 2003 a person shall not manufacture, or import into the European Community, plastic materials and articles which contain divinylbenzene and which do not comply with the provisions of this Regulation."

5. These Regulations shall not apply to materials and articles which have been put into free circulation in the European Community before 1 December 2002.

GIVEN under my Official Seal,

this 26<sup>th</sup> day of November 2002.



**Mary Harney**

Minister for Enterprise, Trade and Employment.

#### **EXPLANATORY NOTE**

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to give legal effect to Commission Directive 2001/62/EC and Commission Directive 2002/17/EC amending for the sixth and seventh time respectively Directive 90/128/EC relating to plastic materials and articles intended to come into contact with foodstuffs.