



STATUTORY INSTRUMENTS.

S.I. No. 88 of 2009

EUROPEAN COMMUNITIES (PLASTICS AND OTHER MATERIALS)
(CONTACT WITH FOOD) (AMENDMENT) REGULATIONS 2009

(Prn. A9/0393)

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(CONTACT WITH FOOD) (AMENDMENT) REGULATIONS 2009

I, BRENDAN SMITH, Minister for Agriculture, Fisheries and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Commission Directive No. 2008/39/EC of 6 March 2008¹ and giving full effect to Commission Regulation (EC) No. 282/2008 of 27 March 2008², hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Plastics and other materials) (Contact with food) (Amendment) Regulations 2009 and come into operation 7 March 2009.

2. The European Communities (Plastics and other materials) (Contact with food) Regulations 2007 (S.I. No. 587 of 2007) are amended—

(a) in Regulation 2(1)—

(i) by the substitution for the definition of “GMP Regulation”, of—

“ ‘GMP Regulation’ means Commission Regulation (EC) No. 2023/2006 of 22 December 2006 as amended by Commission Regulation (EC) No. 282/2008 of 27 March 2008;”, and

(ii) by the substitution for the definition of “Plastics Directive”, of—

“ ‘Plastics Directive’ means Council Directive No. 2002/72/EC of 6 August 2002 as amended by Commission Directive No. 2004/1/EC of 6 January 2004, Commission Directive No. 2004/19/EC of 1 March 2004, Commission Directive No. 2005/79/EC of 18 November 2005, Commission Directive No. 2007/19/EC of 30 March 2007 and Commission Directive No. 2008/39/EC of 6 March 2008;”,

‘Recycled Plastics Regulation’ means Commission Regulation (EC) No. 282/2008 of 27 March 2008;”,

(b) in Regulation 2, by the substitution for paragraph 2 of—

“(2) A word or expression that is used in the Cellulose Film Directive, the Ceramics Directive, the Epoxy Derivatives Regulation,

¹O.J. L 63 of 7.3.2008, p. 6.

²O.J. L 86 of 28. 3. 2008, p. 9.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 27th March, 2009.*

the Framework Regulation, the GMP Regulation, Commission Regulation (EC) No. 372/2007 of 2 April 2007, the Recycled Plastics Regulation, the Plastics Directive, the Teats and Soothers Directive, or the Vinyl Chloride Directive and that is also used in these Regulations has, in these Regulations, the same meaning as in the act of the institution of the European Communities in which the word or expression occurs.”,

(c) by the replacement of Regulation 5, by—

“5. (1) A person shall not manufacture, import, sell or supply a plastic intended to come into contact with a foodstuff unless the monomer or other starting material is listed in Section A of Annex II to the Plastics Directive in accordance with the restrictions specified in that Annex and, from 7 March 2010, Commission Directive 2008/39/EC of 6 March 2008.

(2) From 1 January 2010, a person shall not manufacture or import a plastic material or article intended to come into contact with a foodstuff unless the additive used therein is listed in Annex III to the Plastics Directive or the provisional list referred to in Article 1 of Commission Directive No. 2008/39/EC of 6 March 2008 in accordance with the restrictions specified in that Annex or the provisional list.

(3) Paragraph (2) does not apply to the use of an additive permitted by Articles 4c, 4d or 7a of the Plastics Directive.

(4) A person shall not, in the manufacture of a plastic intended to come into contact with a foodstuff, fail to comply with Articles 2, 4, 4c, 4d, 4e, 5, 5a, 6, 7, 7a or 9 of the Plastics Directive.

(5) From 1 July 2008, a person shall not manufacture or import a gasket referred to in Article 3(1)(b) or a plastic material or article referred to in Article 3(1)(c) of Commission Directive No. 2007/19/EC of 2 April 2007.

(6) A test for migration shall be carried out in accordance with Article 8 of the Plastics Directive.”,

(d) in Regulation 14, by the substitution for paragraphs (1) and (2) of—

“14. (1) A person who, by act or omission contravenes—

(a) Article 3, 4, 15, 16(1) (subject to Article 27) or 17 of the Framework Regulation,

(b) Article 4, 5, 6, or 7 of the GMP Regulation,

- (c) Article 2, 3, 4 or 5 of the Epoxy Derivatives Regulation,
- (d) until 30 April 2009, Article 1 of Commission Regulation (EC) No. 372/2007 of 2 April 2007,
- (e) Article 2, 3, 4, 5, 7, 8, 10(3), 11, 12, 13 or 14 of the Recycled Plastic Regulation, subject to Articles 14 and 16 of that Regulation, or
- (f) Regulation 3, 4, 5, 6, 7 or 13 of these Regulations,

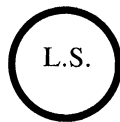
commits an offence and is liable—

(i) on summary conviction to a fine not exceeding €5,000 or to a term of imprisonment not exceeding 6 months, or to both,

or

(ii) on conviction on indictment, to a fine not exceeding €250,000 or to a term of imprisonment not exceeding 3 years or to both.

(2) A summary offence under these Regulations may be prosecuted by the National Consumer Agency, an official agency or the Food Safety Authority of Ireland.”



GIVEN under my Official Seal,
19 March 2009

BRENDAN SMITH,
Minister for Agriculture, Fisheries and Food.

EXPLANATORY NOTE

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

The Regulation gives effect to Commission Directive 2008/39/EC and Commission Regulation 282/2008.

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PUBLISHED BY THE STATIONERY OFFICE
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