

2009 No. 1504

ENVIRONMENTAL PROTECTION

**The Packaging (Essential Requirements) (Amendment)
Regulations 2009**

<i>Made</i> - - - -	<i>16th June 2009</i>
<i>Laid before Parliament</i>	<i>18th June 2009</i>
<i>Coming into force</i> - -	<i>10th July 2009</i>

The Secretary of State is designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to the management of packaging and packaging waste.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of that Act.

Citation and commencement

1. These Regulations may be cited as the Packaging (Essential Requirements) (Amendment) Regulations 2009 and shall come into force on 10th July 2009.

Amendments to the Packaging (Essential Requirements) Regulations 2003

2. Regulation 6(3)(a) of the Packaging (Essential Requirements) Regulations 2003^(c) is amended by deleting the words “on or before 4th March 2009,”.

Enforcement

3. No proceedings shall be brought and no enforcement action taken in respect of a breach of regulation 6(1) of the Packaging (Essential Requirements) Regulations 2003 in respect of plastic crates or plastic pallets where—

- (a) the breach occurred between 4th March 2009 and the date these Regulations came into force; and
- (b) the requirements set out in regulation 6(3)(a) of and Schedule II to those Regulations were complied with in relation to that packaging.

16th June 2009

Ian Lucas
Business and Regulatory Reform Minister,
Department for Business, Innovation and Skills

(a) S.I. 1996/266.

(b) 1972 c.68.

(c) S.I. 2003/1941, amended by S.I. 2004/1188, S.I. 2005/894 and S.I. 2006/1492.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Packaging (Essential Requirements) Regulations 2003 (S.I. 2003/1941 as amended by S.I. 2004/1188, S.I. 2005/894 and S.I. 2006/1492) (“the 2003 Regulations”), which implemented Articles 9 and 11 of Directive 94/62/EC of the European Parliament and the Council on packaging and packaging waste (OJ L 365, 31.12.1994, p 10) (“the 1994 Directive”) as amended.

Regulation 2 removes the expiry date of 4th March 2009 for the derogation from the maximum heavy metal concentration levels for plastic crates or plastic pallets in regulation 6(3)(a) of the 2003 Regulations. This implements Commission Decision 2009/292/EC (OJ L 79, 25.3.2009, p 44) establishing the conditions for a derogation for plastic crates and plastic pallets in relation to the heavy metal concentration levels established in the 1994 Directive.

The derogation had expired before it was extended by Commission Decision 2009/292/EC. Consequently regulation 3 provides that no proceedings or enforcement action shall be taken in respect of a breach of regulation 6(1) of the 2003 Regulations in respect of plastic crates or plastic pallets where the breach occurred between 4th March 2009 and the coming into force of these Regulations and the requirements of regulation 6(3)(a) of and Schedule II to the 2003 Regulations were complied with in relation to that packaging.

A regulatory impact assessment (“RIA”) prepared in August 2000 does not need to be revised. As these Regulations transpose a Commission Decision a transposition note (“TN”) has been prepared. A copy of the RIA and TN are available from the Department for Business, Innovation and Skills, 1 Victoria Street, London, SW1H 0ET. Copies of these documents have been placed in the libraries of both Houses of Parliament and are also annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

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