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STATUTORY INSTRUMENTS

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**1997 No. 648**

**The Producer Responsibility Obligations  
(Packaging Waste) Regulations 1997**

**PART III**

**REGISTRATION**

**Producer registration obligation**

**5.** Subject to regulations 4(3) and (4), 29 and 30, a producer shall be registered with an appropriate Agency in respect of a relevant year, or any part of that year, during which he is not a member of a registered scheme.

**Application for producer registration**

**6.—(1)** Subject to paragraph (3) below, a producer who is required by regulation 5 to be registered and who is not registered shall, on or before 1st April in a relevant year, make an application for producer registration to the appropriate Agency, being—

- (a) the Agency, where at the beginning of the relevant year the applicant's registered office or principal place of business is in England or Wales;
- (b) SEPA, where at the beginning of the relevant year the applicant's registered office or principal place of business is in Scotland; or
- (c) either the Agency or SEPA where at the beginning of the relevant year the applicant does not have a registered office or principal place of business in Great Britain.

(2) Where the producer is a partnership, where the principal place of business of the partnership is in England or Wales, the application shall be made by all the partners, and where the principal place of business of the partnership is in Scotland, the application shall be made by any partner acting on behalf of the partnership.

(3) Where—

- (a) the relevant year is the year 1997, the application for registration shall be made on or before 31st August 1997; or
- (b) any of the following occurs in a relevant year—
  - (i) the application for registration of a scheme of which the applicant was a member is refused,
  - (ii) the registration of a scheme of which the applicant was a member is cancelled,
  - (iii) the applicant's membership of a scheme is discontinued,
  - (iv) the applicant becomes a producer in respect of that year, or
  - (v) an application to register made within the time limit in paragraph (1) or subparagraph (a), above, is refused,

an application for registration shall be made within 28 days of the occurrence.

- (4) An application for producer registration shall—
- (a) be made in writing;
  - (b) contain the initial information set out in Part I of Schedule 4;
  - (c) subject to paragraphs (7) and (8) below, be accompanied by the further information specified in, and provided on a form corresponding to, the form set out in Part II of Schedule 4, or provided on a form substantially to that effect,
  - (d) be accompanied by the fee referred to in regulation 9; and
  - (e) where the applicant is a partnership whose principal place of business is in England and Wales, be accompanied by a statement as to which partner is able to accept notices and act on behalf of the partnership as provided in regulation (2).
- (5) An application for producer registration shall be granted where—
- (a) the producer has complied with paragraph (4)(a), (b), (d) and (e) above and, where applicable, paragraph (8) below;
  - (b) the Agency is satisfied that the information provided in accordance with paragraph (4)(c) above, or (8) below, has been provided in accordance with paragraph (7) below; and
  - (c) the producer has given the undertakings referred to in regulation 7, which have been required by the appropriate Agency;
- and shall otherwise be refused.
- (6) Where an application for producer registration is granted—
- (a) the appropriate Agency shall, within 28 days of it being granted confirm to the producer in writing that he is registered with it; and
  - (b) the producer shall be treated as having been registered from the beginning of the relevant year or, where the producer has applied to be registered for part of a year, from the date specified in the confirmation, until any cancellation of the producer's registration in accordance with regulation 11.
- (7) The further information shall—
- (a) where the application for registration, or compliance with regulation 8, is in respect of any of the years 1997, 1998 1999, be provided using the producer's reasonable estimates of the information required; and
  - (b) where the application for registration, or compliance with regulation 8, is in respect of the year 2000 or any subsequent year, the information provided shall be as accurate as reasonably possible.
- (8) Where the application to register is made in one of the circumstances set out in paragraph (3) (b) above, the further information referred to in paragraph (4)(c) above need not accompany the application but shall be provided within 56 days of the application being made.

### **Requirements for producer registration**

7. As requirements for producer registration the appropriate Agency may require the applicant to undertake that he will—
- (a) inform the appropriate Agency of—
    - (i) any change in the circumstances of the producer which relate to the registration of the producer, and where the producer is a partnership, any change of partners;
    - (ii) any change in the person who is the partner who is able to accept notices and act on behalf of the partnership as stated as required in regulation 6(4)(e);

- (iii) any material change in the initial information provided in accordance with regulation 6(4)(b), or
- (iv) any material change in the further information provided in accordance with regulation 6(4)(c), or (8), as the case may be, or regulation 8, within 28 days of the occurrence of any such change;
- (b) comply with the requirements of regulation 8;
- (c) provide records and returns to the appropriate Agency as required by regulation 22; and
- (d) apply to the appropriate Agency to cancel his registration where he has become a member of a registered scheme or has ceased to be a producer in respect of a year.

#### **Continuation of producer registration**

**8.** On or before 1st April in a relevant year a producer who is registered shall provide to the appropriate Agency—

- (a) in accordance with regulation 6(7), the further information referred to in regulation 6(4)(c); and
- (b) the fee referred to in regulation 9.

#### **Forms and fees for producer registration**

**9.—(1)** The appropriate Agency shall provide a copy of any form referred to in regulation 6 free of charge to any person requesting one.

(2) The fee which is to be charged by an appropriate Agency on an application for producer registration or continuation of producer registration is £750.

#### **Refusal to register producers**

**10.** Any decision of the appropriate Agency under regulation 6(5) to refuse to register a producer shall be notified within 28 days of the decision to the producer in writing together with the reasons for the decision and a statement as to the offence specified in regulation 34(1)(a).

#### **Cancellation of registration of producers**

**11.—(1)** An appropriate Agency may cancel the registration with it of a producer where—

- (a) the information or the fee required by regulation 8 are not provided;
- (b) it appears to the appropriate Agency that—
  - (i) the producer is in breach of any of the undertakings referred to in regulation 7 and given by him to that Agency,
  - (ii) the producer knowingly supplied false information in connection with his application for registration, or with compliance with any undertaking referred to in regulation 7, or with regulation 8; or
  - (iii) information provided pursuant to regulation 8 was not provided in accordance with regulation 6(7).

(2) An appropriate Agency shall cancel the registration with it of a producer where it is notified that the producer has become a member of a registered scheme or has otherwise ceased to be subject to the producer registration obligation in respect of a year.

(3) Before cancellation of a registration under paragraphs (1) or (2) above, an appropriate Agency shall serve on the producer concerned written notice of—

- (a) its decision to cancel;
- (b) the reasons for the decision; and
- (c) the date when cancellation will take effect, not being earlier than—
  - (i) in the case of cancellation under paragraph (1) above, 28 days from the date of the notice, and
  - (ii) in the case of cancellation under paragraph (2) above, 5 days from the date of the notice.

### **Application for registration of a scheme**

**12.**—(1) Subject to paragraph (8) below, an application for registration of a scheme in relation to a year shall be made by the operator of the scheme, on or before 1st April in the year, to the appropriate Agency, being—

- (a) the Agency, where at the date of the application the registered office or principal place of business of the operator of the scheme is in England or Wales;
- (b) SEPA, where at the date of the application the registered office or principal place of business of the operator of the scheme is in Scotland; or
- (c) either the Agency or SEPA, where at the date of the application the operator of the scheme does not have a registered office or principal place of business in Great Britain, or there is more than one operator of the scheme and such operators have registered offices or principal places of business in England and Wales, and in Scotland.

(2) Where the operator of the scheme is a partnership the application for registration shall, where at the date of the application the principal place of business of the partnership is in England and Wales, be made by all the partners, and where at that date the principal place of business of the partnership is in Scotland, be made by any partner acting on behalf of the partnership.

(3) An application for registration of a scheme shall—

- (a) be made in writing;
- (b) contain the initial information set out in Part III of Schedule 4;
- (c) subject to paragraph (7) below, be accompanied by the information specified in, and provided on a form corresponding to, the form set out in Part II of Schedule 4, or provided on a form substantially to that effect, for each class of producer, and aggregating the information in relation to all of the scheme's members who belong to that class;
- (d) be accompanied by a published statement as provided in Part IV of Schedule 4;
- (e) be accompanied by an operational plan for the scheme as provided in Part IV of Schedule 4;
- (f) be accompanied by an undertaking by the operator of the scheme that the conditions referred to in regulation 13 will be complied with;
- (g) be accompanied by a fee calculated as provided in regulation 15; and
- (h) where the operator of the scheme is a partnership whose principal place of business is in England and Wales, or where there is more than one operator of the scheme, be accompanied by a statement as to which partner or operator, respectively, is able to accept notices or act on behalf of all the partners, or all the operators of the scheme, as the case may be, as provided in regulation 2 above.

(4) A scheme shall not be registered unless it has been approved by the Secretary of State and the operator of the scheme has been notified under regulation 31(5) that it meets the requirements of competition scrutiny referred to in regulation 31, and the operator of the scheme shall supply evidence of that approval and notification to the appropriate Agency—

- (a) where such approval or notification is obtained before making the application to register the scheme, at the time of the application; or
  - (b) where such approval or notification is obtained after the application to register is made, as soon as possible after receipt.
- (5) An application for registration shall be granted where—
- (a) the operator has complied with paragraphs (3)(a), (b), (d), (f), (g) and (h) and (4) above;
  - (b) the appropriate Agency is satisfied that the information provided in accordance with paragraph (3)(c) above, has been provided in accordance with paragraph (7) below; and
  - (c) the appropriate Agency is satisfied as to the contents of the operational plan provided as required by paragraph (3)(e) above and shall otherwise be refused.
- (6) Where an application for registration of a scheme is granted—
- (a) the appropriate Agency shall, within 28 days of it being granted confirm to the operator of the scheme in writing that the scheme is registered with it; and
  - (b) the scheme shall be treated as registered from the beginning of the year of application until any cancellation of the scheme's registration in accordance with regulation 17, except that for the purposes of regulations 32 and 33 the scheme shall be treated as registered from the date of confirmation until any such cancellation.
- (7) The further information shall—
- (a) where the application for registration, or compliance with regulation 14, is in relation to any of the years 1997, 1998 or 1999 be provided using the reasonable estimates of the operator of the scheme; and
  - (b) where the application for registration, or compliance with regulation 14, is in relation to the year 2000 or any subsequent year, be as accurate as reasonably possible.
- (8) Where an application for registration is made in the year 1997 the application shall be made on or before 31st August 1997,

### **Conditions of registration of a scheme**

- 13.** Registration of a scheme shall be subject to the following conditions—
- (a) that the recovery and recycling obligations of all of its members referred to in regulation 4(1)(b) will be performed through the scheme;
  - (b) that the operator of the scheme will provide information at the request of the appropriate Agency with regard to the obligations referred to in paragraph (a) above;
  - (c) that the operator of the scheme will notify the appropriate Agency in writing at intervals as required by the Agency of any change in the membership of the scheme and that any such notification will be accompanied by the additional fee calculated as provided in regulation 15(3);
  - (d) that the operator of the scheme will inform the appropriate Agency in writing of—
    - (i) any change in the person who is the operator of the scheme, and in the case where the operator of the scheme is a partnership, or where there is more than one operator of a scheme, any change of partners or operators,
    - (ii) any change in the person who is the partner or operator who is able to accept notices and act on behalf of the partners or operators as stated as provided in regulation 12(3)(h),
    - (iii) any material change in the initial information provided in accordance with regulation 12(3)(b), or

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- (iv) any material change in the further information provided in accordance with regulations 12(3)(c) or 14, within 28 days of the occurrence of any such change;
- (e) that the operator of the scheme will comply with the requirements of regulation 14;
- (f) that the operator of the scheme will provide records and returns to the appropriate Agency as required by regulation 24; and
- (g) that the operator of the scheme will inform the appropriate Agency in writing if the Secretary of State withdraws approval of the scheme or notifies the operator under regulation 31(10) that he has ceased to be satisfied that the scheme meets the requirements of competition scrutiny.

**Continuation of registration of a scheme**

14. On or before 1st April in a relevant year and in respect of a scheme which is registered, the operator of the scheme shall provide to the appropriate Agency—

- (a) in accordance with regulation 12(7), the further information referred to in regulation 12(3)(c); and
- (b) a fee calculated as provided in regulation 15.

**Forms and fees for registration of a scheme**

15.—(1) The appropriate Agency shall provide a copy of any form referred to in regulation 12 free of charge to any person requesting one.

(2) The fee which is to be charged by an appropriate Agency on an application for registration of a scheme, and under regulation 14, is calculated as follows—

$$A \times B = F$$

where—

A is the number of members of the scheme at the date of the application, or the date of compliance with regulation 14, whichever is applicable,

B is an amount calculated by reference to the number of members of the scheme at that date as follows—

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2 to 500 members	£600
501 to 1500 members	£450
1501 to 3000 members	£300
Over 3000 members	£100, and

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F is the fee.

(3) The fee which is to be paid by an operator of a scheme in compliance with the condition referred to in regulation 13(c) is calculated as follows—

$$A \times B = AF$$

where—

A is the number of new members of the scheme which are the subject of the notification,

B is the amount referred to in B in paragraph (2) above except that it is calculated by reference to the number of members of the scheme at the date of notification to the appropriate Agency, and

AF is the fee.

### **Refusal to register a scheme**

**16.** Any decision of the appropriate Agency under regulation 12(5) to refuse to register a scheme shall be notified, within 28 days of the decision, to the operator of the scheme in writing together with—

- (a) the reasons for the decision;
- (b) a statement as to the right of appeal under Part IV of these Regulations; and
- (c) a statement as to the offence specified in regulation 34(1)(a).

### **Cancellation of registration of a scheme**

**17.—(1)** Subject to the right of appeal under Part IV of these Regulations, the appropriate Agency may cancel the registration with it of a scheme where—

- (a) the information or the fee required by regulation 14 are not provided; or
- (b) it appears to the appropriate Agency that—
  - (i) any of the conditions referred to in regulation 13 has been broken,
  - (ii) the operator knowingly supplied false information in connection with the application for registration, or with compliance with the conditions referred to in regulation 13, or with regulation 14, or
  - (iii) information provided pursuant to regulation 14 was not provided in accordance with regulation 12(7).

(2) An appropriate Agency shall cancel the registration with it of a scheme if the Secretary of State withdraws his approval of the scheme or gives notice under regulation 31(10) that he has ceased to be satisfied that the scheme meets the requirements of competition scrutiny.

(3) Before the cancellation of a registration an appropriate Agency shall serve on the operator of the scheme written notice of—

- (a) its decision under paragraph (1) or (2) above to cancel the registration;
- (b) the reasons for the decision;
- (c) where the decision is made under paragraph (1) above, the right of appeal under Part IV of these Regulations; and
- (d) the date when cancellation will take effect, not being earlier than—
  - (i) in the case of cancellation under paragraph (1) above, the expiration of the time limit for an appeal against the notice provided for in paragraph 2 of Schedule 5, or
  - (ii) in the case of cancellation under paragraph (2) above, 5 days from the date of the notice.