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STATUTORY INSTRUMENTS

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**2007 No. 871**

**The Producer Responsibility Obligations  
(Packaging Waste) Regulations 2007**

**PART I E+W+S**

**GENERAL**

**Citation, commencement and extent E+W+S**

1.—(1) These Regulations may be cited as the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 and shall come into force on the day after the day on which they are made.

(2) These Regulations extend to Great Britain.

**Interpretation and notices E+W+S**

2.—(1) In these Regulations—

“the Packaging Waste Directive” means Council Directive [94/62/EC](#)(1) on packaging and packaging waste [F1, as last amended by [F2Directive (EU) 2018/852]] [F3], and as read in accordance with regulation 2A];

[F4“the Waste Directive” means [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste [F5, as last amended by [F6Directive (EU) 2018/851]] [F7], and as read in accordance with regulation 2B];

“the 1995 Act” means the Environment Act 1995(2); and

“the 1990 Act” means the Environmental Protection Act 1990.

[F8“PRONIR” means the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007;]

(2) In these Regulations—

“accredited exporter” means an exporter who is accredited by the appropriate Agency under regulation 24;

“accredited reprocessor” means a reprocessor who is accredited by the appropriate Agency under regulation 24;

“allocation method” means the method set out in paragraph 7 of Schedule 2 for calculating the recycling obligations of a small producer who has elected under regulation 7 to follow this method;

[F9“appropriate [F10Agency]” means—

(a) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate [F10Agency] in England, the Environment Agency;

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(1) OJNo. L 365, 31.12.1994, p. 10, as last amended by Council Directive [2005/20/EC](#), OJ No. L 70, 16.3.2005, p.17.

(2) [1995 c. 25](#).

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- (b) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate [<sup>F10</sup>Agency] in Scotland, SEPA;
- (c) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate [<sup>F10</sup>Agency] in Wales, the Natural Resources Body for Wales;
- (d) for the purposes of any provision of these Regulations relating to the obligations of any other person—
  - (i) the Environment Agency, where at the beginning of the relevant year the person’s registered office or principal place of business is in England;
  - (ii) SEPA, where at the beginning of the relevant year the person’s registered office or principal place of business is in Scotland;
  - (iii) the Natural Resources Body for Wales, where at the beginning of the relevant year the person’s registered office or principal place of business is in Wales;
  - (iv) at the election of the person, the Environment Agency, SEPA or the Natural Resources Body for Wales, where at the beginning of the relevant year the person does not have a registered office or principal place of business in Great Britain;
  - (v) in relation to schemes, where there is more than one operator of a scheme and such operators have registered offices or principal places of business in England and in Scotland (but not in Wales)—
    - (aa) the Environment Agency where the operators have elected to apply for approval of the scheme from [<sup>F11</sup>that Agency]; or
    - (bb) SEPA where the operators have elected to apply for approval of the scheme from [<sup>F12</sup>that Agency];
  - (vi) in relation to schemes, where there is more than one operator of a scheme and such operators have registered offices or principal places of business in Wales and in Scotland (but not in England)—
    - (aa) the Natural Resources Body for Wales where the operators have elected to apply for approval of the scheme from [<sup>F13</sup>that Body]; or
    - (bb) SEPA where the operators have elected to apply for approval of the scheme from [<sup>F14</sup>that Agency];
  - (vii) [<sup>F15</sup>in relation to schemes, where there is more than one operator of a scheme and such operators have registered offices or principal places of business in England and in Wales (but not in Scotland)—
    - (aa) the Environment Agency, where the operators have elected to apply for approval of the scheme from that Agency; or
    - (bb) the Natural Resources Body for Wales, where the operators have elected to apply for approval of the scheme from that Body;]
  - (viii) [<sup>F15</sup>in relation to schemes, where there is more than one operator of a scheme and such operators have registered offices or principal places of business in England, in Scotland and in Wales—
    - (aa) the Environment Agency, where the operator has elected to apply for approval of the scheme from that Agency;
    - (bb) SEPA, where the operator has elected to apply for approval from that Agency; or
    - (cc) the Natural Resources Body for Wales, where the operator has elected to apply for approval from that Body;]]

“appropriate authority” means—

- (a) for the purposes of [<sup>F16</sup>regulations 2A, 2B and 4(7)] —
  - (i) the Secretary of State in relation to England;
  - (ii) the National Assembly for Wales in relation to Wales;
  - (iii) the Scottish Ministers in relation to Scotland;
- (b) <sup>F17</sup> .....
- (c) <sup>F17</sup> .....
- (d) for the purposes of any provision in these Regulations relating to the exercise of functions in respect of determining appeals against decisions of the Environment Agency <sup>F18</sup> ... , the Secretary of State; <sup>F19</sup> ...
- (da) [<sup>F20</sup>for the purposes of any provision in these Regulations relating to the exercise of functions in respect of determining appeals against decisions of the Natural Resources Body for Wales—
  - (i) where the decision was made prior to 1st October 2013, the Secretary of State;
  - (ii) where the decision was made on or after 1st October 2013, the Welsh Ministers;]
- (e) for the purposes of any provision in these Regulations relating to the exercise of functions in respect of determining appeals against decisions of SEPA, the Scottish Ministers;

[<sup>F21</sup>“approved person” means the person for the time being approved under regulation 34 for the purpose of—

- (a) issuing certificates of compliance under regulation 21 and signing the form referred to in regulation 7(4)(c) or (ca) or 19(2)(b) in relation to a particular producer; or
- (b) signing the form referred to in regulation 14(3)(c) and the statement referred to in regulation 22(4) in relation to a particular operator of a scheme;]

“calculation year” means the year preceding an obligation year;

“common database” means the electronic database held jointly by the Environment Agency and SEPA in which information under regulation 36(1) and (2) is placed.

“consumer information obligations” has the meaning given to it in regulation 4(4)(d);

“disposal” has the meaning given to it in [<sup>F22</sup>Article 3(19) of the Waste Directive] ;

[<sup>F23</sup>“DOENI” means the Department of the Environment in Northern Ireland;]

[<sup>F24</sup>“energy recovery” means the use of combustible packaging waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;]

“exporter” means a person who, in the ordinary course of conduct of a trade, occupation or profession, owns and exports packaging waste for reprocessing outside the United Kingdom;

[<sup>F25</sup>“financial year” in relation to a person—

- (a) where the person is a company is determined as provided in section 390(1) to (3) of the Companies Act 2006; and
- (b) in any other case has the meaning given in section 390(4) of the Companies Act 2006, but as if the reference there to an undertaking were a reference to that person;]

[<sup>F26</sup>“local authority” means—

- (a) in England outside Greater London—
  - (i) a district council,
  - (ii) a county council, or

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- (iii) the Council of the Isles of Scilly;
- (b) in Greater London—
  - (i) the council of a London borough,
  - (ii) the Common Council of the City of London,
  - (iii) the Sub-Treasurer of the Inner Temple, or
  - (iv) the Under-Treasurer of the Middle Temple;
- (c) in Wales—
  - (i) a county council, or
  - (ii) a county borough council;
- (d) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;]

[<sup>F27</sup>“marine installation” means any artificial island, installation or structure at sea, other than a vessel;]

“obligation year” means, for the purposes of this regulation and Schedule 10, a year in respect of which it is being considered whether a person is a producer;

<sup>F28</sup>  
...

“packaging” has the meaning given to it in Article 3(1) of the Packaging Waste Directive;

“packaging materials” means materials used in the manufacture of packaging and includes raw materials and processed materials prior to their conversion into packaging;

“packaging waste” has the meaning given to it in Article 3(2) of the Packaging Waste Directive; but does not include packaging that became waste outside the United Kingdom;

“partnership” has the meaning given in section 1 of the Partnership Act 1890(3);

“PERN” means a packaging waste export recovery note issued by an accredited exporter on a form supplied to him by the appropriate Agency, as evidence of the export of the tonnage of packaging waste specified in the note for reprocessing outside the United Kingdom;

“preceding year” means the year preceding a relevant year;

“PRN” means a packaging waste recovery note issued by an accredited reprocessor on a form supplied to him by the appropriate Agency, as evidence of the receipt of the tonnage of packaging waste specified in the note for reprocessing within the United Kingdom;

“producer” has the meaning given in regulation 4 and includes a small producer unless otherwise stated, and the classes of producer are those set out in column 4 of Table 1 in Schedule 1;

“producer responsibility obligations” are the producer registration, recovery and recycling, certifying and consumer information obligations specified in regulation 4;

“recovery” means any of the applicable operations provided for in [<sup>F29</sup>Annex II] to the Waste Directive and for the purposes of these Regulations incineration at waste incineration plants with energy recovery shall be treated as if it is recovery; and “recover” and “recovery operation” shall be construed accordingly;

“recovery and recycling obligations” has the meaning given in regulation 4(4)(b);

“recyclable material” means—

- (a) glass;

- (b) aluminium;
- (c) steel;
- (d) paper/board;
- (e) plastic; or
- (f) wood,

and packaging materials composed of a combination of any of those materials are to be treated as made of the material which is predominant by weight;

“recycling” has the meaning given to it in [<sup>F30</sup>Article 3(17) of the Waste Directive]; and “recycle” shall be construed accordingly;

“recycling obligations” means the obligation to recycle set out in regulation 4(4)(b)(ii);

“relevant authorisation” means—

- (a) [<sup>F31</sup>a permit granted under regulation 13(1) of][<sup>F32</sup>the Environmental Permitting (England and Wales) Regulations 2016] or [<sup>F33</sup>under the Pollution Prevention and Control (Scotland) Regulations 2012];
- (b) [<sup>F34</sup>an authorisation granted under section 6 of the 1990 Act];
- (c) [<sup>F34</sup>a waste management licence granted under section 36 of the 1990 Act; or]
- (d) [<sup>F35</sup>an exemption registered under [<sup>F36</sup>regulation 19 of the Waste Management Licensing (Scotland) Regulations 2011].]

[<sup>F35</sup>an exempt waste operation under [<sup>F32</sup>the Environmental Permitting (England and Wales) Regulations 2016] or any other operation exempt from the requirements of section 33(1)(a) and (b) of the Environmental Protection Act 1990 under those Regulations;]

“relevant date” means—

- (a) 7th April in the obligation year; or
- (b) where an application for registration is made in a circumstance set out in regulation 7(3), or as required by paragraph 10 of Schedule 10, the date of the application;

“relevant year” means the year referred to in regulation 4(2), that is to say a year in respect of which a person is a producer;

“reprocessing site” means a site at which reprocessing takes place;

“reprocessor” means a person who, in the ordinary course of conduct of a trade, occupation or profession, carries out one or more activities of recovery or recycling, and “reprocessing” shall be construed accordingly;

“reuse” has the meaning given to it in [<sup>F37</sup>Article 3(13) of the Waste Directive];

“scheme” means a scheme which is (or, if it were to be registered in accordance with these Regulations would be) a scheme whose members for the time being are, by virtue of these Regulations and their membership of that scheme, exempt from the requirement to comply with their producer responsibility obligations and “registered scheme” means a scheme which is registered with the appropriate Agency in accordance with these Regulations;

“SEPA” means the Scottish Environment Protection Agency;

[<sup>F38</sup>“SIC code” means a code included in “Indexes to the UK Standard Industrial Classification of Economic Activities 2007” published by the Office for National Statistics in 2009;]

[<sup>F39</sup>“signatory” means a natural person who creates an electronic signature;]

“small producer” means a producer <sup>F40</sup>... whose turnover in the last financial year—

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- (a) in respect of which audited accounts are available; or
- (b) where audited accounts are not required, in respect of which accounts are available, before the relevant date was £5,000,000 or less; and where audited accounts are required they shall be considered to be available when the annual accounts have been delivered to the registrar under [<sup>F41</sup>section 441 of the Companies Act 2006];

“transit packaging” means—

- (a) grouped packaging or secondary packaging, as defined in paragraph (b) in Article 3(1) of the Packaging Waste Directive; or
- (b) transport packaging or tertiary packaging as defined in paragraph (c) in Article 3(1) of the Packaging Waste Directive;

[<sup>F42</sup>“turnover” means, in relation to a person, their turnover as defined in section 539 of the Companies Act 2006 but as if the references to a company were references to that person;]

“year” means a calendar year beginning on 1st January.

(3) Where—

- (a) notices are to be served on a producer under regulations 7(7)(a), 10 or 11(3);
- (b) information is to be provided by a producer under regulations 7 or 8;
- (c) fees are to be paid by a producer under regulation 9(2); or
- (d) records and returns are to be maintained and furnished by a producer under regulation 20,

they shall be served on, provided, paid, or maintained and furnished by, in the case of a partnership, a partner acting on behalf of the partnership, and references in these Regulations to the producer shall be read accordingly.

(4) Where there is more than one operator of a scheme—

- (a) notices to be served on the operator of the scheme under [<sup>F43</sup>regulation 13, 13A, 13B, 13C, 14 or 17] shall be served on the operator stated under regulation 14(3)(h);
- (b) where information is to be provided by the operator of the scheme under regulations 14 and 15, fees are to be paid by the operator of the scheme under regulation 16, records and returns are to be maintained and furnished by the operator of the scheme under regulation 22, and appeals may be made by the operator of the scheme under regulation 27, they shall be provided, paid, or maintained and furnished, and such appeals may only be made, by the operator stated under regulation 14(3)(h),

and references in these Regulations to the operator of the scheme shall be read accordingly.

(5) In these Regulations—

- (a) any document which is to be provided or given to any person may be provided or given to that person by electronic means if the document is capable of being reproduced by that person in legible form;
- (b) any requirement to make, keep or retain a record or to maintain a register may be satisfied in electronic form if the text is capable of being produced by the person subject to the requirement in a legible documentary form;
- (c) any requirement for a signature may be satisfied by an electronic signature incorporated into the document; and

[<sup>F44</sup>(d) “electronic signature” means data in electronic form which is attached to or logically associated with other data in electronic form and which is used by the signatory to sign;]

## Textual Amendments

- F1** Words in reg. 2(1) inserted (28.2.2019) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(a), **4(2)(a)**
- F2** Words in reg. 2(1) substituted (1.10.2020) by The Waste (Circular Economy) (Amendment) Regulations 2020 (S.I. 2020/904), regs. 1(1), **10(a)(i)**
- F3** Words in reg. 2(1) inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(b), **12(2)(a)(i)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in reg. 2(1) substituted (3.8.2016) by The Waste (Meaning of Recovery) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/738), regs. 1(1), **7**
- F5** Words in reg. 2(1) inserted (W.) (5.7.2018) by The Hazardous Waste (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/721), regs. 1(2), **4**; and inserted (E.) (5.7.2018) by virtue of The Environment, Food and Rural Affairs (Miscellaneous Amendments) (England) Regulations 2018 (S.I. 2018/575), regs. 1(2)(b), **6**; and inserted (S.) (28.2.2019) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(a), **4(2)(b)**
- F6** Words in reg. 2(1) substituted (1.10.2020) by The Waste (Circular Economy) (Amendment) Regulations 2020 (S.I. 2020/904), regs. 1(1), **10(a)(ii)**
- F7** Words in reg. 2(1) inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(b), **12(2)(a)(ii)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in reg. 2(1) inserted (24.2.2016) by The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), **3(a)**
- F9** Words in reg. 2 substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 4 para. 274(2)** (with Sch. 7)
- F10** Words in reg. 2(2) substituted (24.2.2016) by The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), 3(b)(i)(aa)
- F11** Words in reg. 2(2) substituted (24.2.2016) by The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), 3(b)(i)(bb)(i)
- F12** Words in reg. 2(2) substituted (24.2.2016) by The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), 3(b)(i)(bb)(ii)
- F13** Words in reg. 2(2) substituted (24.2.2016) by The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), 3(b)(i)(bb)(iii)
- F14** Words in reg. 2(2) substituted (24.2.2016) by The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), 3(b)(i)(bb)(iv)
- F15** Words in reg. 2(2) substituted (24.2.2016) by The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), 3(b)(i)(bb)(v)
- F16** Words in reg. 2(2) substituted (31.12.2020) by S.I. 2019/188, **reg. 12(2)(b)(i)** (as substituted by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), **11(6)(a)**)
- F17** Words in reg. 2(2) omitted (24.2.2016) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), **3(b)(ii)**
- F18** Words in reg. 2(2) omitted (18.7.2013) by virtue of The Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821), arts. 1(2), **23(2)** (with art. 24)
- F19** Word in reg. 2(2) omitted (18.7.2013) by virtue of The Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821), arts. 1(2), **23(2)** (with art. 24)
- F20** Words in reg. 2(2) inserted (18.7.2013) by The Natural Resources Body for Wales (Consequential Provision) Order 2013 (S.I. 2013/1821), arts. 1(2), **23(3)** (with art. 24)
- F21** Words in reg. 2(2) substituted (26.11.2010) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010 (S.I. 2010/2849), regs. 1(b), **3(a)**
- F22** Words in reg. 2(2) substituted (1.10.2020) by The Waste (Circular Economy) (Amendment) Regulations 2020 (S.I. 2020/904), regs. 1(1), **10(b)(i)**

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- F23** Words in reg. 2(2) inserted (24.2.2016) by The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), **3(b)(iii)**
- F24** Words in reg. 2(2) substituted (1.10.2020) by The Waste (Circular Economy) (Amendment) Regulations 2020 (S.I. 2020/904), regs. 1(1), **10(b)(ii)**
- F25** Words in reg. 2(2) substituted (26.11.2010) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010 (S.I. 2010/2849), regs. 1(b), **3(b)**
- F26** Words in reg. 2(2) inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(b), **12(2)(b)(ii)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F27** Words in reg. 2(2) inserted (26.11.2010) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010 (S.I. 2010/2849), regs. 1(b), **3(c)**
- F28** Words in reg. 2(2) omitted (1.10.2020) by virtue of The Waste (Circular Economy) (Amendment) Regulations 2020 (S.I. 2020/904), regs. 1(1), **10(b)(iii)**
- F29** Words in reg. 2(2) substituted (S.) (27.3.2011) by The Waste (Scotland) Regulations 2011 (S.S.I. 2011/226), reg. 1(1), **Sch. para. 20(1)(a)**  
Words in reg. 2(2) substituted (29.3.2011) by The Waste (England and Wales) Regulations 2011 (S.I. 2011/988), reg. 1(2), **Sch. 4 para. 23(2)(b)** (with regs. 2, 47(2))
- F30** Words in reg. 2(2) substituted (1.10.2020) by The Waste (Circular Economy) (Amendment) Regulations 2020 (S.I. 2020/904), regs. 1(1), **10(b)(iv)**
- F31** Words in reg. 2(1) substituted (E.W.) (6.4.2008) by The Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538), reg. 1(1)(b), **Sch. 21 para. 52(2)** (with regs. 69-72)
- F32** Words in reg. 2(2) substituted (E.W.) (1.1.2017) by The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), **Sch. 29 Pt. 2 para. 25** (with regs. 1(3), 77-79, Sch. 4)
- F33** Words in reg. 2(2) substituted (7.1.2013) by The Pollution Prevention and Control (Scotland) Regulations 2012 (S.S.I. 2012/360), reg. 1(2), **Sch. 11 para. 17(2)** (with reg. 71)
- F34** Words in reg. 2(1) omitted (E.W.) (6.4.2008) by virtue of The Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538), reg. 1(1)(b), **Sch. 21 para. 52(3)** (with regs. 69-72)
- F35** Words in reg. 2(1) substituted (E.W.) (6.4.2008) by The Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538), reg. 1(1)(b), **Sch. 21 para. 52(4)** (with regs. 69-72)
- F36** Words in reg. 2(2) substituted (S.) (27.3.2011) by The Waste (Scotland) Regulations 2011 (S.S.I. 2011/226), reg. 1(1), **Sch. para. 20(1)(b)**
- F37** Words in reg. 2(2) substituted (1.10.2020) by The Waste (Circular Economy) (Amendment) Regulations 2020 (S.I. 2020/904), regs. 1(1), **10(b)(v)**
- F38** Words in reg. 2(2) substituted (26.11.2010) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010 (S.I. 2010/2849), regs. 1(b), **3(d)**
- F39** Words in reg. 2(2) inserted (22.7.2016) by The Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (S.I. 2016/696), reg. 1, **Sch. 3 para. 6(a)**
- F40** Words in reg. 2(2) omitted (26.11.2010) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010 (S.I. 2010/2849), regs. 1(b), **3(e)(i)**
- F41** Words in reg. 2(2) substituted (26.11.2010) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010 (S.I. 2010/2849), regs. 1(b), **3(e)(ii)**
- F42** Words in reg. 2(2) substituted (26.11.2010) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010 (S.I. 2010/2849), regs. 1(b), **3(f)**
- F43** Words in reg. 2(4)(a) substituted (24.2.2016) by The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), **3(c)**
- F44** Words in reg. 2(5)(d) substituted (22.7.2016) by The Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (S.I. 2016/696), reg. 1, **Sch. 3 para. 6(b)**



## <sup>F45</sup> Modifications to the Packaging Directive **E+W+S**

**2A.**—(1) For the purposes of these Regulations, the Packaging Waste Directive is to be read in accordance with this regulation.

(2) A reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate agency or local authority which, immediately before IP completion day, was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion.

(3) Article 3 is to be read as if—

- (a) in paragraph 2, for “Article 3 of [Directive 2008/98/EC](#)” there were substituted “Article 3(1) of the Waste Directive, as read with Articles 5 and 6 of that Directive;
- (b) in paragraph 2c, for “[Directive 2008/98/EC](#)” there were substituted “the Waste Directive”.

### Textual Amendments

**F45** Regs. 2A, 2B inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **12(3)** (as amended by [S.I. 2020/1540](#), regs. 1(2), **11(2)(b)(i)-(iv)(c)(i)(ii)**); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

## Modifications to the Waste Directive **E+W+S**

**2B.**—(1) For the purposes of these Regulations, the Waste Directive is to be read in accordance with this regulation.

(2) A reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the appropriate authority, appropriate agency or local authority which, immediately before IP completion day, was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion.

(3) Article 5 is to be read as if—

- (a) in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;
- (b) after paragraph 1 there were inserted—
  - “**1A.** Any decision as to whether a substance or object is a by-product must be made—
    - (a) in accordance with any regulations setting out detailed criteria on the application of the conditions in paragraph 1 to specific substances or objects; and
    - (b) having regard to any guidance published by the appropriate authority or the appropriate agency for the purposes of this Article.”;

(c) paragraphs 2 and 3 were omitted.

(4) Article 6 is to be read as if—

- (a) in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;
- (b) after paragraph 1 there were inserted—

“**1A.** Any decision as to whether a substance or object has ceased to be waste must be made—

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007. (See end of Document for details)*

- (a) in accordance with any regulations or retained direct EU legislation setting out detailed criteria on the application of the conditions in paragraph 1 to specific types of waste; and
- (b) having regard to any guidance published by the appropriate authority or the appropriate agency for the purposes of this Article.”;
- (c) in paragraph 2—
  - (i) the first subparagraph were omitted;
  - (ii) in the second subparagraph, for “Those detailed criteria” there were substituted “Any detailed criteria set out in guidance as referred to in paragraph 1A”;
  - (iii) the third and fourth subparagraphs were omitted;
- (d) paragraph 3 were omitted;
- (e) in paragraph 4—
  - (i) in the first subparagraph—
    - (aa) in the first sentence, for the words from the beginning to “Member State”, there were substituted “Where criteria have not been set out as referred to in paragraph 1A(a), the appropriate agency”;
    - (bb) the second sentence were omitted;
  - (ii) in the second subparagraph—
    - (aa) for “Member States” there were substituted “The appropriate agency”;
    - (bb) “by competent authorities” were omitted.]

#### Textual Amendments

**F45** Regs. 2A, 2B inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/188\)](#), regs. 1(2)(b), **12(3)** (as amended by [S.I. 2020/1540](#), regs. 1(2), **11(2)(6)(b)(i)-(iv)(c)(i)(ii)**); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

#### Exclusion of charities from producer responsibility obligations **E+W+S**

3. Parts II, III and IV of these Regulations do not apply to a charity within the meaning given in section 506 of the Income and Corporation Taxes Act 1988(4).

## PART II **E+W+S**

### PRODUCERS AND OBLIGATIONS

#### Producers and producer responsibility obligations **E+W+S**

- 4.—(1) This regulation is subject to regulations 5, 37, 38 and 39 and Schedules 8, 9 and 10.
- (2) In respect of a year a person is a producer of a class specified in an entry in column 4 of Table 1 in Schedule 1 if—
- (a) in that year and the preceding year he performs the relevant functions of the class of producer specified in Column 1 of that Table in relation to that entry;

(4) 1988 c. 1.

- (b) in the preceding year he made supplies of the materials or products specified in Column 2 of that Table in relation to that entry of a class in Column 3 of that Table in relation to that entry; and
- (c) in relation to that year he satisfies the threshold tests as provided by paragraph 3 of that Schedule,

and the other provisions of that Schedule shall also have effect for the purposes of determining whether a person is a producer of any class.

(3) Where in respect of a year a person is a producer and satisfies the provisions of Columns 1 to 3 of Table 1 in Schedule 1 in relation to more than one class of producer specified in an entry in Column 4 of that Table, whether or not in relation to the same materials or products specified in Column 2 of that Table, or the same transaction or process, for that year that person belongs to each such class.

(4) A person who is a producer in respect of a year has producer responsibility obligations in respect of that year, that is to say he must—

- (a) be registered as provided in regulation 6 (in these Regulations referred to as the “producer registration obligation”);
- (b) where he is—
  - (i) a producer, other than a small producer who has elected to follow the allocation method, recover and recycle packaging waste in relation to each of the classes of producer to which the producer belongs, as calculated under Schedule 2; or
  - (ii) a small producer who has elected to follow the allocation method, recycle packaging waste as calculated under paragraphs 2, 7 and 8 of Schedule 2,(in these Regulations referred to as the “recovery and recycling obligations”);
- (c) furnish a certificate of compliance in respect of his recovery and recycling obligations in accordance with regulation 21 (in these Regulations referred to as the “certifying obligation”); and
- (d) if his main activity is that of seller, provide information to consumers of the goods sold by him about—
  - (i) the return, collection and recovery systems available to them;
  - (ii) their role in contributing to the reuse, recovery and recycling of packaging and packaging waste;
  - (iii) the meaning of related markings on packaging that he places on the market and that relates to his recovery and recycling obligations; and
  - (iv) the chapter dealing with the management of packaging and packaging waste in any strategy prepared under section 44A or 44B of the 1990 Act (national waste strategy),(in these Regulations referred to as the “consumer information obligations”).

(5) A producer may only demonstrate compliance with his recovery and recycling obligations through the acquisition of PRNs or PERNs or both.

(6) A PRN or PERN that relates to packaging waste delivered or exported for reprocessing in December in a year may be relied on by a producer to demonstrate compliance with his recovery and recycling obligations either in that year or the following year.

(7) The appropriate authority shall issue guidance as to the provision of information under paragraph (4)(d) above and shall take such steps as may be appropriate to ensure that users of packaging, including in particular consumers, obtain the necessary information about the matters referred to in paragraph (4)(d).

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007. (See end of Document for details)*

## Producers and Scheme membership **E+W+S**

5.—<sup>[F46]</sup>(1) Where a producer is a member of a registered scheme throughout a relevant year he is exempt from complying with his producer responsibility obligations for the relevant year.

<sup>[F47]</sup>(2) A producer shall not be a member of a registered scheme for the purposes of these Regulations if they fail to—

- (a) provide any information the scheme requests for the purposes of meeting its producer responsibility obligations within a reasonable period of receiving such a request; or
- (b) pay any fee required for membership of the scheme.]

### Textual Amendments

**F46** Reg. 5(1) reg. 5 becomes reg. 5(1) (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **4(1)**

**F47** Reg. 5(2) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **4(2)**

## PART III **E+W+S**

### REGISTRATION: PRODUCERS AND SCHEMES

#### Producer registration obligation **E+W+S**

6. Subject to regulations 37 and 39 and Schedules 8 and 10, a producer shall be registered with the 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 **E+W+S**

7.—(1) Subject to paragraph (3) below, a producer who is required by regulation 6 to be registered shall, on or before 7th April in a relevant year, make an application for producer registration to the appropriate Agency.

(2) Where the producer is a partnership, the application shall be made by any partner acting on behalf of the partnership.

(3) Where any of the following occurs in a relevant year—

- (a) the application for registration of a scheme of which the applicant was a member is refused;
- (b) the registration of a scheme of which the applicant was a member is cancelled;
- (c) the applicant's membership of a scheme is discontinued;
- (d) the applicant becomes a producer in respect of that year; or
- (e) an application to register made within the time limit in paragraph (1) 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 information set out in Part I of Schedule 3;

- [<sup>F48</sup>(c) be accompanied by the following further information, on a form supplied for that purpose by the appropriate Agency and signed by the approved person, in relation to the relevant year—
  - (i) each class of producer to which the applicant belongs;
  - (ii) if they belong to more than one class of producer, which of those classes constitutes their main activity as a producer; and
  - (iii) the relevant SIC code for the class of producer to which the applicant belongs or, as the case may be, for the applicant’s main activity;
- (ca) other than in the case of a small producer who has elected to follow the allocation method under sub-paragraph (d) and, subject to paragraph (9), be accompanied by the following further information, on a form supplied for that purpose by the appropriate Agency and signed by the approved person, in relation to the relevant year—
  - (i) in relation to each class of producer—
    - (aa) the amount of packaging waste which they are required to recover by virtue of paragraph 3(1) of Schedule 2 and of this the proportion which is to be recovered by recycling by virtue of paragraph 3(2) of Schedule 2;
    - (bb) the amount of packaging waste which they are required to recycle for each kind of recyclable material by virtue of paragraph 3(3) of Schedule 2;
  - (ii) the basis on which the amounts referred to in paragraph (i) were calculated; and
  - (iii) such other information, which is specified on the form, as the appropriate Agency reasonably requires in order to determine the application;]
- (d) in the case of a small producer state whether he elects to follow the allocation method, and, if he does, be accompanied by evidence as to his turnover;

<sup>F49</sup>(e) .....

<sup>F50</sup>(f) .....

(5) A small producer who has elected under paragraph (4)(d) above to follow the allocation method shall follow this method for a minimum of the year of registration and the following two years.

- (6) An application for producer registration shall be granted where—
  - (a) the producer has complied with—
    - [<sup>F51</sup>(i) paragraphs (4)(a) and (b) and (11);]
    - (ii) where applicable, paragraphs (4)(c), [<sup>F52</sup>(ca),] (d), (f) and (5) above; and
  - (b) the appropriate Agency is satisfied that the further information provided in accordance with paragraph (4)(c) [<sup>F53</sup>or (ca)] above, or (9) below, has been provided in accordance with paragraph (8) below,

and shall otherwise be refused.

- (7) 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—
    - (i) where the application was made within the time limit specified in paragraph (1), from the beginning of the relevant year;
    - (ii) where the application was made within the time limit specified in paragraph (3), from the date of the relevant occurrence;

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007. (See end of Document for details)

(iii) in any other case, from the date specified in the confirmation,  
until any cancellation of the producer’s registration in accordance with regulation 11.

(8) Any information provided shall be as accurate as reasonably possible.

(9) Where the application to register is made in one of the circumstances set out in sub-paragraph (a), (b), (d) or (e) of paragraph (3) above, the further information referred to in paragraph (4)(c) [<sup>F54</sup>or (ca)] above need not accompany the application but shall be provided within 28 days of the application being made.

<sup>F55</sup>(10) .....

[<sup>F56</sup>(11) A producer making an application for registration shall pay the fee required in regulation 9 to the appropriate Agency on or before the relevant date.]

**Textual Amendments**

- F48** Reg. 7(4)(c)(ca) substituted for reg. 7(4)(c) (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **5(a)(i)**
- F49** Reg. 7(4)(e) omitted (26.11.2010) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **5(a)(ii)**
- F50** Reg. 7(4)(f) omitted (24.2.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **4**
- F51** Reg. 7(6)(a)(i) substituted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **5(b)(i)**
- F52** Word in reg. 7(6)(a)(ii) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **5(b)(ii)**
- F53** Words in reg. 7(6)(b) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **5(b)(iii)**
- F54** Words in reg. 7(9) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **5(c)**
- F55** Reg. 7(10) omitted (24.2.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **4**
- F56** Reg. 7(11) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **5(d)**

**Conditions of registration of a producer** **E+W+S**

8. Registration of a producer shall be subject to the conditions that the producer will—
- (a) comply with his obligations set out in regulation 4(4);
  - (b) provide any information reasonably requested by the appropriate Agency with regard to the obligations referred to in paragraph (a) above;
  - (c) 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 material change in the information provided in accordance with regulation 7(4)(b); and
    - (iii) any material change in the further information provided in accordance with regulation 7(4)(c), [<sup>F57</sup>or (ca),] or 7(9), as the case may be,
 within 28 days of the occurrence of any such change;

- (d) provide records and returns to the appropriate Agency as required by regulation 20; [F58 and]
- (e) notify the appropriate Agency that he wishes 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;
- F59 (f) . . . . .
- F59 (g) . . . . .

#### Textual Amendments

- F57** Words in reg. 8(c)(iii) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **6**
- F58** Word in reg. 8 inserted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **5(a)**
- F59** Reg. 8(f)(g) omitted (24.2.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **5(b)**

### Forms and fees for producer registration **E+W+S**

9.—(1) The appropriate Agency shall provide the form referred to in regulation 7(4)(c) [F60 or (ca)] free of charge to any person requesting one.

(2) Subject to paragraphs (3) and (4) below, the fee which is to be charged by the appropriate Agency on an application for producer registration shall be—

- (a) where the producer is a small producer who has elected to follow the allocation method, £562; or
- (b) in all other cases, £776.

(3) In the case of an application where the fee in paragraph (2) above is to be treated as a fee for group registration by virtue of paragraph 5(b)(iii) of Schedule 8, in respect of each subsidiary included within that application that is not a small producer who has elected to follow the allocation method, the appropriate Agency shall charge an additional fee of—

- (a) £180 for each of the first 4 subsidiaries;
- (b) £90 for each of the 5th to the 20th subsidiaries inclusive; and
- (c) £45 for each of the 21st and subsequent subsidiaries.

(4) On each resubmission of an application which is required by reason of the producer having failed to meet the requirements of regulation 7(4) or (9) on his previous submission, the appropriate Agency shall charge an additional fee of £220.

#### Textual Amendments

- F60** Words in reg. 9(1) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **7**

### Refusal to register producers **E+W+S**

10. Any decision of the appropriate Agency under regulation 7(6) 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, a statement as to the right of appeal under Part VI of these Regulations and a statement as to the offence specified in regulation 40(1)(a).

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007. (See end of Document for details)*

## Cancellation of registration of producers **E+W+S**

11.—(1) The appropriate Agency may cancel the registration with it of a producer where it appears to the appropriate Agency that—

- (a) the producer is in breach of any of the conditions specified in regulation 8; or
- (b) the producer knowingly or recklessly supplied false information in connection with his application for registration, or with compliance with any of the conditions specified in regulation 8.

(2) The 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, the appropriate Agency shall serve on the producer concerned written notice of—

- (a) its decision to cancel;
- (b) the reasons for the decision;
- (c) 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 6;
  - (ii) in the case of cancellation under paragraph (2) above, 5 days from the date of the notice;
- (d) the right of appeal under Part VI of these Regulations; and
- (e) where cancellation is under paragraph (1), a statement as to the offence specified in regulation 40(1)(a).

## Schemes: general provisions **E+W+S**

12.—(1) The operator of a scheme shall carry out the recovery and recycling obligations and where applicable, consumer information obligations, that every producer who is a member of the scheme that he operates would have had, but for their membership of that scheme.

[<sup>F61</sup>(2) The operator of a scheme shall inform the members in writing immediately if—

- (a) the operator receives a notice of withdrawal of the scheme's approval under regulation 13C(3); or
- (b) the scheme is approved pursuant to regulation 13(4).]

[<sup>F61</sup>(2A) The operator shall provide a copy of the notice of withdrawal of the scheme's approval with the written notice provided pursuant to paragraph (2).]

(3) The operator of a scheme may only demonstrate compliance with his recovery and recycling obligations through the acquisition of PRNs or PERNs or both.

(4) A PRN or PERN that relates to packaging waste delivered or exported for reprocessing in December in a year may be relied on by the operator of a scheme to demonstrate compliance with his recovery and recycling obligations either in that year or the following year.

### Textual Amendments

**F61** Reg. 12(2)(2A) substituted for reg. 12(2) (24.2.2016) by The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), 6



## Application for approval of a scheme **E+W+S**

**13.**—(1) An application for approval of a scheme by the appropriate [<sup>F62</sup>Agency] shall be made in writing by the operator of the scheme and shall—

- (a) contain the following information—
  - (i) the name and address of the person who proposes to operate the scheme; and
  - (ii) information which demonstrates that—
    - (aa) the scheme is likely to subsist for a period of at least 5 years; and
    - (bb) the operator of the scheme is likely to be able to meet its expected recovery and recycling obligations for that period; and
- (b) be accompanied by the following documentation—
  - (i) a copy of the constitution of the scheme;
  - (ii) a copy of the rules with which a member of the scheme is obliged to comply; and
  - (iii) a copy of the procedures under which the operator of the scheme would enforce the rules against a member of the scheme.

(2) Subject to paragraphs (3) and (4), an application for approval of a scheme shall within 28 days of receipt of the application be granted [<sup>F63</sup>where the appropriate Agency] is satisfied that—

- (a) the scheme is likely to subsist for a period of at least 5 years;
- (b) the operator of the scheme is likely to be able to meet its expected recovery and recycling obligations for that period,

and otherwise be refused.

[<sup>F64</sup>(2A) Where an application for approval is granted, the appropriate Agency shall notify the operator of the scheme in writing of its decision within 28 days of making that decision.]

(3) A further application for approval in accordance with paragraph (1) shall be made on the occurrence of—

- (a) a change in the person who is the operator of the scheme;
- (b) a conviction of the operator of the scheme for an offence under these Regulations;
- (c) the operator of the scheme notifying the appropriate [<sup>F65</sup>Agency] under regulation 22(4) that he did not comply with the requirements of regulation 12(1) for the previous year of registration; or
- (d) a failure by the operator of the scheme to comply, where applicable, with the additional conditions set out [<sup>F66</sup>in regulation 13A(2)],

within 28 days of the occurrence of an event mentioned in sub-paragraph (a), (b) or (d) above or within 14 days of the occurrence of the event mentioned in sub-paragraph (c) above.

(4) Where the operator of the scheme has notified the appropriate [<sup>F67</sup>Agency] under regulation 22(4) that he did not comply with the requirements of regulation 12(1) the appropriate [<sup>F67</sup>Agency] may, whether or not it is not satisfied as to the matters set out in paragraph (2) above, grant approval subject to the additional conditions set out in [<sup>F68</sup>regulation 13A(2)].

[<sup>F69</sup>(5) Where the conditions in paragraph (7) are met, an operator may elect to make an application for approval by DOENI under paragraph (1).]

[<sup>F69</sup>(6) Where an operator so elects—

- (a) functions of the appropriate Agency in relation to the application under this regulation shall be carried out by DOENI on behalf of the appropriate Agency; and

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007. (See end of Document for details)*

- (b) until the application has been determined, the operator may not make an application to the appropriate Agency under paragraph (1) in relation to the same or substantially the same scheme.]

[<sup>F69</sup>(7) The conditions are—

- (a) the operator’s registered office or principal place of business is in Northern Ireland; and  
 (b) the operator proposes to apply to DOENI in relation to the same year for approval of the scheme under regulation 13(1) of PRONIR.]

[<sup>F69</sup>(8) For the purposes of these Regulations, an act of DOENI performing the functions of the appropriate Agency pursuant to paragraph (6)(a) is to be treated as an act of the appropriate Agency.]

#### Textual Amendments

- F62** Word in reg. 13(1) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **7(a)** (with reg. 23(1)(3))
- F63** Words in reg. 13(2) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **7(b)** (with reg. 23(1)(3))
- F64** Reg. 13(2A) inserted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **7(c)** (with reg. 23(1)(3))
- F65** Word in reg. 13(3)(c) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **7(d)(i)**
- F66** Words in reg. 13(3)(d) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **7(d)(ii)**
- F67** Word in reg. 13(4) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **7(e)(i)**
- F68** Words in reg. 13(4) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **7(e)(ii)**
- F69** Reg. 13(5)-(8) substituted for reg. 13(5)-(10) (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **7(f)**

#### [<sup>F70</sup>Conditions of approval of a scheme **E+W+S**

- 13A.**—(1) Approval of a scheme under regulation 13 is subject to the following conditions—
- (a) the operator of the scheme complies with the obligations set out in regulation 12(1);
- (b) the operator of the scheme monitors the accuracy of information to which regulation 19 applies, so that the operator may reasonably discover when a scheme member has not complied with regulation 19(2)(c);
- (c) the operator of the scheme acquires PRNs or PERNs in a manner which least hinders the ability of any other operator to acquire PRNs or PERNs pursuant to regulation 12(3);
- (d) the operator of the scheme maintains sufficient financial resources to acquire PRNs or PERNS pursuant to regulation 12(3);
- (e) the operator of the scheme maintains access to, and sufficient financial resources to pay for, the expertise necessary for the purposes of calculating the recovery and recycling obligations referred to in regulation 12(1);
- (f) the operator of the scheme provides any information reasonably requested by the appropriate Agency for the purposes of monitoring compliance pursuant to regulation 31(1)(b) or (c);

- (g) in relation to any year in which the scheme is registered under regulation 14—
- (i) the operator of the scheme informs the appropriate Agency in writing of—
    - (aa) 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;
    - (bb) any material change in the information provided in accordance with regulation 14(3)(b);
    - (cc) any material change in the further information provided in accordance with regulation 14(3)(c); and
    - (dd) any change in the operator stated under regulation 14(3)(h), within 28 days of the occurrence of any such change; and
  - (ii) the operator of the scheme complies with the requirement set out in regulation 15A; and
- (h) the operator of the scheme provides records and returns to the appropriate Agency as required by regulation 22.
- (2) Approval of a scheme pursuant to regulation 13(4) is subject to the following additional conditions in relation to any year in which the scheme is registered under regulation 14—
- (a) the operator of the scheme complies with 50% of the total recovery and recycling obligations of the scheme before 30th June;
  - (b) the operator of the scheme complies with a further 50% of the remaining recovery and recycling obligations before 30th September;
  - (c) the operator of the scheme makes returns to the appropriate Agency of information demonstrating compliance with the conditions set out at sub-paragraphs (a) and (b) on or before 15th July and 15th October respectively;
  - (d) the operator pays the fee under regulation 16(3) to the appropriate Agency; and
  - (e) the operator of the scheme does not accept any new members into the scheme.
- (3) The additional conditions set out in paragraph (2) cease to apply at the beginning of the year following the approval year if the appropriate Agency is satisfied that in the approval year the operator complied with—
- (a) the obligations under regulation 12(1); and
  - (b) the additional conditions set out in paragraph (2).
- (4) If the additional conditions set out in paragraph (2) cease to apply by virtue of paragraph (3), the appropriate Agency shall serve written notice of the cessation within 28 days of the date on which the appropriate Agency is satisfied in accordance with paragraph (3).
- (5) In paragraph (3), “approval year” means the year for which approval was granted pursuant to regulation 13(4).]

#### Textual Amendments

**F70** Regs. 13A-13C inserted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), 8 (with reg. 23(2)(3))

**[<sup>F70</sup>Refusal to grant approval of a scheme E+W+S]**

**13B.** Where the appropriate Agency decides under regulation 13 to refuse to grant approval of a scheme, it shall serve on the operator of the scheme, within 28 days of making the decision, written notice of—

- (a) the decision under regulation 13;
- (b) the reasons for the decision; and
- (c) the right of appeal under regulation 27(2)(a).]

**Textual Amendments**

**F70** Regs. 13A-13C inserted (24.2.2016) by The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), 8 (with reg. 23(2)(3))

**[<sup>F70</sup>Withdrawal of approval of a scheme E+W+S]**

**13C.**—(1) The appropriate Agency may withdraw approval of a scheme where it appears to it that—

- (a) the operator of the scheme is in breach of any of the conditions referred to in regulation 13A(1) or (2); or
- (b) the operator knowingly or recklessly supplied false information in connection with the application for registration, or in connection with compliance with the conditions referred to in regulation 13A(1) or (2).

(2) The appropriate Agency shall cancel any registration of a scheme under regulation 14 if it withdraws approval of the scheme and such cancellation shall take effect on the date on which the withdrawal of approval takes effect.

(3) Before the withdrawal of approval, the appropriate Agency shall serve on the operator of the scheme written notice of—

- (a) its decision under paragraph (1) to withdraw approval;
- (b) the reasons for the decision;
- (c) the right of appeal under regulation 27(2)(b) and (c); and
- (d) the date on which the withdrawal takes effect, not being earlier than the expiration of the time-limit for an appeal against the notice provided for in paragraph 2 of Schedule 6.

(4) Where an application under regulation 13(3)(a) or (b) is not received by the due date, the appropriate Agency may decide to withdraw approval of the scheme and, if such a decision is taken, shall serve on the operator of the scheme written notice of—

- (a) the decision to withdraw approval of the scheme;
- (b) the reasons for the decision; and
- (c) the date on which the withdrawal takes effect, not being earlier than 28 days from the date of the notice.

(5) Where an application under regulation 13(3)(c) or (d) is not received by the due date, the appropriate Agency shall serve written notice on the operator of the withdrawal of approval of the scheme, which shall take effect from the date of the notice.

(6) The appropriate Agency shall consider any representations made by the operator of a scheme before the notice under paragraph (4) takes effect, and may withdraw the notice under paragraph (4) at any time.

(7) An operator of a scheme in relation to which approval is withdrawn under this regulation shall, within 14 days of the withdrawal taking effect, serve on each scheme member written notice containing the following information—

- (a) a statement that approval of the scheme has been withdrawn and the date when the withdrawal takes effect;
- (b) the reasons for the withdrawal; and
- (c) the obligation of a producer under regulation 6.]

#### Textual Amendments

**F70** Regs. 13A-13C inserted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **8** (with reg. 23(2)(3))

#### Application for registration of a scheme **E+W+S**

**14.**—(1) An application for registration of a scheme in relation to a year shall be made by the operator of the scheme, on or before [<sup>F71</sup>15th April] in that year, to the appropriate Agency.

(2) Where the operator of the scheme is a partnership the application for registration shall 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 information set out in Part II of Schedule 3;
- (c) <sup>F72</sup>... be accompanied by the following further information, on a form supplied for that purpose by the appropriate Agency [<sup>F73</sup>and signed in accordance with the requirement in paragraph (3A)], in relation to the relevant year—
  - (i) each producer who is a member of the scheme [<sup>F74</sup>and each class of producer to which each producer belongs];
  - (ii) if any producer belongs to more than one class of producer, which of those classes constitutes his main activity as a producer;
  - (iii) the relevant SIC code for the activity or, as the case may be, the main activity of each class of producer in the scheme;
  - (iv) in relation to each producer the information referred to in [<sup>F75</sup>paragraph (4)(ca)(i) and (ii)] of regulation 7;
  - (v) in relation to members who are small producers who have elected to follow the allocation method, the aggregate amount of packaging waste which is required to be recycled by virtue of paragraphs 2, 7 and 8 of Schedule 2 by those members;
  - (vi) a statement of the turnover of each small producer who is a member of the scheme; and
  - (vii) such other information as the appropriate Agency reasonably requires in order to determine the application and as is specified on the form;
- (d) be accompanied by a statement as provided in Part III of Schedule 3;
- (e) [<sup>F76</sup>except where a scheme is registered in respect of the previous year,] be accompanied by evidence that the scheme has been approved by the appropriate [<sup>F77</sup>Agency]; but, subject to paragraph (4)(d) below, where the scheme has yet to be approved, such evidence shall be supplied to the appropriate Agency as soon as possible after receipt;

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007. (See end of Document for details)

<sup>F78</sup>(f) .....

- (g) be accompanied by a fee calculated under regulation 16; and
- (h) where there is more than one operator of the scheme, be accompanied by a statement signed by all of the operators of the scheme as to which operator is able to accept notices and act on behalf of all the operators of the scheme.

[<sup>F79</sup>(3A) The requirement mentioned in paragraph (3)(c) is that the form be signed by—

- (a) the approved person; or
- (b) in the case of a scheme that has not already been registered, anyone who is eligible to be an approved person under regulation 34(2).]

(4) An application for registration shall be granted where—

- (a) the operator has complied with paragraphs (3)(a), (b), (d), <sup>F80</sup>... (g) and (h) 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;

<sup>F81</sup>(c) .....

[<sup>F82</sup>(d) the scheme has been approved by the appropriate [<sup>F83</sup>Agency]; and

- (e) the scheme was either registered in the previous year or the scheme was approved by the appropriate [<sup>F83</sup>Agency] no earlier than in the year previous to that in which the application for registration is made,]

and shall otherwise be refused.

(5) Where an application for registration of a scheme is granted—

- (a) the appropriate Agency shall, within 28 days of its decision, notify the operator of the scheme in writing of its decision; and
- (b) the scheme shall be treated as registered from the beginning of the year in relation to which the application is made until any cancellation of the scheme’s registration in accordance with [<sup>F84</sup>regulation 13C(2)].

<sup>F85</sup>(6) .....

(7) Any information provided shall be as accurate as reasonably possible.

[<sup>F86</sup>(8) Where an application for registration is refused on the grounds of failure to meet the requirements of paragraph (4)(e), the operator must make a new application for approval of the scheme in accordance with regulation 13 before making an application for registration of the scheme under this regulation.]

[<sup>F87</sup>(9) Where the conditions in paragraph (11) are met, an operator may elect to make an application to DOENI for registration under paragraph (1).]

[<sup>F87</sup>(10) Where an operator so elects—

- (a) functions of the appropriate Agency in relation to the application under this regulation and under regulations 16, 17 and 19(2)(a) shall be carried out by DOENI acting on behalf of the appropriate Agency; and
- (b) until such time as the application has been determined, the operator may not make an application to the appropriate Agency under paragraph (1) in relation to the same or substantially the same scheme.]

[<sup>F87</sup>(11) The conditions are—

- (a) the operator’s registered office or principal place of business is in Northern Ireland; and

(b) the operator proposes to apply to DOENI in relation to the same year for registration of the scheme under regulation 14(1) of PRONIR.]

[<sup>F87</sup>(12) For the purposes of these Regulations, an act of DOENI performing the functions of the appropriate Agency pursuant to paragraph (10)(a) is to be treated as an act of that Agency.]

#### Textual Amendments

- F71** Words in reg. 14(1) substituted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **9(a)**
- F72** Words in reg. 14(3)(c) omitted (26.11.2010) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **9(b)(i)**
- F73** Words in reg. 14(3)(c) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **9(b)(ii)**
- F74** Words in reg. 14(3)(c)(i) added (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **9(b)(iii)**
- F75** Words in reg. 14(3)(c)(iv) substituted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **9(b)(iv)**
- F76** Words in reg. 14(3)(e) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **9(c)**
- F77** Word in reg. 14(3)(e) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **9(a)(i)**
- F78** Reg. 14(3)(f) omitted (24.2.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **9(a)(ii)**
- F79** Reg. 14(3A) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **9(e)**
- F80** Word in reg. 14(4)(a) omitted (24.2.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **9(b)(i)**
- F81** Reg. 14(4)(c) omitted (24.2.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **9(b)(ii)**
- F82** Reg. 14(4)(c)-(e) substituted for reg. 14(4)(c)(d) (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **9(f)**
- F83** Word in reg. 14(4)(d)(e) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **9(b)(iii)**
- F84** Words in reg. 14(5)(b) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **9(c)**
- F85** Reg. 14(6) omitted (26.11.2010) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **9(g)**
- F86** Reg. 14(8) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **9(h)**
- F87** Reg. 14(8)-(12) inserted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **9(d)**

#### Conditions of registration of a scheme **E+W+S**

<sup>F88</sup>15. ....

#### Textual Amendments

- F88** Reg. 15 omitted (24.2.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **10(1)**



**[<sup>F89</sup>Notification of change of membership E+W+S]**

**15A.** In relation to the year in which registration is granted, the operator of the scheme shall notify the appropriate Agency in writing at intervals as required by the appropriate Agency of any change in the membership of the scheme and any such notification shall be accompanied by the additional fee calculated in accordance with regulation 16(6).]

**Textual Amendments**

**F89** Reg. 15A inserted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **10(2)**

**Forms and fees for registration of a scheme E+W+S**

**16.**—(1) The appropriate Agency shall provide the form referred to in regulation 14(3)(c) free of charge to any person requesting one.

(2) Subject to paragraphs (3), (4), (5) and (6) below, the fee which is to be charged by the appropriate Agency on an application for registration of a scheme shall be—

- (a) £345 for each small producer who has elected to follow the allocation method and who is on the date of the application a member of the scheme; and
- (b) £564 for each producer who is not a small producer who has elected to follow the allocation method and is on the date of the application a member of the scheme.

(3) In the case of a scheme that has been granted [<sup>F90</sup>approval pursuant to] regulation 13(4) the fee to be charged by the appropriate Agency in addition to the fee in paragraph (2) above is—

- (a) £1,540 where the operator of the scheme has an obligation to recover up to and including 24,999 tonnes of packaging waste;
- (b) £2,310 where the operator of the scheme has an obligation to recover between 25,000 and 249,999 tonnes of packaging waste; or
- (c) £3,080 where the operator of the scheme has an obligation to recover over 250,000 tonnes of packaging waste.

(4) In the case of a group of companies that is on the date of the application a member of a scheme the fee to be charged by the appropriate Agency for that member is—

- (a) £345 where the holding company is a small producer who has elected to follow the allocation method and the group of companies had an aggregate turnover of £5,000,000 or less in the previous year; or
- (b) £564 where—
  - (i) the holding company is not a small producer who has elected to follow the allocation method; or
  - (ii) the holding company is a small producer who has elected to follow the allocation method and the group of companies had an aggregate turnover of more than £5,000,000 in the previous year;

and, in addition to the fee payable under sub-paragraph (a) or (b), in respect of each subsidiary included within that application who is not a small producer who has elected to follow the allocation method, the appropriate Agency shall charge a fee of—

- (i) £180 for each of the first 4 subsidiaries;
- (ii) £90 for each of the 5th to 20th subsidiaries inclusive; and
- (iii) £45 for each of the 21st and subsequent subsidiaries.



(5) In the case where an application is required to be resubmitted as a result of a failure to meet the requirements of regulation 14(3)(c) or 14(6), the fee to be charged by the appropriate Agency in addition to any fee payable under this regulation is £220 for each member of that scheme in respect of whom the information resubmitted was different from that contained in the original application.

(6) The additional fee which is to be paid by an operator of a scheme in compliance with the [F91]obligation set out] in regulation 15 is calculated as follows—

$$(A \times B) + (C \times D) = AF$$

where—

“A” is the number of new members of the scheme which are the subject of the notification who are not small producers who have elected to follow the allocation method;

“B” is the fee set out at sub-paragraph (2)(b) above plus the sum of £110;

“C” is the number of new members of the scheme which are the subject of the notification who are small producers who have elected to follow the allocation method ;

“D” is the fee set out at sub-paragraph (2)(a) above plus the sum of £110; and

“AF” is the additional fee.

#### Textual Amendments

**F90** Words in [reg. 16\(3\)](#) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **11(a)**

**F91** Words in [reg. 16\(6\)](#) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **11(b)**

#### Refusal to register a scheme **E+W+S**

17. Any decision of the appropriate Agency under regulation 14 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 [F92]regulation 27(2)(d)]; and
- (c) a statement as to the offence specified in regulation 40(1)(a).

#### Textual Amendments

**F92** Words in [reg. 17\(b\)](#) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **12**

#### Cancellation of registration of a scheme **E+W+S**

<sup>F93</sup>18. ....

#### Textual Amendments

**F93** [Reg. 18](#) omitted (24.2.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **13**

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007. (See end of Document for details)*

### Information provided to scheme operators **E+W+S**

- 19.—(1) This regulation applies to information which—
- (a) is provided to the operator of a scheme by a producer who is a member of that scheme at the time the information is provided; and
  - (b) is information which the operator of the scheme will need to rely upon for the purposes of his application for registration of a scheme under regulation 14.
- (2) A producer who provides to the operator of the scheme information to which this regulation applies shall—
- (a) provide that information on a form supplied for the purpose by the appropriate Agency;
  - (b) ensure that the form is signed by the approved person; and
  - (c) ensure that the information is as accurate as reasonably possible.

## PART IV **E+W+S**

### RECORDS, RETURNS AND CERTIFICATE

#### Producers—records and returns **E+W+S**

- 20.—(1) A producer who is subject to the certifying obligation shall—
- (a) maintain, and retain for at least 4 years after the record is made, records of the information referred to in paragraph (2) below for a small producer who has elected to follow the allocation method or paragraph (3) for any other producer; and
  - (b) at the same time as he furnishes a certificate of compliance to the appropriate Agency in accordance with regulation 21, make a return to the appropriate Agency of that information.
- (2) The information to be recorded by a small producer who has elected to follow the allocation method is—
- (a) his turnover;
  - (b) the recycling allocation for the relevant year as provided in paragraph 8 of Schedule 2;
  - (c) the amount, in tonnes, of packaging waste which is to be recycled under the allocation method set out in paragraph 7 of Schedule 2; and
  - (d) the aggregate tonnage of packaging materials that have been received by an accredited reprocessor for recycling and that have been exported by an accredited exporter for recycling as set out in the PRNs or PERNs acquired.
- (3) The information to be recorded by any other producer is—
- (a) the amount in tonnes, to the nearest tonne, of packaging waste delivered respectively for recovery and for recycling to a reprocessor or exporter, by or on behalf of the producer as set out in the PRNs or PERNs acquired; and
  - (b) the total number of tonnes of each material which is the subject of the producer's recovery and recycling obligations.
- (4) The records maintained under paragraph (1)(a) above by a producer shall be made available, on demand, to the appropriate Agency.

### Producers—certifying obligation **E+W+S**

21.—(1) Subject to regulations 5, 37 and 39 and Schedules 8 and 10, a producer shall furnish in accordance with this regulation a certificate of compliance to the appropriate Agency.

(2) A certificate of compliance shall be furnished as evidence of whether or not the producer has complied with his recovery and recycling obligations for a relevant year and shall be furnished on or before 31st January in the year immediately following the relevant year.

(3) The provisions of Schedule 4 shall apply as regards the information to be contained in a certificate of compliance.

### Schemes—records and returns **E+W+S**

22.—(1) The operator of a scheme shall maintain, and retain for at least 4 years after they are made, records of the information referred to in paragraph (2) below, and make returns of that information to the appropriate Agency on or before 31st January in the year following the year to which the information relates.

(2) For each year the information is—

(a) the amount in tonnes, to the nearest tonne, of packaging waste delivered respectively for recovery and for recycling, to a reprocessor or exporter through the scheme as set out in the PRNs or PERNs acquired;

<sup>F94</sup>(b) ..... and

(c) the total number of tonnes of each material which is the subject of an obligation to recover and recycle for which the operator of the scheme is responsible under regulation 12(1).

(3) The records maintained under paragraph (1) above shall be made available, on demand, to the appropriate Agency.

(4) The operator of a scheme shall, by 31st January in 2008 and thereafter by 31st January in each year following the year to which the information relates, send a statement [<sup>F95</sup>signed by the approved person] to the appropriate [<sup>F96</sup>Agency] confirming whether or not the operator has complied with the requirements of regulation 12(1) for the previous year of registration.

#### Textual Amendments

**F94** Reg. 22(2)(b) omitted (24.2.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016](#) (S.I. 2016/241), regs. 1(b), **14(a)**

**F95** Words in reg. 22(4) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010](#) (S.I. 2010/2849), regs. 1(b), **10**

**F96** Word in reg. 22(4) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016](#) (S.I. 2016/241), regs. 1(b), **14(b)**

### <sup>F97</sup>Notification of winding-up, receivership, administration, etc. **E+W+S**

22A.—(1) This regulation applies to—

(a) the operator of a scheme;

(b) a producer; or

(c) a reprocessor or an exporter accredited in accordance with Part 5 (accreditation of reprocessors and exporters).

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007. (See end of Document for details)*

(2) A company or limited liability partnership to which this regulation applies shall inform the appropriate Agency as soon as is practicable upon becoming aware that one or more relevant circumstances apply or are about to apply to them.

(3) The operator of a scheme must inform the appropriate Agency as soon as is practicable upon becoming aware that one or more relevant circumstances apply or are about to apply to the scheme it operates.

(4) For the purposes of this regulation “relevant circumstances” are—

- (a) a winding-up order has been made or a resolution for voluntary winding-up has been passed;
- (b) a determination for a voluntary winding-up has been made;
- (c) a receiver or a manager of the company or limited liability partnership’s undertaking has been duly appointed;
- (d) its undertaking has entered administration;
- (e) a voluntary arrangement proposed for the purposes of Part 1 of the Insolvency Act 1986 has been approved under that Part of the Act.]

#### Textual Amendments

**F97** Reg. 22A inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **11**

## PART V **E+W+S**

### ACCREDITATION OF REPROCESSORS AND EXPORTERS

#### Requirement for accreditation **E+W+S**

**23.**—(1) A person shall not issue a PRN unless he is at the time of the issue an accredited reprocessor or, where the PRN is of the type referred to in paragraph (6) of regulation 4 or paragraph (4) of regulation 12 was accredited at the time the material was received, and the PRN relates to packaging waste received by him for reprocessing on the reprocessing site for which he is accredited.

(2) A person shall not issue a PERN unless he is at the time of the issue an accredited exporter or, where the PERN is of the type referred to in paragraph (6) of regulation 4 or paragraph (4) of regulation 12 was accredited at the time the material was received, and the PERN relates to <sup>F98</sup>an export of packaging waste for reprocessing] for which he is accredited under regulation 24.

#### Textual Amendments

**F98** Words in reg. 23(2) substituted (19.7.2008) by [Producer Responsibility Obligations \(Packaging Waste\) \(Amendment No.2\) Regulations 2008 \(S.I. 2008/1941\)](#), regs. 1(1), **3**

#### Application for accreditation **E+W+S**

**24.**—(1) An application for accreditation shall be made to the appropriate Agency—

- (a) in the case of a person wishing to be accredited—

- (i) as a reprocessor in respect of each reprocessing site for which he wishes to be accredited and stating which of the applicable recovery operations and which recyclable materials he wishes that accreditation to cover; or
  - [<sup>F99</sup>(ii) as an exporter, in respect of the export of one or more recyclable materials for reprocessing outside the United Kingdom;]
  - (b) on a form made available by the appropriate Agency and including all the information specified on that form, being information which the appropriate Agency reasonably requires in order to determine the application;
  - [<sup>F100</sup>(c) accompanied by a business plan containing information on how the funds acquired from the issue of PRNs or PERNs are to be applied including information in respect of the following matters—
    - (i) investment in infrastructure and the development of capacity for the collection, sorting, treatment and reprocessing of packaging waste;
    - (ii) funding provided to other persons involved in the collection of packaging waste;
    - (iii) reductions in the prices of, and the development of new markets for, materials or goods made from recycled packaging waste;
    - (iv) the costs of complying with obligations in these Regulations;
    - (v) funds retained for future investment;
    - (vi) the development of a communications strategy for consumers of packaging made from recyclable materials; and]
  - (d) accompanied by a fee of—
    - (i) in the case of an applicant who undertakes to issue PRNs or PERNs for not more than 400 tonnes of packaging waste in the year to which the application relates, £505; or
    - (ii) in any other case, £2616.
  - (2) An application for accreditation as—
    - (a) a reprocessor to issue PRNs for the receipt of one or more specified recyclable materials at a specified reprocessing site and for reprocessing in one or more specified recovery operations or a combination of such operations; or
    - [<sup>F101</sup>(b) an exporter, to issue PERNs for the export of one or more specified recyclable materials for reprocessing in one or more recovery operations outside the United Kingdom, or a combination of such operations,]
- shall be granted where the appropriate Agency is satisfied as to the matters set out in paragraph (3) below or, in any other case, shall be refused.
- (3) The matters referred to in paragraph (2) are—
    - (a) the contents of the business plan referred to in paragraph (1)(c) above;
    - [<sup>F102</sup>(b) where the application is made for accreditation as an exporter and relates to—
      - (i) one or more reprocessing sites outside the [<sup>F103</sup>United Kingdom], that [<sup>F104</sup>any recovery or recycling operations taking place in each such site take place under conditions that are broadly equivalent to requirements applicable to reprocessing sites in the United Kingdom]; or
      - (ii) one or more reprocessing sites outside the [<sup>F105</sup>United Kingdom], but it is not possible for the applicant at the time of the application to specify the site or sites to which the export of one or more specified recyclable materials for reprocessing is taking place, that the requirements [<sup>F106</sup>applicable to the shipment of waste from the United Kingdom] are met in respect of each such export;]

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- (c) that the application has been duly made in accordance with paragraph (1) above; and
- (d) the reprocessor or exporter will comply with the conditions specified in or under Schedule 5.

(4) The appropriate Agency shall notify the applicant in writing of its decision under paragraph (2) no later than 12 weeks after the application was made and, if the decision is a decision to refuse accreditation, such notification shall include reasons for the decision and a statement of the right of appeal under regulation 27(3)(a).

(5) Subject to regulation 26, where accreditation is granted under paragraph (2), it shall take effect—

- (a) where the application is made in the preceding year to that in which the person wishes to be accredited—
  - (i) from 1st January where the decision to accredit was made before that date; and
  - (ii) in all other cases, from the date of the decision,
 and shall remain in force until 31st December in the year for which the person has applied to be accredited;
- (b) where the application is made during the year in which the person wishes to be accredited, from the date of the decision, and shall remain in force until 31st December in that year.

(6) Where a reprocessor or exporter who has given the undertaking and paid the fee specified in paragraph (1)(d)(i) subsequently breaches that undertaking, he shall from the date of that breach be liable to pay to the appropriate Agency the sum of £2111 (being the balance of the fee which would have been payable under paragraph (1)(d)(ii) had the undertaking not been given) [<sup>F107</sup>within 28 days of the breach].

[<sup>F108</sup>(7) An application to extend the accreditation of an exporter to include a further reprocessing site or sites to which they want to export packaging waste for reprocessing shall be made to the appropriate Agency on the form specified in paragraph (1) and be accompanied by a fee of—

- (a) £85 for the first form submitted as part of the application; and
- (b) £35 for each additional form submitted as part of the application.]

[<sup>F109</sup>(8) . . . . .]

(9) An application to extend an exporter’s accreditation to include a further reprocessing site or sites located outside the [<sup>F110</sup>United Kingdom] shall be granted by the appropriate Agency where it is satisfied that each of those sites meets [<sup>F111</sup>requirements that are broadly equivalent to requirements applicable to reprocessing sites in the United Kingdom] and is satisfied that the application was made in accordance with paragraph (7) above, and in any other case be refused.

**Textual Amendments**

- F99** Reg. 24(1)(a)(ii) substituted (19.7.2008) by [Producer Responsibility Obligations \(Packaging Waste\) \(Amendment No.2\) Regulations 2008 \(S.I. 2008/1941\)](#), regs. 1(1), **4(2)**
- F100** Reg. 24(1)(c) substituted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **12(a)**
- F101** Reg. 24(2)(b) substituted (19.7.2008) by [Producer Responsibility Obligations \(Packaging Waste\) \(Amendment No.2\) Regulations 2008 \(S.I. 2008/1941\)](#), regs. 1(1), **4(3)**
- F102** Reg. 24(3)(b) substituted (19.7.2008) by [Producer Responsibility Obligations \(Packaging Waste\) \(Amendment No.2\) Regulations 2008 \(S.I. 2008/1941\)](#), regs. 1(1), **4(4)**
- F103** Words in reg. 24(3)(b)(i) substituted (31.12.2020) by [S.I. 2019/188, reg. 12\(4\)\(a\)\(i\)\(aa\)](#) (as substituted by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), **11(6)(d)**)

- F104** Words in reg. 24(3)(b)(i) substituted (31.12.2020) by S.I. 2019/188, **reg. 12(4)(a)(i)(bb)** (as substituted by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), **11(6)(d)**)
- F105** Words in reg. 24(3)(b)(ii) substituted (31.12.2020) by S.I. 2019/188, **reg. 12(4)(a)(ii)(aa)** (as substituted by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), **11(6)(d)**)
- F106** Words in reg. 24(3)(b)(ii) substituted (31.12.2020) by S.I. 2019/188, **reg. 12(4)(a)(ii)(bb)** (as substituted by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), **11(6)(d)**)
- F107** Words in reg. 24(6) added (26.11.2010) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010 (S.I. 2010/2849), regs. 1(b), **12(b)**)
- F108** Reg. 24(7) substituted (26.11.2010) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010 (S.I. 2010/2849), regs. 1(b), **12(c)**)
- F109** Reg. 24(8) omitted (31.12.2020) by virtue of S.I. 2019/188, **reg. 12(4)(b)** (as substituted by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), **11(6)(d)**)
- F110** Words in reg. 24(9) substituted (31.12.2020) by S.I. 2019/188, **reg. 12(4)(c)(i)** (as substituted by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), **11(6)(d)**)
- F111** Words in reg. 24(9) substituted (31.12.2020) by S.I. 2019/188, **reg. 12(4)(c)(ii)** (as substituted by The Waste and Environmental Permitting etc. (Legislative Functions and Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1540), regs. 1(3), **11(6)(d)**)

### Conditions of accreditation **E+W+S**

**25.** An accredited reprocessor or exporter shall comply with the conditions specified in and under Schedule 5.

### Suspension and cancellation of accreditation **E+W+S**

**26.—(1)** The appropriate Agency may suspend or cancel the accreditation of a reprocessor or exporter where it appears to it that—

- (a) the person who is accredited has failed to comply with any of the conditions specified in or under Schedule 5; or
- (b) the person who is accredited has knowingly or recklessly supplied false information in his application for accreditation made under regulation 24 or in connection with compliance with any of the conditions specified in or under Schedule 5.

<sup>F112</sup>(2) Where the appropriate Agency has granted an accreditation to an exporter, and is no longer satisfied that the requirements in regulation 24(3)(b) or (9), which applied to that grant of accreditation, <sup>F113</sup>are met in relation to the export of one or more specified recyclable materials for reprocessing at one or more reprocessing sites outside the European Community, the appropriate Agency shall cancel the accreditation of an exporter to the extent that it relates to any such export which does not meet those requirements.]

(3) Where the appropriate Agency suspends or cancels an accreditation under paragraph (1) or cancels the accreditation of an exporter <sup>F114</sup>pursuant to] paragraph (2), it shall serve on the reprocessor or exporter concerned written notice of—

- (a) its decision to cancel or suspend (as the case may be) the accreditation;
- (b) the reasons for the decision;
- (c) the right of appeal under Part VI;



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- (d) the date when the cancellation or suspension will take effect, not being earlier than the date of receipt of the notice; and
  - (e) in the case of a suspension, the period of the suspension or any steps which are required to be taken in order to bring the suspension to an end.
- (4) The accreditation of a reprocessor or exporter shall be deemed to be cancelled—
- (a) on the date on which either of the following occurs—
    - (i) the person who is accredited ceases to be the holder of a relevant authorisation; or
    - (ii) the person who is accredited ceases to be a reprocessor or exporter; or
  - (b) in a case where the person who is accredited requests that his accreditation should be cancelled, with effect from the date for cancellation specified by that person.

#### Textual Amendments

**F112** Words in reg. 26(2) substituted (31.12.2020) by [S.I. 2019/188, reg. 12\(4A\)](#) (as inserted by [The Waste and Environmental Permitting etc. \(Legislative Functions and Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1540\)](#), regs. 1(3), [11\(6\)\(e\)](#))

**F113** Reg. 26(2) substituted (19.7.2008) by [Producer Responsibility Obligations \(Packaging Waste\) \(Amendment No.2\) Regulations 2008 \(S.I. 2008/1941\)](#), regs. 1(1), [5\(2\)](#)

**F114** Words in reg. 26(3) substituted (19.7.2008) by [Producer Responsibility Obligations \(Packaging Waste\) \(Amendment No.2\) Regulations 2008 \(S.I. 2008/1941\)](#), regs. 1(1), [5\(3\)](#)

## PART VI **E+W+S**

### APPEALS

#### Right of appeal **E+W+S**

**27.—**(1) A producer may appeal to the appropriate authority against a decision of the appropriate Agency—

- (a) to refuse to grant an application for registration under regulation 7(6); or
- (b) to cancel registration under regulation 11(1).

[<sup>F115</sup>(2) The operator of a scheme may appeal to the appropriate authority against a decision of the appropriate Agency—

- (a) to refuse to grant an application for approval under regulation 13;
- (b) to withdraw approval under regulation 13C(1) or (5);
- (c) after the notice referred to in paragraph 13C(4)(c) takes effect, to withdraw approval under regulation 13C(4); or
- (d) to refuse to grant an application for registration under regulation 14(4).]

(3) A reprocessor or exporter may appeal to the appropriate authority against a decision of the appropriate Agency—

- (a) to refuse accreditation under regulation 24;
- (b) to specify a condition pursuant to paragraph 1(q)(iii) of Schedule 5; or
- (c) to cancel or suspend accreditation under regulation 26.



#### Textual Amendments

**F115** Reg. 27(2) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **15**

#### Procedure on appeals **E+W+S**

**28.**—(1) Where an appeal is made to the appropriate authority it may—

- (a) appoint any person to exercise on its behalf, with or without payment, the function of determining the appeal; or
- (b) refer any matter involved in the appeal to such person as the appropriate authority may appoint for the purpose, with or without payment.

(2) If the appellant so requests, or the appropriate authority so decides, the appeal shall be or continue in the form of a hearing.

(3) Schedule 6 shall have effect with respect to the procedure on any such appeal.

#### Determination of appeals **E+W+S**

**29.** Where, on such an appeal, the appropriate authority determines that the decision of the appropriate Agency shall be altered it shall be the duty of the appropriate Agency to give effect to the determination.

#### Status pending appeal **E+W+S**

**30.** In a case falling within [<sup>F116</sup>regulation 11(1) or 13C(1), (4) or (5)], the decision appealed against shall be ineffective until the appeal is disposed of; and if the appeal is dismissed or withdrawn the decision shall become effective from the end of the day on which the appeal is dismissed or withdrawn.

#### Textual Amendments

**F116** Words in reg. 30 substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **16**

## PART VII **E+W+S**

### AGENCIES' POWERS & DUTIES

#### Monitoring **E+W+S**

**31.**—(1) The appropriate Agency shall monitor in accordance with this regulation—

- (a) compliance with their producer responsibility obligations by persons who are or may be producers;
- (b) compliance by operators of schemes with the obligations referred to in regulation 12(1) ;
- (c) compliance by operators of schemes with the conditions referred to in [<sup>F117</sup>regulation 13A(1) and (2); and]

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(d) compliance by persons who are accredited reprocessors or exporters with the conditions specified in or under Schedule 5; and

F118(e) . . . . .

(2) The duty referred to in paragraph (1) above includes a duty to monitor—

- (a) the registration of producers as required by regulation 6;
- (b) the accuracy of the information provided by producers pursuant to regulations 7 and 8;
- (c) the accuracy of the returns furnished to the appropriate Agency by a producer under regulation 20;
- (d) the accuracy of the information contained in certificates of compliance furnished to the appropriate Agency under regulation 21;
- (e) the accuracy of the information provided by an operator of a scheme pursuant to regulations 14 and 15; and
- (f) the accuracy of the returns provided to the appropriate Agency by an operator of a scheme under [F119regulations 13A(2)(c) and 22].

(3) For the purposes of the discharge of its functions under these Regulations, the appropriate Agency may, by notice in writing served on—

- (a) any person who has, or who the appropriate Agency has reason to believe has, producer responsibility obligations under regulation 4;
- (b) in relation to any person who is a member of a registered scheme, the operator of that scheme;
- (c) any person who is, or who the Agency has reason to believe is, issuing PERNs or PRNs;
- (d) any person who is engaged in trading in, or brokerage in relation to, PERNs or PRNs; or
- (e) any accredited reprocessor or exporter,

require him to maintain such records, and furnish such returns to the appropriate Agency, of such information specified in the notice as the appropriate Agency reasonably considers it needs for those purposes, in such form and within such period following service of the notice, or at such time, as is so specified.

**Textual Amendments**

**F117** Words in reg. 31(1)(c) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **17(a)(i)**

**F118** Reg. 31(1)(e) omitted (24.2.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **17(a)(ii)**

**F119** Words in reg. 31(2)(f) substituted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **17(b)**

**Monitoring—publication** E+W+S

**32.** The appropriate Agency shall provide to the appropriate authority by 1st December, and publish by 31st December, in each year in respect of the following calendar year a report setting out its proposed monitoring plan including the following details of the monitoring to be carried out under regulation 31—

- (a) the Agency’s policy in relation to the monitoring it is required to carry out under regulation 31; and

- (b) an indication of the minimum number of persons which it proposes to monitor in the course of that year.

### Public register **E+W+S**

33.—(1) The appropriate Agency shall maintain and make available in accordance with this regulation a register relating to—

- (a) the producers and schemes registered with it in accordance with Part III; and
- (b) the reprocessors and exporters accredited by it in accordance with Part V,

and containing the relevant information prescribed in Schedule 7.

(2) The appropriate Agency shall—

- (a) secure that the register is open for inspection at its principal office by members of the public free of charge at all reasonable working hours; and
- (b) permit members of the public to obtain copies of entries in the register on payment of reasonable charges.

(3) The register may be kept in any form but shall be indexed and arranged so that members of the public can readily trace information contained in it.

(4) The appropriate Agency shall within 7 days of receipt of the information amend the relevant entry in the register to record any change to the information entered <sup>F120</sup>....

(5) Nothing in this regulation shall require a register maintained by the appropriate Agency to contain information relating to, or to anything which is the subject-matter of, any criminal proceedings (including prospective proceedings) at any time before those proceedings are finally disposed of.

(6) Nothing in this regulation shall require a register maintained by the appropriate Agency to contain any information which has been superseded by later information after 4 years have elapsed from that later information being entered in the register.

#### Textual Amendments

**F120** Words in reg. 33(4) omitted (26.11.2010) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), 13

### <sup>F121</sup>Approved persons **E+W+S**

34.—(1) The appropriate Agency may approve a person listed in paragraph (2) for the purposes of—

- (a) in relation to a producer, issuing certificates of compliance and signing the form referred to in regulation 7(4)(c) or (ca) or 19(2) (as the case may be);
- (b) in relation to the operator of a scheme, signing the form referred to in regulation 14(3)(c) or the statement referred to in regulation 22(4).

(2) A person listed is, where the relevant person—

- (a) is an individual, that individual;
- (b) is a partnership, a partner;
- (c) is a company registered in Great Britain, a director or company secretary of that company;
- (d) is an unincorporated body, an individual who has control or management of that body; or

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(e) does not have a registered office in Great Britain, an individual who has control or management of the relevant person.

(3) For the purposes of paragraph (2), the “relevant person” means a producer or the operator of a scheme (as the case may be).

[<sup>F122</sup>(4) Subject to regulation 34A, the appropriate Agency may approve the delegation by an approved person of the person’s functions to any other person.

(5) An approved person who has delegated functions under paragraph (4) may continue to perform those functions.

(6) For the purposes of these Regulations, an act of a delegate performing the functions of an approved person on that person’s behalf is to be treated as an act of the approved person.

(7) In this regulation, and in regulation 34A, “functions” means the functions referred to in paragraph (1)(a) and (b).]]

#### Textual Amendments

**F121** Reg. 34 substituted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **14**

**F122** Reg. 34(4)-(7) inserted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **18**

#### [<sup>F123</sup>Delegation of approved persons’ functions: procedure **E+W+S**

**34A.**—(1) An approved person who proposes the delegation of the person’s functions to another person under regulation 34(4) shall apply for approval to the appropriate Agency on a form supplied for that purpose by that Agency, signed by the approved person.

(2) An application for approval under paragraph (1) shall, within 28 days of receipt of the application—

(a) be granted where the appropriate Agency is satisfied that the proposed delegate, taking into account the factors specified in paragraph (3), is capable of carrying out the functions on behalf of the approved person; or

(b) otherwise be refused.

(3) The factors mentioned in paragraph (2)(a) are—

(a) if the proposed delegate is an employee of the producer or the operator of the scheme, the proposed delegate’s level of seniority;

(b) if the proposed delegate is not an employee of the producer or the operator of the scheme, the nature of the proposed delegate’s relationship with the approved person;

(c) the degree of the proposed delegate’s knowledge of, or access to, information necessary for the purposes of carrying out the functions on behalf of the approved person; and

(d) any other factor which the appropriate Agency reasonably thinks is relevant.

(4) An approval granted in accordance with paragraph (2)(a) may be for such period, or subject to such other conditions, as the appropriate Agency may specify.

(5) Where an application for approval is granted in accordance with paragraph (2)(a), the appropriate Agency shall notify the approved person in writing of this, and of any conditions it has imposed pursuant to paragraph (4), within 28 days of its decision.

(6) The appropriate Agency may decide to withdraw approval granted under paragraph (2)(a) and, if such a decision is taken, shall serve on the approved person written notice of—

- (a) the decision to withdraw approval;
- (b) the reasons for the decision; and
- (b) the date on which the withdrawal takes effect, not being earlier than 28 days from the date of the notice.

(7) If an approved person proposes to revoke a delegation granted under paragraph (2)(a), the person shall serve written notice on the appropriate Agency of this and of the date when the revocation takes effect, not being earlier than 28 days from the date of the notice.]

#### Textual Amendments

**F123** Reg. 34A inserted (24.2.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Miscellaneous Amendments\) Regulations 2016 \(S.I. 2016/241\)](#), regs. 1(b), **18**

### Entry and inspection **E+W+S**

**35.**—(1) A person who appears suitable to the appropriate Agency may be authorised in writing by that Agency for the purposes of its functions under these Regulations to exercise the powers of entry and inspection referred to in paragraph (2) below.

(2) The powers of entry and inspection are those set out in section 108(4)(a) to (l) of the 1995 Act (powers of enforcing authorities and persons authorised by them) and for this purpose section 108(4) shall be read as if references to the authorised person were references to a person authorised under paragraph (1) of this regulation and as if—

- (a) the words “(or, in an emergency, at any time and, if need be, by force)” in section 108(4)(a) were omitted;
- (b) the reference in section 108(4)(f) to articles or substances in relation to which samples may be taken were to records and packaging and packaging materials and as if the power in that paragraph to take samples of the air, water or land in, on, or in the vicinity of, the premises were omitted;
- (c) the power set out in section 108(4)(g) were omitted;
- (d) the reference in section 108(4)(h) to any article or substance were to any sample as is mentioned in sub-paragraph (b) above and as if the reference to an offence in section 108(4)(h)(iii) were to an offence under regulation 40;
- (e) the reference to records in section 108(4)(k)(i) were to the records and returns required to be kept and provided to the appropriate Agency under these Regulations; and
- (f) the reference to the power in section 108(1) were to the power conferred by this regulation.

(3) The provisions of section 108(6) and (7) of the 1995 Act shall apply to the powers conferred by paragraphs (1) and (2) above as they apply to the powers conferred by section 108(4) of the 1995 Act, but as if any reference to an authorised person were to a person authorised under paragraph (1) of this regulation, and as if—

- (a) in section 108(6) and (7) the words “Except in an emergency” were omitted; and
- (b) in section 108(6) the words “or to take heavy equipment on to any premises which are to be entered” were omitted.

(4) The provisions of section 108(12) and (13) of the 1995 Act shall apply to the powers conferred by paragraphs (1) and (2) above as they apply to the powers conferred by section 108(4) of the 1995 Act.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007. (See end of Document for details)*

(5) The provisions of paragraphs 2 to 6 of Schedule 18 to the 1995 Act (supplemental provisions with respect to powers of entry) shall apply to the powers conferred by this regulation as they apply to the powers conferred by section 108 of the 1995 Act, but as if any reference—

- (a) to a designated person were to a person authorised in writing by the appropriate Agency to exercise on its behalf any power conferred by this regulation;
- (b) to a relevant power were to a power conferred by this regulation, including a power exercisable by virtue of a warrant under the provisions of that Schedule as applied by this paragraph; and
- (c) in paragraph 6(1) to section 108(4)(a) or (b) or (5) of the 1995 Act were to paragraph (1) of this regulation.

(6) In this regulation “warrant” means a warrant under the provisions set out in Schedule 18 to the 1995 Act as applied by paragraph (5) above.

#### **Collation and provision of information** E+W+S

**36.**—(1) The appropriate Agency shall collate and place in the common database every report provided to it under paragraph 1(n) of Schedule 5 no later than 21 days after receipt.

(2) The appropriate Agency shall, by the same dates as it places the reports under paragraph (1), place in the common database the information in its possession required under regulations 7(4)(c) [<sup>F124</sup>and (ca)] and 14(3)(c).

(3) The Environment Agency shall, by 31st March in the year following the year in which the reports are due to be provided under paragraph 1(n) of Schedule 5, provide the Secretary of State with a copy of every report collated under paragraph (1) above.

(4) The Environment Agency shall provide the Secretary of State with any information placed under paragraph (2) above by 30th June in the year in which it has been provided to the appropriate Agency or, where the information is provided after this date, by [<sup>F125</sup>28th February] in the following year.

#### **Textual Amendments**

**F124** Words in reg. 36(2) inserted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **15(a)**

**F125** Words in reg. 36(4) substituted (26.11.2010) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **15(b)**

## **PART VIII** E+W+S

### **GROUPS OF COMPANIES, PUB OPERATING BUSINESSES AND LICENSORS AND MID-YEAR CHANGES**

#### **Packaging handled by groups of companies** E+W+S

**37.** The provisions of Schedule 8 shall apply with regard to groups of companies as defined in that Schedule.

## Packaging handled by licensors and pub operating businesses **E+W+S**

**38.**—(1) Where in the relevant year and in the preceding year a person is a licensor, the provisions of Schedule 9 shall apply to determine whether that person has producer responsibility obligations in that capacity.

(2) Where in the relevant year and in the preceding year a person is a pub operating business, the provisions of Schedule 9 shall apply to determine whether that person has producer responsibility obligations in that capacity.

(3) For the purposes of this regulation and Schedule 9 a person is a licensor where he is a party to a licence agreement in or under which he grants a licence to use a trade mark to another.

(4) For the purposes of this regulation and Schedule 9 a person is a pub operating business where—

(a) he is a party to a pub operating agreement in or under which he grants a lease or tenancy of premises to another; and

(b) the premises to which the pub operating agreement relates—

(i) in England or Wales, are used by the tenant in order to carry on the licensable activity of—

(aa) the sale by retail of alcohol for consumption on the premises or both on and off the premises; or

(bb) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club or both, for consumption on the premises or both on and off the premises,

and in respect of which a premises licence is in force; or

[<sup>F126</sup>(ii) in Scotland, are used by the tenant for the sale by retail or supply of alcohol for consumption on the premises or both on and off the premises, and in respect of which a premises licence is in force.]

(5) In England and Wales, in the definition of pub operating business—

(i) “alcohol” has the same meaning as in section 191 of the Licensing Act 2003<sup>(5)</sup> and ‘alcoholic’ shall be construed accordingly;

(ii) “premises licence” has the same meaning as in section 11 of the Licensing Act 2003;

(iii) “supply of alcohol” has the same meaning as in section 14 of the Licensing Act 2003; and

(iv) “sale by retail” in relation to any alcohol has the same meaning as in section 192 of the Licensing Act 2003.

[<sup>F127</sup>(6) In Scotland, in the definition of pub operating business—

(i) “alcohol” has the meaning given in section 2 of the Licensing (Scotland) Act 2005;

(ii) “premises licence” has the meaning given in section 17 of that Act.]

(7) For the purposes of this regulation and Schedule 9—

“licence agreement” means an agreement or number of related agreements in or under which the licensor grants the licensee a licence that allows the licensee to use a trade mark as the name under which the licensee sells from premises goods that are associated with that trade mark, and includes an obligation (whether expressed as a positive or as a negative obligation) on the licensee that relates to the presentation of those premises;

“licensee” means the party to a licence agreement to whom a licence to use a trade mark is granted;



*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007. (See end of Document for details)*

“premises” means any sales outlet on which packaging is handled and includes any land, vehicle, vessel, mobile plant and stall;

“pub operating agreement” means an agreement or number of related agreements in or under which one person (the pub operating business) grants a tenancy or lease of premises to another person (the tenant) that includes an obligation (whether expressed as a positive or as a negative obligation) on the tenant to purchase some or all of the alcohol or alcoholic liquor (as the case may be), to be sold or supplied on or from the premises, from the pub operating business or from a person or persons nominated or authorised by or on behalf of that business;

“tenant” means the party to a pub operating agreement to whom the lease or tenancy of premises is granted; and

“trade mark” has the same meaning as in section 1 of the Trade Marks Act 1994(6).

#### Textual Amendments

**F126** Reg. 38(4)(b)(ii) substituted (1.9.2009 at 5.00 a.m.) by [The Licensing \(Scotland\) Act 2005 \(Consequential Provisions\) Order 2009 \(S.S.I. 2009/248\)](#), **Sch. 1 para. 19(a)**

**F127** Reg. 38(6) substituted (1.9.2009 at 5.00 a.m.) by [The Licensing \(Scotland\) Act 2005 \(Consequential Provisions\) Order 2009 \(S.S.I. 2009/248\)](#), **Sch. 1 para. 19(b)**

#### Mid-year changes **E+W+S**

**39.** The provisions of Schedule 10 shall apply with regard to changes in a year in respect of a person who is a producer in respect of that year and any changes in membership of a scheme or group of companies, or other event affecting a producer in the relevant year.

## [<sup>F128</sup>PART IX **E**

### OFFENCES

#### Textual Amendments

**F128** Reg. 40A inserted (E.) (6.4.2010) by [The Environmental Civil Sanctions \(Miscellaneous Amendments\) \(England\) Regulations 2010 \(S.I. 2010/1159\)](#), regs. 1, **8**

#### Offences and penalties **E+W+S**

**40.**—(1) A producer who contravenes a requirement of—

- (a) subject to paragraph (2) below, regulation 4(4)(a);
- (b) regulation 4(4)(b); or
- (c) regulation 4(4)(c),

is guilty of an offence.

(2) A producer is not guilty of an offence under paragraph (1)(a) above in respect of any period during which, under regulation 7(7), he is treated as having been registered.

(3) An operator of a scheme who fails to comply with his recovery and recycling obligations in contravention of regulation 12(1) is guilty of an offence.

(6) 1994 c. 26.



(4) A person who contravenes a requirement of regulation 23 or who is in breach of either of the conditions specified in paragraph 1(a) or 1(d) of Schedule 5 is guilty of an offence.

(5) A person who furnishes any information to the appropriate Agency in connection with its functions under these Regulations or furnishes information to which regulation 19 applies to an operator of a scheme shall be guilty of an offence if, in furnishing the information, he—

- (a) knows the information to be false or misleading in a material particular; or
- (b) furnishes such information recklessly and it is false or misleading in a material particular.

(6) A person who fails without reasonable excuse to comply with any requirement imposed in a notice under regulation 31(3) shall be guilty of an offence.

(7) A person who intentionally delays or obstructs a person authorised by the appropriate Agency in the exercise of powers referred to in regulation 35 is guilty of an offence.

(8) Where in accordance with Schedule 8 there is a group registration the holding company is guilty of an offence if—

- (a) it does not comply with its recovery and recycling obligations referred to in paragraph 5(c) of Schedule 8; or
- (b) it does not furnish a certificate of compliance in accordance with paragraph 5(d) of Schedule 8.

(9) A person guilty of an offence under any of paragraphs (1) to (8) above shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

(10) Where an offence under these Regulations is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or have been attributable to neglect on the part of, any partner or a person who was purporting to act as such, that person as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

## Civil sanctions **E**

**40A.**—(1) The Environment Agency may impose a fixed monetary penalty or variable monetary penalty, or accept an enforcement undertaking, in relation to an offence specified in the following Table of civil sanctions, as indicated in that Table, as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (England) Order 2010.

**Table of civil sanctions**

<i>Offence under these Regulations</i>	<i>Fixed monetary penalty</i>	<i>Variable monetary penalty</i>	<i>Enforcement undertaking</i>
regulation 40(1)(a)	Yes	Yes	Yes
regulation 40(1)(b)	No	Yes	Yes
regulation 40(1)(c)	Yes	No	No
regulation 40(3)	No	Yes	Yes
regulation 40(7)	No	Yes	No
regulation 40(8)(a)	No	Yes	Yes
regulation 40(8)(b)	Yes	No	No

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*Changes to legislation: There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007. (See end of Document for details)*

- (2) The terms used in this regulation have the same meaning as in that Order.
- (3) The provisions of that Order in relation to those sanctions apply as if they were provisions of those Regulations.
- (4) This regulation applies only in England.]

<sup>F129</sup>**Civil sanctions, Wales** **E**

**40B.**—(1) [<sup>F130</sup>The Natural Resources Body for Wales] may impose a fixed monetary penalty or variable monetary penalty, or accept an enforcement undertaking, in relation to an offence specified in the following Table of civil sanctions, as indicated in that Table, as if it were an offence under a provision specified in relation to that sanction in Schedule 5 to the Environmental Civil Sanctions (Wales) Order 2010.

**Table of civil sanctions**

<i>Offence under these Regulations</i>	<i>Fixed monetary penalty</i>	<i>Variable monetary penalty</i>	<i>Enforcement undertaking</i>
regulation 40(1)(a)	Yes	Yes	Yes
regulation 40(1)(b)	No	Yes	Yes
regulation 40(1)(c)	Yes	No	No
regulation 40(3)	No	Yes	Yes
regulation 40(7)	No	Yes	No
regulation 40(8)(a)	No	Yes	Yes
regulation 40(8)(b)	Yes	No	No

- (2) The terms used in this regulation have the same meaning as in that Order.
- (3) The provisions of that Order in relation to those sanctions apply as if they were provisions of these Regulations.
- (4) This regulation applies only in Wales.]

**Textual Amendments**

**F129** Reg. 40B inserted (W.) (15.7.2010) by [The Environmental Civil Sanctions \(Miscellaneous Amendments\) \(Wales\) Regulations 2010 \(S.I. 2010/1820\)](#), regs. 1, 5

**F130** Words in reg. 40B substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 4 para. 275** (with Sch. 7)

## PART X **E+W+S**

### REVOCATION AND TRANSITIONAL PROVISION

#### Revocation and transitional provision **E+W+S**

**41.**—(1) The Producer Responsibility Obligations (Packaging Waste) Regulations 2005(7) are revoked.

(2) Any step taken before commencement of these Regulations which has effect under any provision of the Producer Responsibility Obligations (Packaging Waste) Regulations 2005 shall be treated on or after commencement as having effect under any equivalent provision of these Regulations.

(3) Where the Producer Responsibility Obligations (Packaging Waste) Regulations 2005 specified a time period and part of that period had elapsed under those Regulations before revocation of those Regulations, that part of the period shall be treated on commencement of these Regulations as having elapsed under the equivalent provision of these Regulations.

## [<sup>F131</sup>PART 11 **E+W**

### Review

#### Textual Amendments

**F131** Pt. 11 inserted (E.W.) (11.12.2012) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2012 \(S.I. 2012/3082\)](#), regs. 1(1)(b), **3**

#### Review **E+W**

**42.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of regulations 2 to 40 in relation to England and Wales;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Article 6(1) of the Packaging Waste Directive (which is implemented by means of regulations 2 to 40), as amended from time to time, is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by regulations 2 to 40;
- (b) assess the extent to which the objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before 1st July 2017.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.]

(7) [S.I. 2005/3468](#).

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007. (See end of Document for details)*

## [<sup>F132</sup> PART XII E+W+S

### Report

#### Textual Amendments

**F132** Pt. 12 inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(b), **12(5)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2), **11(6)(f)**); 2020 c. 1, Sch. 5 para. 1(1)

#### Report E+W+S

**43.**—(1) The Secretary of State must publish, in a manner the Secretary of State considers appropriate, a report on the magnitude, characteristics and evolution of the packaging and packaging waste flows (including information on the toxicity or danger of packaging materials and components used for their manufacture).

(2) The first report under this regulation must be published before the end of the period of 3 years beginning with the day after that on which IP completion day falls.

(3) Subsequent reports must be published at intervals not exceeding 3 years.]

*Ben Bradshaw*  
Minister of State  
Department for Environment, Food, and Rural  
Affairs

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the The Producer Responsibility Obligations (Packaging Waste) Regulations 2007.