

SCHEDULE 10

Regulation 39

MID-YEAR CHANGES

PART 1

SCHEME MEMBERSHIP

1. Subject to paragraphs 4 and 5 below, where a person who is a producer in respect of a year becomes a member of a registered scheme during that year, the recovery and recycling obligations of the producer for that year, referred to in regulation 12(1), shall be performed through the scheme.

2. Where a person who is a producer in respect of a year ceases to be a member of a registered scheme during that year, he shall comply with his recovery and recycling obligations for that year, calculated as provided in regulation 4 and Schedule 2.

3. Where a person who is a producer in respect of a year ceases to be a member of one registered scheme (“the first scheme”) and becomes a member of another registered scheme (“the second scheme”) during that year, the first scheme shall not be required to perform any of the producer’s recovery and recycling obligations, referred to in regulation 12(1), and all such obligations shall be performed through the second scheme.

PART II

GROUP MEMBERSHIP

4. This Part applies where—

- (a) a company joins a group of companies and becomes a company to which paragraph 1 of Schedule 8 applies; or
- (b) a holding company or subsidiary company to which paragraph 1 of Schedule 8 applies ceases to belong to a group of companies.

5. Where paragraph 4(a) above applies the company shall either—

- (a) be registered separately with the appropriate Agency as required by regulation 6; or
- (b) be registered with the appropriate Agency as part of a group registration under Schedule 8 and for the purposes of this paragraph—
 - (i) such registration is effected upon notice being given by the holding company to the appropriate Agency of the change in the group registration; and
 - (ii) where prior to joining the group of companies the company was registered with an appropriate Agency, the Agency shall cancel the company’s registration and regulation 11(3) shall apply to that cancellation as it applies to a cancellation under regulation 11(2).

6. Where—

- (a) paragraph 4(a) above applies;
- (b) in relation to the obligation year the company itself satisfies the threshold tests; and
- (c) the company is registered as part of a group registration,

the holding company shall comply with the requirements of the company’s recovery and recycling obligations for the year in which it joins the group.

7. Where—

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- (a) paragraph 4(a) above applies;
- (b) in relation to the obligation year the company itself satisfies the threshold tests; and
- (c) the company is registered separately with the appropriate Agency,

the company shall comply with its recovery and recycling obligations for the year in which it joins the group.

8. Where—

- (a) paragraph 4(a) above applies;
- (b) in relation to the obligation year the company itself does not satisfy the threshold tests; and
- (c) the company is registered as part of a group registration,

the holding company shall comply with a proportion of the requirements of the company's recovery and recycling obligations for the year in which it joins the group, such proportion being calculated as provided in paragraph 16 below.

9. Where—

- (a) paragraph 4(a) above applies;
- (b) in relation to the obligation year the company itself does not satisfy the threshold tests; and
- (c) the company is registered separately with the appropriate Agency,

the company shall comply with a proportion of its recovery and recycling obligations for the year in which it joins the group, such proportion being calculated as provided in paragraph 16 below.

10. Where—

- (a) paragraph 4(b) above applies; and
- (b) in relation to the obligation year the company itself satisfies the threshold tests,

it shall register with the appropriate Agency as required by regulation 6 within 28 days of ceasing to be a member of a group and regulations 7 to 11 shall apply as if this were an occurrence specified in regulation 7(3)(d).

11. Where—

- (a) paragraph 4(b) above applies;
- (b) in relation to the obligation year the company itself satisfies the threshold tests; and
- (c) the company was registered as part of a group registration,

the holding company shall comply with the requirements of the company's recovery and recycling obligations for the year in which it ceases to be a member of the group.

12. Where—

- (a) paragraph 4(b) above applies;
- (b) in relation to the obligation year the company itself satisfies the threshold tests; and
- (c) the company is registered separately with the appropriate Agency,

the company shall comply with its recovery and recycling obligations for the year in which it ceases to be a member of the group.

13. Where—

- (a) paragraph 4(b) above applies;
- (b) in relation to the obligation year the company itself does not satisfy the threshold tests; and
- (c) the company was registered as part of a group registration,

the holding company shall comply with the requirements of the company's recovery and recycling obligations for the year in which it ceases to be a member of the group.

14. Where—

- (a) paragraph 4(b) above applies;
- (b) in relation to the obligation year the company itself does not satisfy the threshold tests; and
- (c) the company was registered separately with the appropriate Agency,

the holding company shall comply with the requirements of the company's recovery and recycling obligations for the year in which it ceases to be a member of the group.

15. Where in a relevant year paragraph 4 above applies to a company as a result of that company ceasing to be a member of one group ("the first group") and becoming a member of another group ("the second group")—

- (a) where in relation to each group the company is registered as part of a group registration, the first group shall comply with the requirements of the company's recovery and recycling obligations for the year in which the company ceases to be a member of that group and the second group shall comply with those requirements in the following and any subsequent year in which the company is a member of the second group;
- (b) where in relation to each group the company is registered separately with the appropriate Agency, the company shall comply with its recovery and recycling obligations for the year;
- (c) where in relation to the first group the company was registered as part of a group registration and in relation to the second group the company is registered separately with the appropriate Agency, the holding company shall comply with the requirements of the company's recovery and recycling obligations for the year in which the company ceases to be a member of that group and the company itself shall comply with its recovery and recycling obligations for any subsequent year; or
- (d) where in relation to the first group the company was registered separately with the appropriate Agency and in relation to the second group the company is registered as part of a group registration, the company itself shall comply with its recovery and recycling obligations for the year in which it joins the group and the holding company shall comply with the requirements of the company's recovery and recycling obligations for any subsequent year.

16. The proportion referred to in paragraphs 8 and 9 above shall be calculated as follows—

G / H

where—

- "G" is the number of days in the relevant year during which the company was a member of the group;
- "H" is the number of days in the relevant year; and
- "G / H" is the proportion.

17. For the purposes of this Part of this Schedule, the "threshold tests" means the threshold tests provided in paragraph 3 of Schedule 1.

PART III INCAPACITY

18. Where in a relevant year a producer dies or becomes bankrupt or incapacitated ("the first producer") that person shall cease to have any producer responsibility obligations for that year and

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any person who carries on the activities of the first producer following that event shall be treated as a producer and shall have the producer responsibility obligations of the producer for that year.

19. Any person carrying on the activities of the first producer referred to in paragraph 18 above shall within 28 days of commencing to do so—

- (a) inform the appropriate Agency in writing of that fact and the date of the death, the date of bankruptcy or the nature of the incapacity and the date on which it began; and
- (b) apply to be registered as required by regulation 6 ^{F1}....

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Textual Amendments

F1 Words in Sch. 10 para. 19(b) omitted (26.11.2010) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations 2010 \(S.I. 2010/2849\)](#), regs. 1(b), **22**

20. In relation to a producer which is a company, the references to a person becoming bankrupt or incapacitated in paragraph 18 above shall be construed as references to it going into liquidation or receivership or entering administration.

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