
STATUTORY RULES OF NORTHERN IRELAND

2007 No. 198

The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007

PART 1

GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007 and shall come into operation on 5th April 2007.

(2) The Interpretation Act (NI) 1954(1) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Commencement Information

II Reg. 1 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Interpretation and notices

2.—(1) In these Regulations—

^{F1} ...

“the Department” means the Department of the Environment;

[^{F2}“the Packaging Waste Directive” means Council [Directive 94/62/EC](#) on packaging and packaging waste as last amended by Directive (EU) 2018/852 ;][^{F3}, and as read in accordance with regulation 2A]

[^{F4}“PROR” means the Producer Responsibility Obligations (Packaging Waste) Regulations 2007;]

[^{F5}“the Waste Directive” means [Directive 2008/98/EC](#) of the European Parliament and of the Council on waste, [^{F6}as last amended by Directive (EU) 2018/851][^{F7}, and as read in accordance with regulation 2B];

“the Order” means the Producer Responsibility Obligations (Northern Ireland) Order(2)

(2) In these Regulations—

“accredited exporter” means an operator who is accredited by the Department under regulation 24 ;

(1) [1954 c.33 \(N.I.\)](#)

(2) [1998 No. 1762 \(N.I. 16\)](#).

“accredited reprocessor” means a reprocessor who is accredited by the Department 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;

[^{F8}“appropriate authority” means the Department of Agriculture, Environment and Rural Affairs”; and]

[^{F9}“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), 7(4)(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;

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

[^{F10}“disposal” means any of the operations listed in Schedule 1A;]

[^{F11} ...

“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;

[^{F12}“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;]

[^{F13}“grouped packaging or secondary packaging” means packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale if it can be removed from the product without affecting its characteristics;]

[^{F14}“local authority” means a district council established under section 1 of the Local Government Act (Northern Ireland) 1972;]

[^{F15}“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 11, a year in respect of which it is being considered whether a person is a producer;

[^{F16}“organic recycling” means the aerobic (composting) or anaerobic (biomethanisation) treatment under controlled conditions and using microorganisms, of the biodegradable parts of packaging waste which produces organic residues or methane. Landfill shall not be considered a form of organic recycling;]

[^{F17}“packaging” means all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods from raw materials to processed goods from the producer to the user or consumer; non-returnable items for the same purpose shall also be considered to constitute packaging if it consists only of—

- (i) sales packaging or primary packaging;

- (ii) grouped packaging or secondary packaging;
- (iii) transport packaging or tertiary packaging;

The definition shall be further based on the following criteria—

- (aa) the products fill the functions mentioned above without prejudice to other functions which the packaging might also perform, unless the item is an integral part of a product and it is necessary to contain, support or preserve that product throughout its lifetime and all elements are intended to be used, consumed or disposed of together;
- (bb) the products are designed and intended to be refilled at the point of sale and disposable items sold, filled or designed or intended to be filled at the point of sale, if they fulfil a packaging function;
- (cc) the products are packaging components or ancillary elements integrated into packaging;]

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

[^{F18}“packaging waste” means any packaging or packaging material being any substance or object falling within the categories mentioned in Schedule 1B which the holder discards or intends or is required to discard;]

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

“PERN” means a packaging waste export [^{F19}recycling] note issued by an accredited exporter on a form supplied to him by the Department, as evidence of the export of the tonnage of packaging waste specified in the note for the reprocessing outside the United Kingdom;

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

“PRN” means a packaging waste [^{F19}recycling] note issued by an accredited reprocessor on a form supplied to him by the Department, 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 the classes of producer are those set out in column 4 of Table 1 in Schedule 1;

“producer responsibility obligations” are the producer registration, ^{F20}... recycling, certifying and consumer information obligations specified in regulation 4;

[^{F21}“recovery” means any operation the principal result of which is the waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared for that function, in the plant or in the wider economy. [^{F22}Annex II to the Waste Directive] sets out a non-exhaustive list of recovery operations;]

^{F23} ...

“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;

[^{F24}“recycling” has the meaning given to it in Article 3 of the Waste Directive;]

[^{F25}“recycling obligations” has the meaning given in regulation 4(4)(b);]

“relevant authorisation” means—

- (a) a permit granted under regulation 10 of The Pollution Prevention and Control Regulations (Northern Ireland) 2003(4);
- (b) an authorisation granted under Article 6 of the Industrial Pollution Control (Northern Ireland) Order 1997(5) (repealed by the Environment (Northern Ireland) Order 2002(6));
- (c) a waste management licence granted under Article 6 of The Waste and Contaminated Land (Northern Ireland) Order 1997;
- (d) an exemption registered under regulation 17 of The Waste Management Licensing Regulations (Northern Ireland) 2003(7).

“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 11, 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;

“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;

[^{F26}“re-use” means any operation by which packaging, which has been conceived or designed to accomplish within its life cycle a minimum number of trips or rotations, is refilled or used for the same purpose for which it was conceived, with or without the support of auxiliary products present on the market enabling the packaging to be refilled, such re-used packaging will become packaging no longer subject to re-use;]

[^{F13}“sales packaging or primary packaging” means packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;]

“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 Department in accordance with these Regulations;

[^{F27}“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;]

“small producer” means a producer ^{F28}... whose turnover in the last financial year in respect of which audited accounts are available (or where audited accounts are not required, the most recently available accounts of the producer) before the relevant date was £5,000,000 or less; and audited accounts shall be considered to be available when, where the person is a

(4) S.R. 2003 No. 46.
(5) S.I. 1997/2777 (N.I.18)
(6) S.I. 2002/3153 (N.I.7)
(7) S.R. 2003 No. 493.

company, the annual accounts have been delivered to the registrar under [[^{F29}section 441 of the Companies Act 2006]];

[^{F30}“transit packaging” means grouped packaging or secondary packaging or transport packaging or tertiary packaging;]

[^{F13}“transport packaging or tertiary packaging” means packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packaging in order to prevent physical handling or transport damage. Transport packaging shall not include road, rail, ship and air containers;]

[^{F31}“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 [^{F32}regulations 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 in electronic form if the text is capable of being produced by that person in a visible and legible documentary 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 that person in a visible and legible documentary form;
- (c) any requirement for a signature may be satisfied by an electronic signature incorporated into the document; and
- (d) “electronic signature” means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.

Textual Amendments

- F1** Words in [reg. 2\(1\)](#) omitted (18.12.2020) by virtue of [The Waste \(Circular Economy\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/285\)](#), [regs. 1\(1\)](#), [8\(2\)\(a\)](#)

- F2** Words in reg. 2(1) substituted (18.12.2020) by The Waste (Circular Economy) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/285), regs. 1(1), **8(2)(b)**
- F3** Words in reg. 2(1) inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/271), regs. 1, **4(2)(b)**
- F4** 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), **20**
- F5** Words in reg. 2(1) substituted (15.7.2016) by The Waste (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/95), regs. 1(1), **5(2)(a)**
- F6** Words in reg. 2(1) substituted (18.12.2020) by The Waste (Circular Economy) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/285), regs. 1(1), **8(2)(c)**
- F7** Words in reg. 2(1) inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/271), regs. 1, **4(2)(c)**
- F8** Words in reg. 2(2) inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/271), regs. 1, **4(2)(a)(i)**
- F9** Words in reg. 2(2) substituted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **3(a)**
- F10** Words in reg. 2(2) substituted (24.12.2018) by The Environment (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/200), reg. 1(1), **Sch. 1 para. 17(a)**
- F11** Words in reg. 2(2) omitted (11.1.2021) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/345), regs. 1, **2(3)(a)**
- F12** Words in reg. 2(2) substituted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **3(b)**
- F13** Words in reg. 2(2) inserted (24.12.2018) by The Environment (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/200), reg. 1(1), **Sch. 1 para. 17(i)**
- F14** Words in reg. 2(2) inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/271), regs. 1, **4(2)(a)(ii)**
- F15** Words in reg. 2(2) inserted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **3(c)**
- F16** Words in reg. 2(2) substituted (24.12.2018) by The Environment (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/200), reg. 1(1), **Sch. 1 para. 17(c)**
- F17** Words in reg. 2(2) substituted (24.12.2018) by The Environment (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/200), reg. 1(1), **Sch. 1 para. 17(d)**
- F18** Words in reg. 2(2) substituted (24.12.2018) by The Environment (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/200), reg. 1(1), **Sch. 1 para. 17(e)**
- F19** Word in reg. 2(2) substituted (11.1.2021) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/345), regs. 1, **2(3)(b)**
- F20** Words in reg. 2(2) omitted (11.1.2021) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/345), regs. 1, **2(3)(c)**
- F21** Words in reg. 2(2) substituted (15.7.2016) by The Waste (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/95), regs. 1(1), **5(3)**
- F22** Words in reg. 2(2) substituted (18.12.2020) by The Waste (Circular Economy) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/285), regs. 1(1), **8(3)**
- F23** Words in reg. 2(2) omitted (11.1.2021) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/345), regs. 1, **2(3)(d)**
- F24** Word in reg. 2(2) substituted (11.1.2021) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/345), regs. 1, **2(3)(e)**
- F25** Word in reg. 2(2) substituted (11.1.2021) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/345), regs. 1, **2(3)(f)**
- F26** Words in reg. 2(2) substituted (24.12.2018) by The Environment (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/200), reg. 1(1), **Sch. 1 para. 17(g)**

- F27** Words in reg. 2(2) substituted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **3(d)**
- F28** Words in reg. 2(2) omitted (1.1.2011) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **3(e)(i)**
- F29** Words in reg. 2(2) substituted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **3(e)(ii)**
- F30** Words in reg. 2(2) substituted (24.12.2018) by The Environment (Miscellaneous Amendments) Regulations (Northern Ireland) 2018 (S.R. 2018/200), reg. 1(1), **Sch. 1 para. 17(h)**
- F31** Words in reg. 2(2) substituted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **3(f)**
- F32** Words in reg. 2(4)(a) substituted (21.3.2016) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/79), regs. 1, **3**

Commencement Information

- I2** Reg. 2 in operation at 5.4.2007, see **reg. 1(1)**

[^{F33}Modifications to the Packaging Waste Directive

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 or local authority which, immediately before [^{F34}IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in Northern Ireland.

[^{F35}(3) Article 3 is to be read as if—

- (a) in paragraph 2, for the words “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 the words “[Directive 2008/98/EC](#)” there were substituted “the Waste Directive”.]

^{F36}(4)]

Textual Amendments

- F33** Regs. 2A, 2B inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/271), regs. 1, **4(3)**
- F34** Words in reg. 2A substituted in earlier amending provision S.I. 2019/271, reg. 4(3) (31.12.2020) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **4(2)**
- F35** Reg. 2A(3) substituted (31.12.2020) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **4(4)(a)(i)**
- F36** Reg. 2A(4) omitted in earlier amending provision S.I. 2019/271, reg. 4(3) (31.12.2020) by virtue of The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **4(4)(a)(ii)**

[^{F33}Modifications to the Waste Directive

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 or local authority which, immediately before [^{F34}IP completion day], was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion in Northern Ireland.

[^{F37}(3) Article 5 is to read as if—

- (a) in paragraph 1, the words “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 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, the words “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—
 - (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 for the purposes of this Article.”;
- (c) in paragraph 2—
 - (i) the first sub-paragraph were omitted;
 - (ii) in the second subparagraph, for the words “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 sub-paragraph—
 - (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 authority”;
 - (bb) the second sentence were omitted;
 - (ii) in the second sub-paragraph—
 - (aa) for the words “Member States” there were substituted “The appropriate authority”;
 - (bb) “by competent authorities” were omitted.]]

Textual Amendments

- F33** Regs. 2A, 2B inserted (31.12.2020) by The Waste (Miscellaneous Amendments) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/271), regs. 1, **4(3)**
- F34** Words in reg. 2A substituted in earlier amending provision S.I. 2019/271, reg. 4(3) (31.12.2020) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **4(2)**
- F37** Reg. 2B(3)(4) substituted (31.12.2020) by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **4(4)(b)(i)**

Exclusion of charities from producer responsibility obligations

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⁽⁸⁾.

Commencement Information

- I3** Reg. 3 in operation at 5.4.2007, see **reg. 1(1)**

PART 2

PRODUCERS AND OBLIGATIONS

Producers and producer responsibility obligations

- 4.—(1) This regulation is subject to regulations 5, 37, 38 and 39 and Schedules 9, 10 and 11.
- (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—
- 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;
 - 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
 - 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—

(8) 1988 c. 1.

- (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,^{F38} ... 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 “[^{F39}recycling obligations]”);
- (c) furnish a certificate of compliance in respect of his [^{F39}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 [^{F39}recycling obligations]; and
 - (iv) the chapter dealing with the management of packaging and packaging waste in any [^{F40}plan] prepared under Article [^{F41}19] of The Waste and Contaminated Land (Northern Ireland) Order 1997 (national waste strategy),
 (in these Regulations referred to as the “consumer information obligations”).

(5) A producer may only demonstrate compliance with his [^{F39}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 [^{F39}recycling obligations] either in that year or the following year.

(7) The Department 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).

Textual Amendments

- F38** Words in reg. 4(4)(b)(i) omitted (11.1.2021) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/345\)](#), regs. 1, **2(4)**
- F39** Words in Regulations substituted (11.1.2021) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/345\)](#), regs. 1, **2(2)**
- F40** Word in reg. 4(4)(d)(iv) substituted (16.1.2020) by [The Waste Regulations \(Northern Ireland\) 2019 \(S.R. 2019/240\)](#), regs. 1, **20(a)**
- F41** Word in reg. 4(4)(d)(iv) substituted (16.1.2020) by [The Waste Regulations \(Northern Ireland\) 2019 \(S.R. 2019/240\)](#), regs. 1, **20(b)**

Commencement Information

- I4** Reg. 4 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Producers and Scheme membership

5.—^[F42](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.

^[F43](2) In order to be a member of a registered scheme, a producer must—

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

Textual Amendments

F42 Reg. 5 renumbered as reg. 5(1) (1.1.2011) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/396\)](#), regs. 1(1), **4(1)**

F43 Reg. 5(2) inserted (1.1.2011) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/396\)](#), regs. 1(1), **4(2)**

Commencement Information

I5 Reg. 5 in operation at 5.4.2007, see [reg. 1\(1\)](#)

PART 3

REGISTRATION: PRODUCERS AND SCHEMES

Producer registration obligation

6. Subject to regulations 37 and 39 and Schedules 9 and 11, a producer shall be registered with the Department in respect of a relevant year, or any part of that year, during which he is not a member of a registered scheme.

Commencement Information

I6 Reg. 6 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Application for producer registration

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 Department.

(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;
 - ^{F44}(c) be accompanied by the following further information, on a form supplied for that purpose by the Department 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 Department 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 ^{F45}recycle] by virtue of paragraph 3(1) of Schedule 2 ^{F46}... the proportion which is to be recovered by recycling by virtue of paragraph 3(2) of Schedule 2; and
 - (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 as the Department reasonably requires in order to determine the application and as is specified on the form;]
 - (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^{F47}.^{F48} ...
 - ^{F49}(e)
 - ^{F50}(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—
 - ^{F51}(i) paragraphs (4)(a) and (b) and (11);]
 - (ii) where applicable, paragraphs (4)(c), ^{F52}(ca),] (d), (f) and (5) above; and
 - (b) the Department is satisfied that the further information provided in accordance with paragraph (4)(c) ^{F53}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 Department 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;
- (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 subparagraph (a), (b), (d) or (e) of paragraph (3) above, the further information referred to in paragraph (4)(c) [^{F54}or (ca)] above need not accompany the application but shall be provided within 28 days of the application being made.

^{F55}(10)

[^{F56}(11) The applicable fee for producer registration referred to in regulation 9 must be received by the Department on or before the relevant date.]

Textual Amendments

- F44** Reg. 7(4)(c)(ca) substituted for reg. 7(4)(c) (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **5(a)(i)**
- F45** Word in reg. 7(4)(ca)(i)(aa) substituted (11.1.2021) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/345), regs. 1, **2(5)(a)**
- F46** Words in reg. 7(4)(ca)(i)(aa) omitted (11.1.2021) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/345), regs. 1, **2(5)(b)**
- F47** Reg. 7(4)(d) full stop substituted for semicolon (21.3.2016) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/79), regs. 1, **4(a)**
- F48** Reg. 7(4)(d) repealed (21.3.2016) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/79), regs. 1, **4(a)**
- F49** Reg. 7(4)(e) omitted (1.1.2011) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **5(a)(ii)**
- F50** Reg. 7(4)(f) omitted (21.3.2016) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/79), regs. 1, **4(b)**
- F51** Reg. 7(6)(a)(i) substituted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **5(b)(i)**
- F52** Word in reg. 7(6)(a)(ii) inserted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **5(b)(ii)**
- F53** Words in reg. 7(6)(b) inserted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **5(b)(iii)**
- F54** Words in reg. 7(9) inserted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **5(c)**
- F55** Reg. 7(10) omitted (21.3.2016) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/79), regs. 1, **4(c)**
- F56** Reg. 7(11) inserted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **5(d)**

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

Commencement Information

I7 Reg. 7 in operation at 5.4.2007, see **reg. 1(1)**

Conditions of registration of a producer

- 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 Department with regard to the obligations referred to in paragraph (a) above;
 - (c) inform the Department 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 [F577(4)(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 Department as required by regulation 20; [F58and]
- (e) notify the Department 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.]F60...

F61(f)

F62(g)

Textual Amendments

- F57** Word in **reg. 8(c)(iii)** inserted (1.1.2011) by *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010* (S.R. 2010/396), **regs. 1(1), 6(1)**
- F58** Word in **reg. 8(d)** inserted (21.3.2016) by *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016* (S.R. 2016/79), **regs. 1, 5(a)**
- F59** **Reg. 8(e)**: full stop substituted for semicolon (21.3.2016) by virtue of *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016* (S.R. 2016/79), **regs. 1, 5(b)**
- F60** **Reg. 8(e)** repealed (21.3.2016) by *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016* (S.R. 2016/79), **regs. 1, 5(b)**
- F61** **Reg. 8(f)** omitted (21.3.2016) by virtue of *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016* (S.R. 2016/79), **regs. 1, 5(c)**
- F62** **Reg. 8(g)** omitted (21.3.2016) by virtue of *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016* (S.R. 2016/79), **regs. 1, 5(d)**

Commencement Information

I8 Reg. 8 in operation at 5.4.2007, see **reg. 1(1)**

Forms and fees for producer registration

9.—(1) The Department shall provide the form referred to in regulation 7(4)(c) [F63or 7(4)(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 Department on an application for producer registration shall be—

- (a) where the producer is a small producer who has elected to follow the allocation method, £564; or
- (b) in all other cases, £950.

(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 9, in respect of each subsidiary included within that application that is not a small producer who has elected to follow the allocation method, the Department 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 Department shall charge an additional fee of £220.

Textual Amendments

F63 Words in [reg. 9\(1\)](#) inserted (1.1.2011) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/396\)](#), regs. 1(1), 7

Commencement Information

I9 Reg. 9 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Refusal to register producers

10. Any decision of the Department 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 6 of these Regulations and a statement as to the offence specified in regulation 40(1)(a).

Commencement Information

I10 Reg. 10 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Cancellation of registration of producers

11.—(1) The Department may cancel the registration with it of a producer where it appears to the Department 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 Department 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) and (2) above, the Department 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 6 of these Regulations; and
- (e) where cancellation is under paragraph (1), a statement as to the offence specified in regulation 40(1)(a).

Commencement Information

I11 Reg. 11 in operation at 5.4.2007, see **reg. 1(1)**

Schemes: general provisions

12.—(1) The, operator of a scheme shall carry out the 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.

[^{F64}(2) The operator of a scheme shall inform the members of the scheme by notice in writing immediately if—

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

[^{F65}(2A) The operator shall provide a copy of the notice of withdrawal of the scheme's approval in accordance with regulation 13C(3) with the notice in writing provided in accordance with paragraph (2).]

(3) The operator of a scheme may only demonstrate compliance with his [^{F39}recycling obligations] through the acquisition of PRNs or PERNs or both.

(4) A [^{F66}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 [^{F39}recycling obligations] either in that year or the following year.

Textual Amendments

- F39** Words in *Regulations* substituted (11.1.2021) by *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2020* (S.R. 2020/345), regs. 1, **2(2)**
- F64** Reg. 12(2) substituted (21.3.2016) by *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016* (S.R. 2016/79), regs. 1, **6(1)**
- F65** Reg. 12(2A) inserted (21.3.2016) by *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016* (S.R. 2016/79), regs. 1, **6(2)**
- F66** Word in reg. 12(4) substituted (1.1.2011) by *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010* (S.R. 2010/396), regs. 1(1), **8**

Commencement Information

I12 Reg. 12 in operation at 5.4.2007, see **reg. 1(1)**

Application for approval of a scheme

13.—(1) An application for approval of a scheme by the Department 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 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 ^{F67}... where the Department 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 [^{F39}recycling obligations] for that period,

and otherwise be refused.

[^{F68}(2A) Where an application for approval is granted in accordance with paragraph (2), the Department shall by notice in writing inform the operator of the scheme 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 receipt by the operator of the scheme of a notification under regulation 36(2); or
- (d) a failure by the operator of the scheme to comply, where applicable, with the additional conditions set out [^{F69}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 Department has been provided with information pursuant to regulation 36 it may, whether or not it is satisfied as to the matters set out in paragraph (2) above, grant approval subject to the additional conditions set out in [^{F70}regulation 13A(2)].

[^{F71}(5) Where the conditions in paragraph (7) are met, an operator may elect to make an application for approval by the GB Agency under paragraph (1).

- (6) Where an operator so elects—

- (a) functions of the Department in relation to the application under this regulation are to be carried out by the GB Agency on behalf of the Department; and
 - (b) until such time as the application has been determined, the operator may not make an application to the Department under paragraph (1) in relation to the same or substantially the same scheme.
- (7) The conditions are—
- (a) the operator’s registered office or principal place of business is in Great Britain; and
 - (b) the operator proposes to apply in relation to the same year for approval of the scheme under regulation 13(1) of PROR.
- (8) For the purposes of these Regulations, an act of the GB Agency performing the functions of the Department pursuant to paragraph (6)(a) is to be treated as an act of the Department.
- (9) In this regulation, “the GB Agency” means the body to which the application referred to in paragraph (7)(b) would be made in accordance with regulation 13(1) of PROR.]

Textual Amendments

- F39** Words in [Regulations](#) substituted (11.1.2021) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/345\)](#), regs. 1, **2(2)**
- F67** Word in [reg. 13\(2\)](#) omitted (21.3.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **7(a)**
- F68** [Reg. 13\(2A\)](#) inserted (21.3.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **7(b)**
- F69** Words in [reg. 13\(3\)\(d\)](#) substituted (21.3.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **7(c)**
- F70** Words in [reg. 13\(4\)](#) substituted (21.3.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **7(d)**
- F71** [Reg. 13\(5\)-\(9\)](#) 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), **21**

Commencement Information

- I13** [Reg. 13](#) in operation at 5.4.2007, see [reg. 1\(1\)](#)

[^{F72}Conditions of approval of a scheme

13A.—(1) Approval of a scheme in accordance with 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 in accordance with regulation 12(3);
- (d) the operator of the scheme maintains sufficient financial resources to acquire PRNs or PERNs in accordance with 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 recycling obligations referred to in regulation 12(1);

- (f) the operator of the scheme provides any information reasonably requested by the Department for the purposes of monitoring compliance in accordance with regulation 31(1)(b) or (c);
- (g) in relation to any year in which the scheme is registered in accordance with regulation 14—
- (i) the operator of the scheme informs the Department 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 the 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);
 - (dd) any change in the operator stated in accordance with 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 Department in accordance with regulation 22.
- (2) Approval of a scheme in accordance with regulation 13(4) is subject to the following additional conditions in relation to any year in which the scheme is registered in accordance with regulation 14—
- (a) the operator of the scheme complies with 50% of the total [^{F39}recycling obligations] of the scheme before 30th June;
 - (b) the operator of the scheme complies with a further 50% of the remaining [^{F39}recycling obligations] before 30th September;
 - (c) the operator of the scheme makes returns to the Department 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 in accordance with regulation 16(3) to the Department; 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 Department is satisfied that in the approval year the operator complied with—
- (a) the obligations in accordance with 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 Department shall serve written notice of the cessation within 28 days of the day on which the Department 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

F39 Words in [Regulations](#) substituted (11.1.2021) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2020](#) (S.R. 2020/345), regs. 1, **2(2)**

F72 Regs. 13A-13C inserted (21.3.2016) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/79), regs. 1, 8

Refusal to grant approval of a scheme

13B. Where the Department decides in accordance with regulation 13(2) 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 in accordance with regulation 13(2);
- (b) the reasons for the decision; and
- (c) a statement of the right of appeal in accordance with regulation 27(2)(a).

Textual Amendments

F72 Regs. 13A-13C inserted (21.3.2016) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/79), regs. 1, 8

Withdrawal of approval of a scheme

13C.—(1) The Department 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 supplies 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 Department shall cancel any registration of a scheme granted in accordance with 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 in accordance with paragraph (1), the Department shall serve on the operator of the scheme written notice of—

- (a) its decision in accordance with paragraph (1) to withdraw approval;
- (b) the reasons for the decision;
- (c) a statement of the right of appeal in accordance with 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 in accordance with paragraph 2 of Schedule 6.

(4) Where an application in accordance with regulation 13(3)(a) or (b) is not received by the date specified in regulation 13(3), the Department may withdraw approval of the scheme.

(5) Before the withdrawal of approval in accordance with paragraph (4), the Department shall serve on the operator of the scheme written notice of—

- (a) its decision in accordance with paragraph (4) to withdraw approval;
- (b) the reasons for the decision;
- (c) the date on which the withdrawal takes effect, not being earlier than 28 days from the date of the notice; and
- (d) the right to make representations in relation to the decision to withdraw approval within 28 days from the date of the notice.

(6) Where an application in accordance with regulation 13(3)(c) or (d) is not received by the date specified in regulation 13(3), the Department 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.

(7) The Department shall consider any representations made by the operator of a scheme before the notice in accordance with paragraph (5) takes effect, and may withdraw the notice in accordance with paragraph (5) at any time.

(8) An operator of a scheme in relation to which approval is withdrawn in accordance with 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 upon which the withdrawal takes effect;
- (b) the reasons for the withdrawal; and
- (c) the obligation of a producer in accordance with regulation 6.]

Textual Amendments

F72 Regs. 13A-13C inserted (21.3.2016) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/79), regs. 1, 8

Application for registration of a scheme

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 [^{F73}15th April] in that year, to the Department.

(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) ^{F74}... be accompanied by the following further information, on a form supplied for that purpose by the Department [^{F75}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 [^{F76}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 [^{F77}paragraphs (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 Department 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) be accompanied [^{F78}except where a scheme is registered in respect of the previous year,] by evidence that the scheme has been approved by the Department; but subject to paragraph (4)(d) below, where the scheme has yet to be approved, such evidence shall be supplied to the Department as soon as possible after receipt;
 - ^{F79}(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.
- [^{F80}(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), ^{F81}... (g) and (h) above;
 - (b) the Department is satisfied that the information provided in accordance with paragraph (3) (c) above has been provided in accordance with paragraph (7) below;
- ^{F82}(c)
- [^{F83}(d) the scheme has been approved by the Department; and
- (e) the scheme was either registered in the previous year or the scheme was approved by the Department 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 Department 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 [^{F84}regulation 13C(2)].
- ^{F85}(6)
- (7) Any information provided shall be as accurate as reasonably possible.
- [^{F86}(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.]
- [^{F87}(9) Where the conditions in paragraph (11) are met, an operator may elect to make an application for registration to the GB Agency under paragraph (1).
- (10) Where an operator so elects—
- (a) functions of the Department in relation to the application under this regulation and under regulations 16, 17 and 19(2)(a) are to be carried out by the GB Agency on behalf of the Department; and

- (b) until such time as the application has been determined, the operator may not make an application to the Department under paragraph (1) in relation to the same or substantially the same scheme.
- (11) The conditions are that—
- (a) the operator’s registered office or principal place of business is in Great Britain; and
- (b) the operator proposes to apply to the GB Agency in relation to the same year for registration of the scheme under regulation 14(1) of PROR.
- (12) For the purposes of these Regulations, an act of the GB Agency performing the functions of the Department pursuant to paragraph (10)(a) is to be treated as an act of the Department.
- (13) In this regulation, “the GB Agency” means the body to which the application referred to in paragraph (11)(b) would be made in accordance with regulation 14(1) of PROR.]

Textual Amendments

- F73** Words in reg. 14(1) substituted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **10(a)**
- F74** Words in reg. 14(3)(c) omitted (1.1.2011) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **10(b)(i)**
- F75** Words in reg. 14(3)(c) inserted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **10(b)(ii)**
- F76** Words in reg. 14(3)(c)(i) inserted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **10(b)(iii)**
- F77** Words in reg. 14(3)(c)(iv) substituted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **10(b)(iv)**
- F78** Words in reg. 14(3)(e) inserted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **10(c)**
- F79** Reg. 14(3)(f) omitted (21.3.2016) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/79), regs. 1, **9(a)**
- F80** Reg. 14(3A) inserted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **10(e)**
- F81** Word in reg. 14(4)(a) omitted (21.3.2016) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/79), regs. 1, **9(b)(i)**
- F82** Reg. 14(4)(c) omitted (21.3.2016) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/79), regs. 1, **9(b)(ii)**
- F83** Reg. 14(4)(c)-(e) substituted for reg. 14(4)(c)(d) (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **10(f)**
- F84** Words in reg. 14(5)(b) substituted (21.3.2016) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 (S.R. 2016/79), regs. 1, **9(c)**
- F85** Reg. 14(6) omitted (1.1.2011) by virtue of The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **10(g)**
- F86** Reg. 14(8) inserted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **10(h)**
- F87** Reg. 14(9)-(13) inserted (24.2.2016) by The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016 (S.I. 2016/241), regs. 1(b), **22**

Commencement Information

- I14** Reg. 14 in operation at 5.4.2007, see **reg. 1(1)**

Conditions of registration of a scheme

^{F88}15.

Textual Amendments

F88 Reg. 15 omitted (21.3.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **10**

[^{F89}Notification of change of membership

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

Textual Amendments

F89 Reg. 15A inserted (21.3.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **11**

Forms and fees for registration of a scheme

16.—(1) The Department 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 Department on an application for registration of a scheme shall be—

- (a) £776 for a scheme member who had a turnover of more than £5,000,000 in the previous year;
- (b) £776 for a scheme member who had a turnover of between £2,000,000 and £5,000,000 in the previous year and has chosen not to follow the allocation method;
- (c) £564 for a scheme member who had a turnover of between £2,000,000 and £5,000,000 in the previous year and has elected to follow the allocation method.

(3) In the case of a scheme that has been granted [^{F90}approval in accordance with] regulation 13(4) the fee to be charged by the Department in addition to the fee in paragraph (2) above is—

- (a) £1,540 where the operator of the scheme has an obligation to [^{F91}recycle] up to and including 24,999 tonnes of packaging waste;
- (b) £2,310 where the operator of the scheme has an obligation to [^{F91}recycle] between 25,000 and 249,999 tonnes of packaging waste; or
- (c) £3,080 where the operator of the scheme has an obligation to [^{F91}recycle] 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 Department is—

- (a) £564 where the holding company is a small producer who has elected to follow the allocation method and the group of companies had a turnover of £5,000,000 or less in the previous year; and
 - (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 Department 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 [F92]notification required in accordance with regulation 15A] is £110 for each member who is submitting data late.

Textual Amendments

- F90** Words in [reg. 16\(3\)](#) substituted (21.3.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **12(a)**
- F91** Word in [reg. 16\(3\)](#) substituted (11.1.2021) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/345\)](#), regs. 1, **2(6)**
- F92** Words in [reg. 16\(6\)](#) substituted (21.3.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **12(b)**

Commencement Information

- I15** Reg. 16 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Refusal to register a scheme

17. Any decision the Department 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 [F93]regulation 27(2)(d)]; and
- (c) a statement as to the offence specified in regulation 40(1)(a).

Textual Amendments

- F93** Words in [reg. 17\(b\)](#) substituted (21.3.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **13**

Commencement Information

- I16** Reg. 17 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Cancellation of registration of a scheme

^{F94}18.

Textual Amendments

- F94** [Reg. 18](#) omitted (21.3.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **14**

Information provided to scheme operators

- 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 Department;
 - (b) ensure that the form is signed by the approved person; and
 - (c) ensure that the information is as accurate as reasonably possible.

Commencement Information

I17 Reg. 19 in operation at 5.4.2007, see [reg. 1\(1\)](#)

PART 4

RECORDS, RETURNS AND CERTIFICATE

Producers – records and returns

- 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 Department in accordance with regulation 21, make a return to the Department 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^{F95}... 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 recycling obligations.
- (4) The records maintained under paragraph (1)(a) above by a producer shall be made available, on demand, to the Department.

Textual Amendments

- F39** Words in [Regulations](#) substituted (11.1.2021) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/345\)](#), regs. 1, **2(2)**
- F95** Words in [reg. 20\(3\)\(a\)](#) omitted (11.1.2021) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/345\)](#), regs. 1, **2(7)**

Commencement Information

- I18** Reg. 20 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Producers – certifying obligation

21.—(1) Subject to regulations 5, 37 and 39 and Schedules 9 and 11, a producer shall furnish in accordance with this regulation a certificate of compliance to the Department.

(2) A certificate of compliance shall be furnished as evidence of whether or not the producer has complied with his [^{F39}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.

Textual Amendments

- F39** Words in [Regulations](#) substituted (11.1.2021) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/345\)](#), regs. 1, **2(2)**

Commencement Information

- I19** Reg. 21 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Schemes – records and returns

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 Department 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 ^{F96}... and for recycling, to a reprocessor or exporter through the scheme as set out in the PRNs or PERNs acquired; [^{F97}and]

^{F98}(b)

- (c) the total number of tonnes of each material which is the subject of an obligation to ^{F99}... 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 Department.

(4) The operator of a scheme shall, by 31st January in the year following the year to which the information relates, send a statement [^{F100}signed by the approved person] to the Department confirming whether the operator has complied with the requirements of regulation 12(1) for the year of registration.

Textual Amendments

- F96** Words in [reg. 22\(2\)\(a\)](#) omitted (11.1.2021) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/345\)](#), regs. 1, **2(8)(a)**
- F97** Word in [reg. 22\(2\)\(a\)](#) inserted (21.3.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **15(a)**
- F98** [Reg. 22\(2\)\(b\)](#) omitted (21.3.2016) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **15(b)**
- F99** Words in [reg. 22\(2\)\(c\)](#) omitted (11.1.2021) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/345\)](#), regs. 1, **2(8)(b)**
- F100** Words in [reg. 22\(4\)](#) inserted (1.1.2011) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/396\)](#), regs. 1(1), **11**

Commencement Information

- I20** [Reg. 22](#) in operation at 5.4.2007, see [reg. 1\(1\)](#)

[^{F101}Notification of winding-up, receivership, administration, etc.

22A.—(1) This regulation applies to any person who is—

- (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).

(2) A company or limited liability partnership to which this regulation applies shall inform the Department 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 Department as soon as is practicable upon becoming aware that any one or more of the relevant circumstances apply or are about to apply to the scheme it operates.

(4) For the purpose of this regulation the “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 its undertaking has been duly appointed;
- (d) its undertaking has entered administration;
- (e) a voluntary arrangement proposed for the purposes of Part II of the Insolvency (Northern Ireland) Order 1989 has been approved under that Part of the Order.]

Textual Amendments

- F101** [Reg. 22A](#) inserted (1.1.2011) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/396\)](#), regs. 1(1), **12**

PART 5

ACCREDITATION OF REPROCESSORS AND EXPORTERS

Requirement for accreditation

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 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 ^{F102}an export of packaging waste for reprocessing] for which he is accredited under regulation 24.

Textual Amendments

F102 Words in [reg. 23\(2\)](#) substituted (13.1.2008) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment No.2\) Regulations \(Northern Ireland\) 2008 \(SR 2008/373\)](#), [reg. 1](#), [reg. 2\(2\)](#)

Commencement Information

I21 Reg. 23 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Application for accreditation

24.—(1) An application for accreditation shall be made to the Department—

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

(i) as a reprocessor in respect of each site for which he wishes to be accredited and stating which of the applicable ^{F103}recycling] operations ^{F104}and] which recyclable materials he wishes that accreditation to cover; or

^{F105}(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 Department and including all the information specified on that form, being information which the Department reasonably requires in order to determine the application;

^{F106}(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 site and for reprocessing in one or more specified [^{F107}recycling] operations or a combination of such operations; or
- [^{F108}(b) an exporter, to issue PERNs for the export of one or more specified recyclable materials for reprocessing in one or more [^{F107}recycling] operations outside the United Kingdom, or a combination of such operations,]

shall be granted where the Department 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;
- [^{F109}(b) (i) where the application is made for accreditation as an exporter and relates to one or more reprocessing sites outside the [^{F110}United Kingdom or a Member State] , that the requirements of [^{F111}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]
- (ii) where the application is made for accreditation as an exporter and relates to one or more reprocessing sites outside the [^{F112}United Kingdom or a Member State] , 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 [^{F113}applicable to the shipment of waste from the United Kingdom] are met in respect of each such export;]
- (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 and under Schedule 5.

(4) The Department 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 Department the sum of £2,111 (being the balance of the fee which would have been payable under paragraph (1)(d)(ii) had the undertaking not been given) [^{F114}within 28 days of the breach].

[^{F115}(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 Department 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.]

(8) An application to extend an exporters accreditation to include a further reprocessing site or sites located within [^{F116}a Member State] shall be granted by the Department where it is satisfied that the application has been made in accordance with paragraph (7) above, and in any other case be refused.

(9) An application to extend an exporter's accreditation to include a further reprocessing site or sites located outside [^{F117}United Kingdom or a Member State] shall be granted by the Department where it is satisfied that each of those sites meets [^{F118}conditions 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

- F103** Word in reg. 24(1)(a)(i) substituted (11.1.2021) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/345), regs. 1, **2(9)(a)**
- F104** Word in reg. 24(1)(a)(i) inserted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **13(a)**
- F105** Reg. 24(1)(a)(ii) substituted (13.1.2008) by The Producer Responsibility Obligations (Packaging Waste) (Amendment No.2) Regulations (Northern Ireland) 2008 (SR 2008/373), reg. 1, **reg. 2(3)(a)**
- F106** Reg. 24(1)(c) substituted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **13(b)**
- F107** Words in reg. 24(2) substituted (11.1.2021) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2020 (S.R. 2020/345), regs. 1, **2(9)(b)**
- F108** Reg. 24(2)(b) substituted (13.1.2008) by The Producer Responsibility Obligations (Packaging Waste) (Amendment No.2) Regulations (Northern Ireland) 2008 (SR 2008/373), reg. 1, **reg. 2(3)(b)**
- F109** Reg. 24(3)(b) substituted (13.1.2008) by The Producer Responsibility Obligations (Packaging Waste) (Amendment No.2) Regulations (Northern Ireland) 2008 (SR 2008/373), reg. 1, **reg. 2(3)(c)**
- F110** Words in reg. 24(3)(b)(i) substituted (31.12.2020) by virtue of S.I. 2019/271, **reg. 4(4)(a)(i)(aa)** (as substituted by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **4(4)(c)**)
- F111** Words in reg. 24(3)(b)(i) substituted (31.12.2020) by S.I. 2019/271, reg. 4(4)(a)(i)(bb) (as substituted by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **4(4)(c)**)
- F112** Words in reg. 24(3)(b)(ii) substituted (31.12.2020) by virtue of S.I. 2019/271, **reg. 4(4)(a)(ii)(aa)** (as substituted by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **4(4)(c)**)
- F113** Words in reg. 24(3)(b)(ii) substituted (31.12.2020) by S.I. 2019/271, reg. 4(4)(a)(ii)(bb) (as substituted by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **4(4)(c)**)
- F114** Words in reg. 24(6) inserted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **13(c)**

- F115** Reg. 24(7) substituted (1.1.2011) by The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010/396), regs. 1(1), **13(d)**
- F116** Words in reg. 24(8) substituted (31.12.2020) by virtue of S.I. 2019/271, reg. 4(4)(b) (as substituted by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **4(4)(c)**)
- F117** Words in reg. 24(9) substituted (31.12.2020) by virtue of S.I. 2019/271, reg. 4(4)(c)(i) (as substituted by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **4(4)(c)**)
- F118** Words in reg. 24(9) substituted (31.12.2020) by S.I. 2019/271, reg. 4(4)(c)(ii) (as substituted by The Waste (Amendment) (EU Exit) Regulations (Northern Ireland) 2020 (S.R. 2020/284), regs. 1(1), **4(4)(c)**)

Commencement Information

- I22** Reg. 24 in operation at 5.4.2007, see **reg. 1(1)**

Conditions of accreditation

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

Commencement Information

- I23** Reg. 25 in operation at 5.4.2007, see **reg. 1(1)**

Suspension and cancellation of accreditation

26.—(1) The Department 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.

[^{F119}(2) Where the appropriate authority 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, are met in relation to the export of one or more specified recyclable materials for reprocessing at one or more reprocessing sites outside the United Kingdom, the appropriate authority 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 Department suspends or cancels an accreditation under paragraph (1) or cancels the accreditation of an exporter to [^{F120}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 6;
- (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

- F119** Reg. 26(2) substituted (31.12.2020) by S.I. 2019/271, reg. 4(5) (as substituted by [The Waste \(Amendment\) \(EU Exit\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/284\)](#), regs. 1(1), **4(4)(d)**)
- F120** Words in reg. 26(3) substituted (13.1.2008) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment No.2\) Regulations \(Northern Ireland\) 2008 \(SR 20008/373\)](#), reg. 1, **reg. 2(4)(b)**)

Commencement Information

- I24** Reg. 26 in operation at 5.4.2007, see **reg. 1(1)**

PART 6 APPEALS

Right of appeal

27.—(1) A producer may appeal to the Planning Appeals Commission against a decision of the Department—

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

[^{F121}(2) The operator of a scheme may appeal to the Planning Appeals Commission against a decision of the Department—

- (a) to refuse to grant an application for approval in accordance with regulation 13;
- (b) to withdraw approval in accordance with regulation 13C(1) or (6);
- (c) to withdraw approval in accordance with regulation 13C(4); or
- (d) to refuse to grant an application for registration in accordance with regulation 14(4).]

(3) A reprocessor or exporter may appeal to the Planning Appeals Committee against a decision of the Department—

- (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

- F121** Reg. 27(2) substituted (21.3.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, **16**

Commencement Information

I25 Reg. 27 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Procedure on appeals

- 28.**—(1) Where an appeal is made to the Planning Appeals Committee 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 Department may appoint for the purpose, with or without payment.
- (2) If the appellant so requests, or the Department so decides, the appeal shall be or continue in the form of a hearing.
- (3) Schedule 6 shall have effect with respect to the procedures on any such appeal.

Commencement Information

I26 Reg. 28 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Determination of appeals

29. Where, on such an appeal, the Planning Appeals Commission determines that the decision of then Department shall be altered it shall be the duty of the Department to give effect to the determination.

Commencement Information

I27 Reg. 29 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Status pending appeal

30. In a case falling within [^{F122}regulation 11(1) or 13C(1), (4) or (6)], the decision appealed against shall not take effect until the appeal is disposed of; and if the appeal is dismissed or withdrawn the decision shall take effect from the end of the day on which the appeal is dismissed or withdrawn.

Textual Amendments

F122 Words in [reg. 30](#) substituted (21.3.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), regs. 1, 17

Commencement Information

I28 Reg. 30 in operation at 5.4.2007, see [reg. 1\(1\)](#)

PART 7

POWERS AND DUTIES OF THE DEPARTMENT

Monitoring

31.—(1) The Department 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 ^{F123}regulation 13A(1) and (2); and
- (d) compliance by persons who are accredited reproprocessors or exporters with the conditions specified in or under Schedule 5^{F124}.

^{F125}(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 Department by a producer under regulation 20;
- (d) the accuracy of the information contained in the certificates of compliance furnished to the Department 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 Department by an operator of a scheme under ^{F126}regulations 13A(2)(c) and 22].

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

- (a) any person who has, or who the Department 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 Department 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 reproprocessor or exporter,

require him to maintain such records, and furnish such returns to the Department, of such information specified in the notice as the Department 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

F123 Words in [reg. 31\(1\)\(c\)](#) substituted (21.3.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), [regs. 1, 18\(a\)\(i\)](#)

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

- F124** Reg. 31(1)(d): full stop substituted for word (21.3.2016) by *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016* (S.R. 2016/79), regs. 1, **18(a)(ii)**
- F125** Reg. 31(1)(e) omitted (21.3.2016) by virtue of *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016* (S.R. 2016/79), regs. 1, **18(a)(iii)**
- F126** Words in reg. 31(2)(f) substituted (21.3.2016) by *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016* (S.R. 2016/79), regs. 1, **18(b)**

Commencement Information

- I29** Reg. 31 in operation at 5.4.2007, see **reg. 1(1)**

Monitoring – publication

32. The Department shall provide in relation to each year, by 1st December in the preceding 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 Department’s policy in relation to the monitoring it is required to carry out under regulation 31; and
- (b) an indication of the minimum numbers of persons which it proposes to monitor in the course of that year.

Commencement Information

- I30** Reg. 32 in operation at 5.4.2007, see **reg. 1(1)**

Public register

33.—(1) The Department 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 3; and
- (b) the reprocessors and exporters accredited by it in accordance with Part 5,

and containing the relevant information prescribed in Schedule 7.

(2) The Department 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 Department shall amend the relevant entry in the register to record any change to the information entered within 5 days of receipt of the information ^{F127}....

(5) Nothing in this regulation shall require a register maintained by the Department 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 Department 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

F127 Words in [reg. 33\(4\)](#) omitted (1.1.2011) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/396\)](#), [regs. 1\(1\), 14](#)

Commencement Information

I31 Reg. 33 in operation at 5.4.2007, see [reg. 1\(1\)](#)

[^{F128}Approved persons

34.—(1) The Department 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 Northern Ireland, a director or company secretary of that company;
- (d) is an unincorporated body, an individual who has control or management of that body; or
- (e) does not have a registered office in Northern Ireland, 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).]

[^{F129}(4) In accordance with regulation 34A, the Department may approve the delegation by an approved person of that approved person’s functions to any other person.

(5) An approved person who has delegated functions in accordance with 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 approved 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

F128 Reg. 34 substituted (1.1.2011) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/396\)](#), [regs. 1\(1\), 15](#)

F129 Reg. 34(4)-(7) inserted (21.3.2016) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/79\)](#), [regs. 1, 19](#)

[^{F130}Delegation of approved persons’ functions: procedure

34A.—(1) An approved person who proposes the delegation of that approved person’s functions to another person in accordance with regulation 34(4) shall apply for approval to the Department on a form supplied for that purpose by the Department and signed by the approved person.

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

- (a) be granted where the Department is satisfied that the proposed delegate, taking into account the factors specified in paragraph (3), is capable of carrying out the functions of the approved person; or
- (b) otherwise be refused.

(3) The factors referred to 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 experience;
- (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 Department reasonably considers to be relevant.

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

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

(6) The Department may decide to withdraw approval granted in accordance with 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
- (c) 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 in accordance with paragraph (2)(a), the person shall serve written notice on the Department 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

F130 Reg. 34A inserted (21.3.2016) by *The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016* (S.R. 2016/79), regs. 1, 20

Entry and inspection

35.—(1) An authorised person may exercise the powers referred to in paragraph (2) below.

(2) The powers of entry and inspection are—

- (a) to enter at any reasonable time any premises which he has reason to believe it is necessary for him to enter;
- (b) to make such examination and investigation as may in any circumstances be necessary;
- (c) as regards any premises which he has power to enter, to direct that those premises or any part of them, or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (b);

- (d) to take such photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (b);
 - (e) to take samples, or cause samples to be taken, of any records and packaging and packaging materials found in or on any premises which he has power to enter; ^{F131}...
 - (f) in the case of any such records and packaging and packaging materials as are mentioned in paragraph (e), to take possession of them and detain them for so long as is necessary for all or any of the following purposes, namely—
 - (i) to examine them, or cause them to be examined, and to do, or cause to be done, to them anything which he has power to do ^{F132}... under that paragraph,
 - (ii) to ensure that they are not tampered with before examination of them is completed,
 - (iii) to ensure that they are available for use as evidence in any proceedings for an offence under regulation 40;
 - (g) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under paragraph (b) to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of his answers;
 - (h) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any record and return—
 - (i) which are required to be kept and provided to the Department under regulations 20, 22 and 25, or
 - (ii) which it is necessary for him to see for the purposes of an examination or investigation under paragraph (b), and to inspect and take copies of, or of any entry in, the records and returns; and
 - (i) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by this regulation.
- (3) In any case where it is proposed to enter any premises used for residential purposes, any entry shall only be effected—
- (a) after the expiration of at least seven day's notice of the proposed entry given to a person who appears to the authorised person to be in occupation of the premises in question; and
 - (b) either—
 - (i) with the consent of a person who is in occupation of those premises, or
 - (ii) when a [^{F133}lay magistrate] by warrant under his hand authorises the authorised person to enter the premises in question.
- (4) Where it is shown to the satisfaction of a [^{F134}lay magistrate] on complaint on oath that an authorised person proposes to enter any premises and—
- (a) entry has been refused and he apprehends on reasonable grounds that the use of force may be necessary to effect entry; or
 - (b) he apprehends on reasonable grounds that entry is likely to be refused and that the use of force may be necessary to effect entry;

an entry on to those premises shall only be effected under the authority of a warrant by virtue of Schedule 8.

(5) No answer given by a person in pursuance of a requirement imposed under paragraph (2)(g) shall be admissible in evidence in Northern Ireland against that person in any proceedings.

(6) Nothing in this regulation shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court.

(7) In this regulation “authorised person” means a person who is authorised in writing by the Department for the purposes of its functions under these Regulations and “warrant” means a warrant under the provisions set out in Schedule 8 as applied by paragraph (4).

Textual Amendments

- F131** Word in [reg. 35\(2\)\(e\)](#) omitted (1.1.2011) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/396\)](#), [regs. 1\(1\), 16\(a\)](#)
- F132** Word in [reg. 35\(2\)\(f\)\(i\)](#) omitted (1.1.2011) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/396\)](#), [regs. 1\(1\), 16\(b\)](#)
- F133** Words in [reg. 35\(3\)](#) substituted (6.4.2008) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2008 \(SR 2008/77\)](#), [reg. 1, reg. 2\(3\)](#)
- F134** Words in [reg. 35\(4\)](#) substituted (6.4.2008) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2008 \(SR 2008/77\)](#), [reg. 1, reg. 2\(3\)](#)

Commencement Information

- I32** [Reg. 35](#) in operation at 5.4.2007, see [reg. 1\(1\)](#)

Provision of information to the Department

36.—(1) If in respect in the relevant year the total figure provided to the Department by the operator of the scheme under regulation 22(2)(a) is less than the total figure under regulation 22(2)(c) then it shall appear to the Department that the operator of a scheme has not met his recycling obligations and paragraph (2) shall apply.

(2) Where, in accordance with paragraph (1) above, it appears to the Department that the operator of a scheme has not met his recovery or recycling obligations in relation to the scheme in a relevant year the Department shall notify the operator of that fact.

Textual Amendments

- F39** Words in [Regulations](#) substituted (11.1.2021) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/345\)](#), [regs. 1, 2\(2\)](#)

Commencement Information

- I33** [Reg. 36](#) in operation at 5.4.2007, see [reg. 1\(1\)](#)

PART 8

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

Packaging handled by groups of companies

37. The provisions of Schedule 9 shall apply with regard to groups of companies as defined in that Schedule.

Commencement Information

I34 Reg. 37 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Packaging handled by licensors and pub operating businesses

38.—(1) Where in the relevant year and in the preceding year a person is a licensor, the provisions of Schedule 10 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 10 shall apply to determine whether that person has producer responsibility obligations in that capacity.

(3) For the purposes of this regulation and Schedule 10 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 10 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 are used by the tenant in order to carry on the licensable activity of—
 - (i) selling intoxicating liquor by retail for consumption in, or both in or off the premises; or
 - (ii) the supply of intoxicating liquor by or on behalf of a club, 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 the tenant holds a licence in respect of those premises.

(5) In the definition of pub operating business—

- (i) “intoxicating liquor” has the same meaning as in Article 2(2) of the Licensing (Northern Ireland) Order 1996(9);
- (ii) “licence” has the same meaning as in Article 2(2) of the Licensing (Northern Ireland) Order 1996 and licensed activity shall be construed accordingly;
- (iii) “supply of intoxicating liquor” shall be construed in accordance with Registration of Clubs (Northern Ireland) Order 1996(10);
- (iv) “selling by retail” in relation to any intoxicating liquor shall be construed in accordance with the Licensing (Northern Ireland) Order 1996^{F135}....

(9) S.I. 1996/3158 (N.I.22)

(10) S.I. 1996/3159 (N.I.23)

(6) 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 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;

“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⁽¹¹⁾.

Textual Amendments

F135 Words in [reg. 38\(5\)\(iv\)](#) omitted (1.1.2011) by virtue of [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2010 \(S.R. 2010/396\)](#), [regs. 1\(1\), 17](#)

Commencement Information

I35 Reg. 38 in operation at 5.4.2007, see [reg. 1\(1\)](#)

Mid-year changes

39. The provisions of Schedule 11 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.

Commencement Information

I36 Reg. 39 in operation at 5.4.2007, see [reg. 1\(1\)](#)

PART 9

OFFENCES

Offences and penalties

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

(a) subject to paragraph (2) below, regulation 4(4)(a);

(11) 1994 c. 26

- (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 recycling obligations] in contravention of regulation 12(1) is guilty of an offence.

(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 Department 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 Department in the exercise of powers referred to in regulation 35 is guilty of an offence.

(8) Where in accordance with Schedule 9 there is a group registration the holding company is guilty of an offence if—

- (a) it does not comply with its [^{F39}recycling obligations] referred to in paragraph 5(c) of Schedule 9; or
- (b) it does not furnish a certificate of compliance in accordance with paragraph 5(d) of Schedule 9.

(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.

Textual Amendments

F39 Words in [Regulations](#) substituted (11.1.2021) by [The Producer Responsibility Obligations \(Packaging Waste\) \(Amendment\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/345\)](#), regs. 1, **2(2)**

Commencement Information

I37 Reg. 40 in operation at 5.4.2007, see [reg. 1\(1\)](#)

PART 10

REVOCATION AND TRANSITIONAL PROVISION

Revocation and transitional provision

41.—(1) The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2006 (a) are revoked.

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

(2) Any step taken before commencement of these Regulations which has effect under any provision of the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2006 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 (Northern Ireland) 2006 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 as having elapsed under the equivalent provision of these Regulations.

Commencement Information

I38 Reg. 41 in operation at 5.4.2007, see **reg. 1(1)**

Sealed with the Official Seal of the Department of the Environment on 23rd March 2007

L.S.

Wesley Shannon
A senior officer of the Department of the
Environment

Changes to legislation:

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