

EXPLANATORY MEMORANDUM TO
THE PRODUCER RESPONSIBILITY OBLIGATIONS (PACKAGING WASTE) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2010

SR 2010 No. 396

Introduction

1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
2. The Statutory Rule(SR) is made in exercise of the powers conferred by section 2(2) of the European communities Act 1972 and Articles 3(1), 4(1) and 5(1) of the Producer Responsibility Obligations (Northern Ireland) Order 1998 and is subject to the negative resolution procedure.
3. The SR is due to come into operation on 1st January 2011.

Purpose

4. The SR amends the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (S.R.2007 No.198) by including packaging waste recovery and recycling targets in the 2007 Regulations for 2011 and 2012, provisions to increase the transparency associated with revenue from Packaging Recovery Notes (PRNs) and a number of technical changes to improve the clarity of the Regulations.

Background

5. The UK Packaging Strategy focuses on two key objectives one of which is to maximise packaging recycling. The key levers to achieving this objective are the packaging recycling and recovery targets set under the 2007 Regulations.
6. Previous policy has been based on the need to achieve the requirements of the EC Directive on Packaging and Packaging Waste. The Directive was introduced to create a single market for packaging and to increase recycling and recovery levels across the EU. The UK has met or exceeded the targets set for 2008 in the Directive, and in future years is required to maintain this level of performance, though Member States have discretion regarding setting higher targets.
7. The UK needs to continue to drive improvements in collection and recycling for the main packaging materials in order to maximise the considerable greenhouse gas emissions savings achieved through recycling packaging, promote resource efficiency and continue to move towards the recycling rates achieved by the best EU performers.

8. The Regulations will:-
- set new recovery and recycling targets for packaging waste for 2011 and 2012;
 - strengthen reporting provisions for accredited exporters and reproprocessors to promote transparency in how producer funding is spent; and,
 - technical changes to improve the clarity and operation of the Regulations.

Detail

The Regulations amend the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007 (the 2007 Regulations) as follows:-

Regulation 3 amends several definitions;

Regulation 5 removes parts of the exemption for small producers in relation to the information that must be provided to the Department each year. It also inserts a new regulation to preserve parts of this exemption for small producers and amends when the applicable fee for producer registration must be paid;

Regulation 9 changes when applications for scheme registrations must be made and what information must accompany these applications;

Regulation 12 inserts a new regulation to create an obligation on operators of schemes, producers and accredited reproprocessors and exporters to provide information to the Department about circumstances including winding-up orders, the appointment of a receiver and entering administration;

Regulation 13 changes what must be included in business plans submitted as part of an application for accreditation by a reproprocessor or exporter.

Regulation 15 changes who may be specified as an approved person for the purpose of issuing certificates of compliance and signing the specified forms;

Regulation 18 amends Schedule 1 to the 2007 Regulations. The amendments include changes regarding the allocation of producer obligations for those carrying out packer/filler and convertor obligations and a change to remove packaging or packaging materials exported from the United Kingdom to a marine installation from the exclusion from the calculation of a producer's recovery and recycling obligations;

Regulation 19 amends Schedule 2 to the 2007 Regulations. It includes replacement of the definition used to determine the amount of packaging and packaging materials handled by producers for the purpose of calculating their recovery targets and recovery, recycling and small producer recycling allocation targets for the years between 2010 and 2012.

Regulation 21 amends Schedule 5 to the 2007 Regulations. It makes changes to the annual reports provided to the Department by accredited reproprocessors and exporters and removing the requirement to provide a report from an independent auditor.

Consultation

A UK wide consultation was carried out between 4 March 2010 and 27 May 2010. Five Northern Ireland responses were received. A summary of these comments is available for viewing according to Cabinet Office Guidelines on the Department's website at

www.doeni.gov.uk/index/protect_the_environment/waste/producer_responsibility.htm

Human Rights and Equality Impact

These Regulations have been confirmed as compatible with the European Convention on Human Rights. There are no equality issues associated with these Regulations.

Regulatory Impact Assessment

A Regulatory Impact Assessment which has been compiled by the Department for Environment Food and Rural Affairs (Defra) is available from the Department's website at

www.doeni.gov.uk/index/protect_the_environment/waste/producer_responsibility.htm