
SCOTTISH STATUTORY INSTRUMENTS

2023 No. 7

**The Packaging Waste (Data Reporting)
(Scotland) Regulations 2023**

PART 2

Producers and obligations

Producer obligations

15.—(1) This regulation applies to a producer (“P”) who is established in Scotland.

(2) If P is a small producer, but not an online marketplace operator or a seller, P is subject to the data collection obligations in regulation 16(2).

(3) If P is a large producer, but not an online marketplace operator or a seller, P is subject to—

- (a) the data collection obligations in regulation 16(3), and
- (b) the data reporting obligations in regulation 17.

(4) If P is a small producer who is an online marketplace operator, P is subject to the data collection obligations in regulation 16(4).

(5) If P is a large producer who is an online marketplace operator, P is subject to—

- (a) the data collection obligations in regulation 16(4), and
- (b) the data reporting obligations in regulation 17.

(6) If P is a small or large producer who is a seller, P is subject to the data collection obligations in regulation 16(5).

(7) The references in paragraphs (2) and (3) to an online marketplace operator and a seller are to an online market place operator or seller who performs the functions of no other class referred to in regulation 8(1).

(8) If P is a producer who is a licensor or a pub operating business, schedule 2 applies to determine whether P is subject to the data collection obligations in regulation 16(6) in that capacity.

Data collection obligations

16.—(1) The data collection obligations in this regulation are as follows.

Small producers, other than online marketplace operators and sellers

(2) A producer subject to the data collection obligations in this paragraph, must maintain for each data collection period, and retain for at least 7 years after the end of the data collection period to which they relate, records of the information referred to in paragraph 10(2) and 21(a) of schedule 1.

Large producers, other than online marketplace operators and sellers

(3) A producer subject to the data collection obligations in this paragraph must—

- (a) maintain for each data collection period, and retain for at least 7 years after the end of the data collection period to which they relate, records of the information listed in schedule 1,
- (b) retain for 7 years evidence—
 - (i) of the amount of packaging waste which they have collected and sent for recycling, as reported on under paragraph 23(1) and (3) of schedule 1,
 - (ii) that any relevant packaging waste included in the packaging waste referred to in head (i) has been recycled, and for these purposes “relevant packaging waste” has the same meaning as in paragraph 23(5) of schedule 1.

Online marketplace operators

(4) A producer subject to the data collection obligations in this paragraph must maintain for each data collection period and retain for at least 7 years after the end of the data collection period to which they relate, records of the information listed in Parts 4 and 5 of schedule 1.

Sellers

(5) A producer subject to the data collection obligations in this paragraph must maintain for each data collection period, and retain for at least 7 years after the end of the data collection period to which they relate, records of the information listed in Part 5 of schedule 1.

Licensors and pub operating businesses

(6) A producer subject to the data collection obligations in this paragraph must maintain for each data collection period, and retain for at least 7 years after the end of the data collection period to which they relate, records of the information listed in paragraphs 22 and 23(3) of Part 5 of schedule 1.

(7) For the purposes of this regulation, “data collection period” means—

- (a) the period from the date on which these Regulations come into force until 31 December 2023, and
- (b) in subsequent years, the period of 12 months starting on 1 January.

Data reporting obligations

17.—(1) A large producer (“LP”) who is subject to obligations in this regulation must, subject to paragraph (2), report the following information to SEPA every six months, in accordance with this regulation, in such form and manner as SEPA may direct—

- (a) the information in Part 2 of schedule 1, and
- (b) where LP is a brand owner, packer/filler, importer, or service provider, the information in Part 3 and paragraph 23 of schedule 1,
- (c) where LP is a distributor, the information in paragraphs 10 to 13, 16, 17 and 23 of schedule 1,
- (d) where LP is an online marketplace operator, the information in Part 4 and paragraph 23 of schedule 1.

(2) The first report required under paragraph (1) must be made—

- (a) for the six months ending on 30 June 2023, or
- (b) if LP does not have sufficient data to report on the period from 1 January to the date on which these Regulations come into force (“the commencement date”), for the period starting on the commencement date and ending on 30 June 2023,

and must be submitted on or before 1 October 2023.

(3) Subsequent reports must be submitted—

- (a) for the six months ending on 31 December, on or before 1 April in the following year,
 - (b) for the six months ending on 30 June, on or before 1 October in the same year.
- (4) LP must ensure that the information reported to SEPA under this regulation—
- (a) is as accurate as reasonably possible, and
 - (b) is verified by the signature of the approved person of LP.

Notification of winding-up, receivership, administration, etc.

18.—(1) A producer must inform SEPA as soon as is practicable upon becoming aware that one or more relevant circumstances apply, or are about to apply, to them.

- (2) For the purposes of this regulation “relevant circumstances” are—
- (a) in the case of a body corporate —
 - (i) a winding-up order has been made or a resolution for voluntary winding-up has been passed,
 - (ii) a determination for a voluntary winding-up has been made,
 - (iii) a receiver or a manager of the company or limited liability partnership’s undertaking has been duly appointed,
 - (iv) it has entered administration,
 - (v) a voluntary arrangement proposed for the purposes of Part 1 of the Insolvency Act 1986 has been approved under that Part of the Act,
 - (b) in the case of an individual or partnership —
 - (i) the individual has become subject to a bankruptcy restrictions order under section 155 of the Bankruptcy (Scotland) Act 2016,
 - (ii) the individual has entered into a debt arrangement scheme within the meaning of Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002⁽¹⁾,
 - (iii) the individual has been made subject to a protected trust deed (see section 163 of the Bankruptcy (Scotland) Act 2016),
 - (iv) the individual has been sequestrated under the Bankruptcy (Scotland) Act 2016,
 - (c) in the case of a body corporate, individual or partnership which, or who, is subject to the laws of a jurisdiction other than Scotland, circumstances analogous to those described in sub-paragraphs (a) and (b).

⁽¹⁾ 2002 asp 17; Part 1 was amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), S.S.I. 2004/468 and S.S.I. 2011/141.