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SCOTTISH STATUTORY INSTRUMENTS

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**2023 No. 7**

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

**PART 1**

**General**

**Producers**

**8.—**(1) A person is a producer in relation to the packaging specified in this regulation if they perform in any nation of the United Kingdom the functions of one or more of the following classes in relation to packaging, either on their own behalf, or through an agent acting on their behalf, and in the course of business—

- (a) a brand owner,
- (b) a packer/filler,
- (c) an importer,
- (d) a distributor,
- (e) an online marketplace operator,
- (f) a service provider,
- (g) a seller.

(2) A person whose name, trade mark or other distinctive mark appears on an item of filled packaging (a “brand owner”), is a producer in relation to that item of packaging (“branded packaging”), and any item of packaging contained within branded packaging, or forming primary packaging together with the branded packaging, whether or not that item is also branded.

(3) A packer/filler is a producer in relation to any filled packaging—

- (a) which is filled by the packer/filler, and
- (b) for which there is no brand owner.

(4) An importer is a producer in relation to any filled packaging imported into the United Kingdom by the importer which is—

- (a) secondary packaging or tertiary packing,
- (b) any other packaging—
  - (i) for which there is no brand owner,
  - (ii) where the brand owner is not responsible for the import of the packaging,
  - (iii) for which the brand owner does not satisfy the criteria set out in regulation 11(1).

(5) A distributor is a producer in relation to any unfilled packaging which is—

- (a) manufactured or imported by the distributor, and

- (b) supplied to a person who is not a large producer subject to obligations under regulation 15(3),

except where a brand owner is treated as the producer of that packaging once it is filled.

- (6) An online marketplace operator is a producer in relation to—
  - (a) any packaging on items which are sold on their online marketplace by a person, acting in the course of business, who is not established in the United Kingdom,
  - (b) any unfilled packaging supplied on their online marketplace—
    - (i) by a person, acting in the course of business, who is not established in the United Kingdom,
    - (ii) to a business which is not a large producer subject to obligations under regulation 15(3),

provided that the packaging is received in the United Kingdom.

(7) A service provider is a producer in relation to any reusable packaging, the first time that packaging is supplied, but not otherwise.

(8) A seller of filled packaging to the consumer of that packaging is a producer in relation to that packaging, and for these purposes, the consumer is the person who last uses the packaging in question before discarding it.

(9) Where a person performs the functions of more than one of the classes in sub-paragraph (1), whether or not in relation to the same packaging, or the same transaction or process, that person belongs to each class.

(10) For the purposes of this regulation, a person acts “in the course of business” if they act in the ordinary course of conduct of a trade, business, craft or profession.