
STATUTORY INSTRUMENTS

1997 No. 648

**The Producer Responsibility Obligations
(Packaging Waste) Regulations 1997**

PART IX

THE RESTRICTIVE TRADE PRACTICES ACT 1976

The 1976 Act

32.—(1) In this Part “the 1976 Act” means the Restrictive Trade Practices Act 1976⁽¹⁾.

(2) The 1976 Act shall not apply to any agreement for the constitution of a body (whether corporate or unincorporated) which operates a registered scheme by reason of—

- (a) any term of the agreement; or
- (b) any implied term deemed to be contained in the agreement by virtue of section 8(2) or section 16(3) of the 1976 Act;

being in either case a term which is required or contemplated by that scheme.

(3) Where an agreement ceases by virtue of this regulation to be subject to registration under the 1976 Act—

- (a) the Director shall remove from the register maintained by him under the 1976 Act any particulars which are entered or filed in that register in respect of the agreement; and
- (b) any proceedings in respect of the agreement which are pending before the Restrictive Practices Court shall be discontinued.

(4) Where an agreement which has been exempt from registration under the 1976 Act by virtue of paragraph (2) above ceases to be exempt in consequence of the cancellation of the registration of a scheme under regulation 17, the time within which particulars of the agreement are to be furnished in accordance with section 24 of and Schedule 2 to the 1976 Act shall be the period of one month beginning with the day on which the agreement ceased to be exempt from registration under the 1976 Act.

Agreements to which the 1976 Act applies

33.—(1) In this regulation, “the Court”, “information provision” and “restriction” have the same meanings as they have in the 1976 Act.

(2) This regulation applies to an agreement to which the 1976 Act applies—

- (a) at least one of the parties to which is an operator of a registered scheme; and
- (b) which is made for the purposes of that scheme.

(3) If it appears to the Secretary of State—

(1) 1976 c. 34.

- (a) that the restrictions in an agreement to which this regulation applies do not have and are not intended or likely to have the effect of restricting, distorting or preventing competition; or
- (b) in a case where all or any of those restrictions have, or are intended or likely to have, that effect, that the effect is not greater than is necessary for achieving the environmental or economic benefits mentioned in section 93(6) of the Act;

he may give a direction to the Director requiring him not to make an application to the Court under Part 1 of the 1976 Act in respect of the agreement.

(4) If it appears to the Secretary of State that one or more (but not all) of the restrictions in an agreement to which this regulation applies—

- (a) do not have, and are not intended or likely to have, the effect mentioned in paragraph (3) above; or
- (b) if they have, or are intended or likely to have, that effect, that the effect is not greater than is necessary for achieving the benefits mentioned in paragraph (3) above,

he may make a declaration to that effect and give notice of it to the Director and to the Court.

(5) The Court shall not in any proceedings begun by an application made after notice has been given to it of a declaration under this regulation make any finding or exercise any power under Part 1 of the 1976 Act in relation to a restriction in respect of which the declaration has effect.

(6) Before making an application to the Court under Part 1 of the 1976 Act in respect of an agreement to which this regulation applies, the Director shall—

- (a) notify the Secretary of State of his intention to do so and give him particulars of the agreement together with such other information as he considers will assist the Secretary of State in deciding whether to exercise his powers under this regulation, or as the Secretary of State may request; and
- (b) advise the Secretary of State as to his opinion—
 - (i) of the effects or likely effects on competition of the restrictions in the agreement, and
 - (ii) as to whether any such effects are necessary for achieving the benefits mentioned in paragraph (3) above.

(7) The Director shall not make an application to the Court under Part 1 of the 1976 Act in respect of an agreement to which this regulation applies unless the Secretary of State has either notified him that he does not intend to give a direction or make a declaration under this regulation or has given him notice of a declaration in respect of it.

(8) The Secretary of State may—

- (a) revoke a direction or declaration under this regulation;
- (b) vary any such declaration; or
- (c) give a direction or make a declaration notwithstanding a previous notification to the Director that he did not intend to give a direction or make a declaration,

if he is satisfied that there has been a material change of circumstances since the direction, declaration or notification was given.

(9) The Secretary of State shall give notice to the Director of the revocation of a direction and to the Director and the Court of the revocation or variation of a declaration; and no such variation shall have effect so as to restrict the powers of the Court in any proceedings begun by an application already made by the Director.

(10) A direction or declaration under this regulation shall cease to have effect if the agreement in question ceases to be an agreement to which this regulation applies.

(11) This regulation applies to information provisions as it applies to restrictions.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
