

SCHEDULE 2

Regulation 5(3)(a)

Requirements for Exemption for Plastic Crates and Pallets from Heavy Metal Concentration Levels Specified in Regulation 5(1)

1.—(1) The plastic crate or plastic pallet must be, or must have been, manufactured in a controlled recycling process, that is to say a process in which the recycled material originates only from other plastic crates or plastic pallets and in which the introduction of external materials is the minimum which is technically feasible but in any event does not exceed 20 per cent by weight.

(2) No regulated metal must be intentionally introduced as an element during the manufacture or distribution of the plastic crate or plastic pallet provided always that the incidental presence of any of these elements must be permitted.

(3) The concentration levels of regulated metals in the plastic crate or plastic pallet may only exceed the levels referred to in regulation 5 as a result of the addition of recycled materials.

2.—(1) The plastic crate or plastic pallet must be introduced in a controlled distribution and reuse system and the following requirements must be complied with—

- (a) the plastic crate or plastic pallet containing regulated metals must be identified in a permanent and visible way;
- (b) a system of inventory and record keeping must be established, which must include a method of regulatory and financial accountability, to document the compliance with the requirements set out in this Schedule including the return rates. The return rates are the percentage of returnable entities which are not discarded after use but are returned to the manufacturer of the packaging or the responsible person or an authorised representative established in [^{F1}Northern Ireland or] the [^{F2}European Union][^{F2}United Kingdom] of the said manufacturer or the responsible person, as the case may be. The said return rates must be as high as possible but in no case lower than 90 per cent over the lifetime of the said crate or pallet;
- (c) in addition the system must account for all the reusable entities put into, and removed from, service; and
- (d) all returned plastic crates or plastic pallets that are no longer reusable must be either disposed of by a procedure specifically authorised by the Environment Agency in England, the Natural Resources Body for Wales in Wales, the Department of the Environment in Northern Ireland and the Scottish Environment Protection Agency in Scotland or be recycled in a recycling process in which the recycled material is made up of plastic crates or plastic pallets in the circuit and the introduction of external material is the minimum which is technically feasible but in any event does not exceed 20 per cent by weight.

(2) The manufacturer or the manufacturer's authorised representative established in [^{F3}Northern Ireland or] the [^{F2}European Union][^{F2}United Kingdom] must—

- (a) draw up on an annual basis a written declaration of conformity, including an annual report demonstrating how the conditions in this Schedule have been complied with; the declaration of conformity must contain a list of any changes to the system and the manufacturer's authorised representatives; and
- (b) retain the documentation referred to in paragraph (a) at the disposal of the enforcement authority for inspection purposes for a period of four years from the date of its drawing up; provided always that where neither the manufacturer nor the manufacturer's authorised representative is established [^{F4}within][^{F4}in Northern Ireland or] the [^{F5}EU][^{F5}United Kingdom], the responsible person who places the product on the market must keep and, upon request, make available to the enforcement authority, the documentation referred to in paragraph (a).

Changes to legislation: There are currently no known outstanding effects for the The Packaging (Essential Requirements) Regulations 2015, SCHEDULE 2. (See end of Document for details)

Textual Amendments

- F1** Words in Sch. 2 para. 2(1)(b) inserted (N.I.) (31.12.2020) by The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647), regs. 1(3), **15(9)(a)**
- F2** Words in Sch. 2 para. 2 substituted (E.W.S.) (31.12.2020) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(b), **20(9)(a)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Sch. 2 para. 2(2) inserted (N.I.) (31.12.2020) by The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647), regs. 1(3), **15(9)(a)**
- F4** Words in Sch. 2 para. 2(2) substituted (N.I.) (31.12.2020) by The Hazardous Substances and Packaging (Legislative Functions and Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1647), regs. 1(3), **15(9)(b)**
- F5** Words in Sch. 2 para. 2(2) substituted (E.W.S.) (31.12.2020) by The Waste (Miscellaneous Amendments) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/188), regs. 1(2)(b), **20(9)(b)** (as amended by S.I. 2020/1540, regs. 1(2), 11(2)); 2020 c. 1, Sch. 5 para. 1(1)

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There are currently no known outstanding effects for the The Packaging (Essential Requirements) Regulations 2015, SCHEDULE 2.