
EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (S.I. 2007/871) (“PROR”) and the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (S.R. (NI) 2007/198) (“PRONIR”). PROR (in relation to Great Britain) and PRONIR (in relation to Northern Ireland) impose on producers and schemes the obligation to recover and recycle packaging waste in order to attain the recovery and recycling targets set out in Article 6(1) of Council Directive 94/62/EC on packaging and packaging waste (OJNo. L 365, 31.12.1994, p.10).

In Part 2 of the Regulations, regulations 4 and 9(a)(ii) amend (respectively) regulations 7 and 14 of PROR to remove provisions requiring submission of an operational plan. Regulation 7 amends regulation 13 of PROR to substitute the appropriate Agency (the Environment Agency in relation to England, the Natural Resources Body for Wales or the Scottish Environment Protection Agency) for the appropriate authority (the Secretary of State in relation to England, the Welsh Ministers or the Scottish Ministers) as the body responsible for granting approval of schemes. It also inserts new provisions making the Department of the Environment in Northern Ireland responsible for carrying out the function of determining an application for approval of a scheme in Great Britain where an operator so elects and certain other conditions exist (for example, where the operator’s principal place of business is in Northern Ireland).

Regulation 8 inserts new regulations 13A, 13B and 13C in PROR. The new regulations set out conditions of approval of a scheme, confer power to withdraw approval of a scheme and provide for cancellation of registration of a scheme. Regulation 9 inserts new provisions in regulation 14 of PROR making the Department of the Environment in Northern Ireland responsible for carrying out the function of determining an application for registration of a scheme in Great Britain where an operator so elects and certain other conditions exist (for example, where the operator’s principal place of business is in Northern Ireland).

Regulation 10(1) omits regulation 15 of PROR which sets out the conditions of registration of a scheme. Regulation 10(2) inserts regulation 15A, setting out a requirement for an operator of a scheme to notify the appropriate Agency of changes in membership of the scheme and pay a fee in respect of this. Regulation 13 amends regulation 18 of PROR to remove the appropriate Agency’s power to cancel registration of a scheme. Regulation 15 amends regulation 27(2) of PROR to insert new rights of appeal for an operator of a scheme in relation to a refusal to grant an application for approval or withdrawal of approval.

In Part 3 of the Regulations, regulations 20 to 22 insert new provisions in PRONIR enabling the relevant Agency in Great Britain to determine an application for approval or registration of a scheme in Northern Ireland where an operator so elects and certain other conditions exist (for example, where the operator’s principal place of business is in England, Wales or Scotland).

In Part 4 of the Regulations, regulation 23 sets out transitional and saving provision. Paragraph (1) (a) means that an application for scheme approval in England made, but not determined before, the date these Regulations come into force will be determined by the Secretary of State rather than the Environment Agency. The same applies for applications in Wales and Scotland (where the decision-maker will be respectively the Welsh or Scottish Ministers). Paragraph (2) provides that the new conditions of approval of a scheme (see new regulation 13A of PROR) and powers to withdraw approval of a scheme (see new regulation 13C) apply from the date these Regulations come into force to approvals granted before that date.

Status: *This is the original version (as it was originally made).*

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Producer Responsibility Unit at the Department for Environment, Food and Rural Affairs, Level 2, Nobel House, 17 Smith Square, London SW1P 3JR and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.