

EXPLANATORY MEMORANDUM TO
THE PRODUCER RESPONSIBILITY OBLIGATIONS (PACKAGING WASTE)
(AMENDMENT) (ENGLAND AND WALES) REGULATIONS 2023

2023 No. 1244

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 The purpose of this statutory instrument is to amend overall and material-specific recycling targets for packaging producers for the year 2024, as the current Producer Responsibility Regulations cover the year 2023 only.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

5.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 This instrument makes amendments to provisions in the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (the 2007 Regulations) which were made under the Environment Act 1995 and saved under regulation 6 of the Environment Act 2021 (Commencement No. 2 and Saving Provisions) Regulations 2022. Under that regulation, the saved provisions are to be treated as if made under the Environment Act 2021 (EA 2021).

6.2 This instrument amends the 2007 Regulations, which extend to and apply in Great Britain, in relation to England and Wales only.

6.3 A similar instrument will be made amending the 2007 Regulations in relation to Scotland by the Scottish Government. Northern Ireland has separate regulations dealing with the same subject matter and will make similar changes in parallel.

6.4 The 2007 Regulations impose producer responsibility obligations on producers of packaging to recycle a calculated amount of packaging waste in order to achieve the Government's intended recycling rate.

6.5 The 2007 Regulations currently set recycling targets for 2023. This instrument amends those Regulations, in relation to England and Wales only, to set new recycling targets for 2024.

7. Policy background

What is being done and why?

7.1 The UK Government and Devolved Administrations have ambitious goals to protect the environment and to drive down unnecessary waste. The current producer responsibility system for packaging has operated since 1997 and is due to be reformed.

7.2 The UK Government and Devolved Administrations are committed to the introduction of Extended Producer Responsibility for packaging (EPR) which will make producers financially responsible for the costs of managing packaging waste generated by households and packaging waste disposed of in street bins managed by local authorities. These commitments are reflected in the summary of responses and Government Response to the 2021 consultation on EPR and will bring about reforms to the current system.¹

7.3 Proposals for a new Extended Producer Responsibility system however have been deferred until 2025, which means that the existing 2007 Regulations will remain in force in 2024. The 2007 Regulations only include targets up to 2023 and so we are setting producer recycling targets for 2024.

7.4 The 2024 targets for paper, glass, aluminium, steel and plastic will remain the same as in 2023:

- Paper 83%
- Glass 82%
- Aluminium 69%
- Steel 87%
- Plastic 61%

The target for wood will increase by 7% percentage points from 35% in 2023 to 42% in 2024.

The overall recycling target will increase by 3% percentage points from 77% to 80%.

The glass remelt target (a sub target of the glass target) will increase by 3 percentage points from 72% in 2023 to 75% in 2024. The allocation method tonnage will remain as 35t.

Explanations

What did any law do before the changes to be made by this instrument?

7.5 The 2007 Regulations impose on producers the obligation to recycle a proportion of the packaging waste they place on the market, and related obligations, in order to attain the Government's desired recycling rate. The Regulations set an overall recycling target, as well as material-specific targets, which are used to calculate the

¹ [EPR Consultation Government response template \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

amount of recycling required for producers to comply. The current Regulations set targets up to 2023.

Why is it being changed?

- 7.6 The introduction of EPR and the reforms to the current system will not now be introduced before the end of 2024. As a result, the 2007 Regulations need to be updated to set overall and material-specific recycling targets for 2024. The 2007 Regulations place a direct obligation on producers; with no targets, there is no requirement to recycle packaging waste.

What will it now do?

- 7.7 The SI will amend the 2007 Regulations to set recycling targets for 2024 to ensure that producers continue to support the recycling of packaging waste.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 A consolidation was not considered appropriate as this instrument makes only limited amendments to the 2007 Regulations, which we expect to be revoked when we introduce EPR for Packaging.

10. Consultation outcome

- 10.1 The proposed recycling targets for 2024-30 were consulted on as part of the UK-wide consultation on EPR for Packaging, held from 24th March to 4th June 2021. A total of 1,241 responses were received to this consultation, which were broadly in favour of the proposed recycling rates for 2024-30.
- 10.2 Due to the deferral of EPR, further engagement has been undertaken with stakeholders to ensure that the targets for 2024 are in line with those proposed in the consultation and set out in the Government Response. Stakeholders were in favour of no increase, or a very small increase, for most targets compared to the 2023 targets to recognise changes in the market since the consultation and that other policy measures, that were expected to support delivery of higher targets, had also been deferred.
- 10.3 The recycling targets for 2024 whilst not the same as the Government Response, reflect the proposed targets included in the EPR consultation, with adjustments to reflect that the EPR proposals included a change to the point of obligation, and which would have implications for the allocation of costs.
- 10.4 A link to the full Government response to the consultation can be found here [EPR Consultation Government response template \(publishing.service.gov.uk\)](#).

11. Guidance

- 11.1 Guidance has not been produced for this instrument.

12. Impact

- 12.1 There is no significant impact on business, charities or voluntary bodies since the 2024 recycling targets will be kept at levels broadly similar to those in 2023, with only small increases for wood and for the overall recycling target.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A separate Impact Assessment for this SI has not been prepared. The targets for 2024 form part of the Impact Assessment on the proposals for a packaging EPR regime, which is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website. The impact of the implementation of targets by amendment to the 2007 Regulations to achieve the desired recycling rate in 2024 has not been disaggregated in this impact assessment. However, the cost of compliance associated with the additional tonnage required by the higher targets is anticipated to be around £10m, based on average costs for obtaining evidence of recycling in 2023.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 To minimise the impact of the requirements on small businesses, the 2007 Regulations exempt companies that do not handle more than 50 tonnes of packaging a year and do not have an annual turnover of more than £2 million.

14. Monitoring & review

- 14.1 The department does not intend to monitor this instrument as the targets will automatically expire after 2024 and will be replaced by the targets set in the planned EPR SI.

15. Contact

- 15.1 Vicky Burt at the Department for Environment Food and Rural Affairs Telephone: 0208 225 7058 or email: vicky.burt@defra.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Chris Preston, Deputy Director for Resources and Waste, at the Department for Environment Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Robbie Moore Parliamentary Under Secretary of State at the Department for Environment Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.