
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose on producers the obligation to recover and recycle packaging waste, and related obligations, in order for the United Kingdom to attain the recovery and recycling targets set out in Article 6(1) of Council Directive [94/62/EC](#) on packaging and packaging waste as amended by Council Regulation [\(EC\) No 1882/2003](#), Council Directive [2004/12/EC](#) and Council Directive [2005/20/EC](#) (“the Packaging Waste Directive”).

Part 1 of these Regulations (“General”) sets out various definitions used in these Regulations (regulation 2: interpretation and notices). In particular, certain terms used in these Regulations have the same meaning as in the Packaging Waste Directive. This includes the following terms—“packaging”, “packaging waste”, “recovery”, “recycling” and “reuse”. Part 1 also excludes charities from having producer responsibility obligations (regulation 3).

Part 2 of these Regulations (“Producers and Obligations”) provides that where a producer (defined in regulation 4) satisfies the two thresholds tests (set out in Schedule 1, paragraph 3), he will have producer responsibility obligations for that year. The criteria are to have a turnover of more than £2M (in the last financial year in respect of which audited accounts are available) and to have handled (as defined in Schedule 1) packaging or packaging materials (defined in regulation 2) weighing more than 50 tonnes in the previous year. Schedule 1 sets out the detailed basis upon which a person qualifies as a producer with producer responsibility obligations under these Regulations. Schedule 2 sets out the rules for working out the level of a producer’s recovery and recycling obligations.

A producer can purchase packaging waste recovery notes (“PRNs”) or packaging waste export recovery notes (“PERNs”) or both to satisfy his obligations himself (regulation 4(5)), or may join a compliance scheme. Where he joins a scheme that is registered with the Department he is exempt from complying with his producer responsibility obligations (regulation 5) for that year. The scheme must meet the recovery and recycling obligations and, where appropriate, the consumer information obligations, that its members would have had, but for their membership of the scheme.

Part 3 of these Regulations (“Registration: Producers and Schemes”) sets out the requirements for registration of a producer or a scheme, the conditions that apply and why (and how) that registration may be cancelled. Under regulation 6 producers who are not members of registered schemes need to be registered with the Department. Regulation 7 (Application for producer registration) sets out the information needed from the producer when he applies. In particular, he must supply the information set out in Part 1 of Schedule 3. Regulation 8 sets out the conditions of registration of a producer. Where the Department is satisfied that an application has been properly made (including payment of the relevant fee) it shall be registered with the Department for the year. There is provision for cancellation of registration in regulation 11 where a producer fails to meet the conditions specified in regulation 8 or is subsequently found to have given false information on his application or where he joins a registered compliance scheme.

There are similar registration requirements for schemes in regulations 14 to 18. Before a compliance scheme can be registered, it must have approval from the Department (regulation 13).

Part 4 of these Regulations (“Records, Returns and Certificate”) sets out the requirements on producers and operators of schemes to keep records and furnish returns to the Department (regulations 20 and 22) and on producers to provide certificates demonstrating compliance with their recovery and recycling obligations (regulation 21 and Schedule 4).

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

Part 5 of these Regulations (“Accreditation of Reprocessors and Exporters”) sets out the procedure for applying for accreditation as a reprocessor to issue PRNs or as an exporter to issue PERNs. Regulation 24, regulation 25 and Schedule 5 set out the conditions that apply to such accreditation and regulation 26 the basis upon which such accreditation may be suspended or cancelled.

Part 6 of these Regulations (“Appeals”) sets out the right of appeal against certain decisions of the Department (regulation 27). The procedure to be followed is set out in regulation 28 and Schedule 6. This Part also sets out the status of the producer or scheme pending the resolution of the appeal (regulation 30).

Part 7 of these Regulations (“Department’s Powers and Duties”) sets out the duties of the Department to monitor compliance (regulation 31) and their duties in relation to keeping a public register (regulation 33 and Schedule 7). Regulations 34, regulation 35 and Schedule 8 concern the powers of the Department to approve persons to issue certificates of compliance and of entry and inspection. Regulation 36 requires the Department to provide information regarding schemes that appear not to have met their recovery and recycling obligations.

Part 8 of these Regulations (“Groups of Companies, Licensors and Pub Operating Businesses and Mid-Year Changes”) sets out how to apply these Regulations to groups of companies (regulation 37 and Schedule 9) and to situations where two or more businesses are in relationships involving licenses of trade marks or pub operating agreements (regulation 38 and Schedule 10) and how to apportion the recovery and recycling obligations and other obligations where mid-year changes occur (regulation 39 and Schedule 11).

Part 9 of these Regulations sets out various offences. Under regulation 40 it is an offence to contravene the producer responsibility obligations to register, recover and recycle packaging waste, and furnish a certificate of compliance to the Department, or to provide false or misleading information, or to prevent the Department from exercising its powers of entry and inspection.

Part 10 of these Regulations revokes The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2006 ([S.R. 2006 No.356](#)) and includes a transitional provision to account for actions taken or time periods commenced under The Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2006