

SCHEDULE 1

PRODUCERS

Table 1

<i>Relevant function performed in Years 1 and 2</i>	<i>Subject matter of supply in Year 1</i>	<i>Class of supply in Year 1</i>	<i>Class of producer in Year 2</i>
Manufacturer	Packaging materials	A B or C	Manufacturer
Convertor, subject to paragraph 1(2)	Packaging or packaging materials	A B or C	Convertor
Packer/filler	Packaging or packaging materials	A B or C	Packer/filler
Importer	Packaging or packaging materials	A B or C	Importer
Seller	Packaging	E	Seller
Manufacturer, Convertor, Packer/filler, or Importer	Transit packaging	B or F	Secondary provider
Service Provider	Packaging	G	Service Provider

1.—(1) For the purposes of Column 1 in the above Table—

- (a) “relevant function” means the performance by a person of the functions of one of the following—
 - (i) manufacturer;
 - (ii) convertor;
 - (iii) packer/filler;
 - (iv) importer;
 - (v) seller;
 - (vi) service provider,

either himself or through an agent acting on his behalf, and in the course of business;

- (b) “convertor” means a person who uses or modifies packaging materials in the production or formation of packaging;
- (c) “importer” means a person who imports packaging or packaging materials into the United Kingdom;
- (d) “manufacturer” means a person who manufactures raw materials for packaging;
- (e) “packer/filler” means a person who puts goods into packaging;
- (f) “seller” means a person who supplies packaging to a user or a consumer of that packaging, whether or not the filling has taken place at the time of the supply;
- (g) “service provider” means a person who supplies reusable packaging to a user of that packaging where the supply is made by hiring out or lending the packaging;
- (h) “Year 1” means the preceding year; and
- (i) “Year 2” means the relevant year.

Status: This is the original version (as it was originally made).

(2) Where a person performs the functions of a convertor and a packer/filler at the same time, and as part of the same packing/filling process, and in relation to the same packaging, as regards supplies of packaging or packaging materials made to or by him in connection with those functions, or that process, he is treated for the purposes of these Regulations as a producer of the class of packer/filler only.

(3) For the purposes of this Schedule a person acts “in the course of business” if he acts in the ordinary course of conduct of a trade, occupation or profession.

2. For the purposes of Column 3 of the above Table, and Schedule 2—

- (a) “Class A supply” means a deemed supply or where an importer is the final user or consumer of the packaging or packaging materials;
- (b) “Class B supply” means a supply, other than solely for the purpose of transport, to a person who acts as a distributor, that is to say who, in relation to the packaging or packaging materials supplied, neither performed the functions of one of the classes of producer, nor was the user or consumer;
- (c) “Class C supply” means a supply (other than a Class F supply) to a person for the performance by that person of a relevant function which—
 - (i) is different from the function performed by his immediate supplier; and
 - (ii) is not that of an importer;
- (d) “Class E supply” means a supply, other than a supply of transit packaging in respect of which a Class F supply has already been made, to a user or consumer other than a person who performed a relevant function;
- (e) “Class F supply” means a supply—
 - (i) to a person who performed a relevant function;
 - (ii) to a user or consumer; or
 - (iii) to a person who acts as a distributor,using the transit packaging supplied to perform the functions of a packer/filler and seller;
- (f) “Class G supply” means a supply —
 - (i) to a person who performed a relevant function; or
 - (ii) to a person who acts as a distributor,where the supply is made by hiring out or lending the packaging;
- (g) “supply” means doing any of the following, either himself or through an agent acting on his behalf, in relation to packaging or packaging materials owned by the supplier—
 - (i) selling, hiring out or lending;
 - (ii) providing in exchange for any consideration other than money;
 - (iii) providing in or in connection with the performance of any statutory function; or
 - (iv) giving as a prize or otherwise making a gift,and, where the packaging or packaging materials are owned by a person who does not have a registered office or principal place of business in Northern Ireland, a supply shall take place when a person performs any of the functions in sub-paragraphs (i) to (iv) above; and
- (h) “deemed supply” means a supply which is deemed to occur when a person who has carried out a relevant function then performs another such function in relation to the same packaging or packaging materials.

3. A person satisfies the threshold tests if—

- (a) his turnover in the last financial year in respect of which audited accounts are available (or where audited accounts are not required, his most recently available accounts) before the relevant date was more than £2,000,000; and
- (b) in the calculation year the person handled in aggregate more than 50 tonnes of packaging or packaging materials.

4.—(1) For the purposes of paragraph 3(a) above audited accounts shall be treated as being available, where the person is a company, where annual accounts have been delivered to the registrar under Article 250 of the Companies (Northern Ireland) Order 1986⁽¹⁾.

(2) For the purposes of paragraph 3(b) above, the amount of packaging or packaging materials handled is the amount handled in the United Kingdom in respect of which the producer made a supply referred to in Column 3 of Table 1, other than a Class A supply, calculated in tonnes to the nearest tonne by—

- (a) including packaging, including reused transit packaging, or packaging materials so supplied which were imported into the United Kingdom by the producer, either himself or through an agent acting on his behalf; and
- (b) excluding—
 - (i) reused sales packaging or primary packaging as defined in paragraph 1(a) of Article 3 of the Packaging Waste Directive;
 - (ii) production residues from the production of packaging or packaging materials or from any other production process occurring before, during or after the producer handled the packaging or packaging materials;
 - (iii) any packaging or packaging materials so supplied which were exported from the United Kingdom by the producer, either himself or through an agent acting on his behalf or which to the producer's reasonable knowledge were otherwise exported from the United Kingdom; and
 - (iv) reused transit packaging (with the exception of reused transit packaging imported into the United Kingdom).

⁽¹⁾ S.I. 1986/1032 (N.I. 6) as amended by S.I. 1990/593 (N.I. 5) Articles 5, 13 and 24