
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 79

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016

PART 2

**Amendment of the Producer Responsibility Obligations
(Packaging Waste) Regulations (Northern Ireland) 2007**

Insertion of regulations 13A, 13B and 13C

8. After regulation 13 (Application for approval of a scheme), insert—

“Conditions of approval of a scheme

13A.—(1) Approval of a scheme in accordance with regulation 13 is subject to the following conditions—

- (a) the operator of the scheme complies with the obligations set out in regulation 12(1);
- (b) the operator of the scheme monitors the accuracy of information to which regulation 19 applies, so that the operator may reasonably discover when a scheme member has not complied with regulation 19(2)(c);
- (c) the operator of the scheme acquires PRNs or PERNs in a manner which least hinders the ability of any other operator to acquire PRNs or PERNs in accordance with regulation 12(3);
- (d) the operator of the scheme maintains sufficient financial resources to acquire PRNs or PERNs in accordance with regulation 12(3);
- (e) the operator of the scheme maintains access to, and sufficient financial resources to pay for, the expertise necessary for the purposes of calculating the recovery and recycling obligations referred to in regulation 12(1);
- (f) the operator of the scheme provides any information reasonably requested by the Department for the purposes of monitoring compliance in accordance with regulation 31(1)(b) or (c);
- (g) in relation to any year in which the scheme is registered in accordance with regulation 14—
 - (i) the operator of the scheme informs the Department in writing of—
 - (aa) any change in the person who is the operator of the scheme and, in the case where the operator of the scheme is a partnership or where there is more than one operator of the scheme, any change of partners or operators;

- (bb) any material change in the information provided in accordance with regulation 14(3)(b);
 - (cc) any material change in the further information provided in accordance with regulation 14(3)(c);
 - (dd) any change in the operator stated in accordance with regulation 14(3)(h),
within 28 days of the occurrence of any such change; and
 - (ii) the operator of the scheme complies with the requirement set out in regulation 15A; and
 - (h) the operator of the scheme provides records and returns to the Department in accordance with regulation 22.
- (2) Approval of a scheme in accordance with regulation 13(4) is subject to the following additional conditions in relation to any year in which the scheme is registered in accordance with regulation 14—
- (a) the operator of the scheme complies with 50% of the total recovery and recycling obligations of the scheme before 30th June;
 - (b) the operator of the scheme complies with a further 50% of the remaining recovery and recycling obligations before 30th September;
 - (c) the operator of the scheme makes returns to the Department of information demonstrating compliance with the conditions set out at sub-paragraphs (a) and (b) on or before 15th July and 15th October respectively;
 - (d) the operator pays the fee in accordance with regulation 16(3) to the Department; and
 - (e) the operator of the scheme does not accept any new members into the scheme.
- (3) The additional conditions set out in paragraph (2) cease to apply at the beginning of the year following the approval year if the Department is satisfied that in the approval year the operator complied with—
- (a) the obligations in accordance with regulation 12(1); and
 - (b) the additional conditions set out in paragraph (2).
- (4) If the additional conditions set out in paragraph (2) cease to apply by virtue of paragraph (3), the Department shall serve written notice of the cessation within 28 days of the day on which the Department is satisfied in accordance with paragraph (3).
- (5) In paragraph (3), “approval year” means the year for which approval was granted pursuant to regulation 13(4).

Refusal to grant approval of a scheme

13B. Where the Department decides in accordance with regulation 13(2) to refuse to grant approval of a scheme, it shall serve on the operator of the scheme, within 28 days of making the decision, written notice of—

- (a) the decision in accordance with regulation 13(2);
- (b) the reasons for the decision; and
- (c) a statement of the right of appeal in accordance with regulation 27(2)(a).

Withdrawal of approval of a scheme

13C.—(1) The Department may withdraw approval of a scheme where it appears to it that—

- (a) the operator of the scheme is in breach of any of the conditions referred to in regulation 13A(1) or (2); or
- (b) the operator knowingly or recklessly supplies false information in connection with the application for registration, or in connection with compliance with the conditions referred to in regulation 13A(1) or (2).

(2) The Department shall cancel any registration of a scheme granted in accordance with regulation 14 if it withdraws approval of the scheme and such cancellation shall take effect on the date on which the withdrawal of approval takes effect.

(3) Before the withdrawal of approval in accordance with paragraph (1), the Department shall serve on the operator of the scheme written notice of—

- (a) its decision in accordance with paragraph (1) to withdraw approval;
- (b) the reasons for the decision;
- (c) a statement of the right of appeal in accordance with regulation 27(2)(b) and (c); and
- (d) the date on which the withdrawal takes effect, not being earlier than the expiration of the time-limit for an appeal against the notice in accordance with paragraph 2 of Schedule 6.

(4) Where an application in accordance with regulation 13(3)(a) or (b) is not received by the date specified in regulation 13(3), the Department may withdraw approval of the scheme.

(5) Before the withdrawal of approval in accordance with paragraph (4), the Department shall serve on the operator of the scheme written notice of—

- (a) its decision in accordance with paragraph (4) to withdraw approval;
- (b) the reasons for the decision;
- (c) the date on which the withdrawal takes effect, not being earlier than 28 days from the date of the notice; and
- (d) the right to make representations in relation to the decision to withdraw approval within 28 days from the date of the notice.

(6) Where an application in accordance with regulation 13(3)(c) or (d) is not received by the date specified in regulation 13(3), the Department shall serve written notice on the operator of the withdrawal of approval of the scheme, which shall take effect from the date of the notice.

(7) The Department shall consider any representations made by the operator of a scheme before the notice in accordance with paragraph (5) takes effect, and may withdraw the notice in accordance with paragraph (5) at any time.

(8) An operator of a scheme in relation to which approval is withdrawn in accordance with this regulation shall, within 14 days of the withdrawal taking effect, serve on each scheme member written notice containing the following information—

- (a) a statement that approval of the scheme has been withdrawn and the date upon which the withdrawal takes effect;
- (b) the reasons for the withdrawal; and
- (c) the obligation of a producer in accordance with regulation 6.”.