

2005 No. 271

ENVIRONMENTAL PROTECTION

**The Producer Responsibility Obligations (Packaging Waste)
Amendment (Scotland) Regulations 2005**

Made - - - - - *18th May 2005*

Coming into force in accordance with regulation 1(1)

The Scottish Ministers, in exercise of the powers conferred by sections 93 and 94 of the Environment Act 1995(a) and of all other powers enabling them in that behalf, after consultation with representatives of bodies or persons whose interests are, or are likely to be, substantially affected by the following Regulations, in accordance with section 93(2) of that Act, and after having regard to the matters specified in section 93(6) of that Act as required by section 93(5) of that Act, hereby make the following Regulations, a draft of which has been laid before and approved by resolution of the Scottish Parliament:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations 2005, and shall come into force on the day after the day on which they are made.

(2) These Regulations extend to Scotland only.

Amendment of the Producer Responsibility Obligations (Packaging Waste) Regulations 1997

2.—(1) The Producer Responsibility Obligations (Packaging Waste) Regulations 1997(b) are amended as follows.

(2) In regulation 21B (application for accreditation)(c)–

(a) in paragraph (1), omit sub-paragraph (b);

(b) for paragraph (3) substitute–

“(3) The appropriate Agency shall notify the applicant in writing of its decision under paragraph (2).”; and

(c) for paragraph (5) substitute–

“(5) Subject to regulation 21D(d), where accreditation is granted under paragraph (2), it shall take effect–

(a) where the application is made in the preceding year to that in which the person wishes to be accredited–

(i) from the 1st January where the decision to accredit was made before that date;

(a) 1995 c.25. The functions of the Secretary of State, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.I. 1997/648. Relevant amendments were made by S.S.I. 2003/613.

(c) Regulation 21B was added by S.S.I. 2003/613, regulation 8.

(d) Regulation 21D was added by S.S.I. 2003/613.

- (ii) in all other cases, from the date of the decision,
and shall remain in force until the 31st December in the year for which the person has applied to be accredited;
 - (b) where the application is made during the year in which the person wishes to be accredited, from the date of the decision, and shall remain in force until the 31st December in that year.”.
- (3) In paragraph 1 of Schedule 2A (conditions of accreditation)(a)–
 - (a) in sub-paragraphs (c)(i) and (d), for “year” substitute “period”; and
 - (b) in sub-paragraph (c)(ii), for “that for which that reprocessor is accredited” substitute “the year in which that reprocessor’s period of accreditation fell”.

St Andrew’s House,
Edinburgh
18th May 2005

ROSS FINNIE
A member of the Scottish Executive

(a) Schedule 2A was added by S.S.I. 2003/613.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Producer Responsibility Obligations (Packaging Waste) Regulations 1997 (“the 1997 Regulations”), which impose obligations on producers to recover and recycle packaging waste, and related obligations, to assist the UK in attaining the targets set out in Article 6(1) of Directive 94/62/EC on packaging and packaging waste (O.J. No. L 365, 31.12.94, p.10), as amended by Regulation (EC) No. 1882/2003 (O.J. No. L 284, 31.10.2003, p.1) and Directive 2004/12/EC (O.J. No. L 47, 18.2.2004, p.26).

Regulation 2 amends the 1997 Regulations to allow reprocessors and exporters to apply for, and SEPA to grant, accreditation at any time throughout the year.

Paragraph (2) amends regulation 21B of the 1997 Regulations. Sub-paragraph (a) removes the requirement for a person to have applied for accreditation as a reprocessor or exporter by 30th September in the year preceding the year in which that person is applying to be accredited. Sub-paragraph (b) removes the requirement for the appropriate Agency (in Scotland, SEPA) to have notified the applicant of its decision by 30th November, although the requirement to notify in writing remains. Sub-paragraph (c) provides that where accreditation is granted in the preceding year to which the application relates, it takes effect from 1st January and in all other cases, from the date of the decision. Accreditations subsist until 31st December of the year to which the accreditation relates.

Paragraph (3) makes consequential amendments to Schedule 2A of the 1997 Regulations.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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