
DRAFT STATUTORY INSTRUMENTS

2005 No.

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

PART VIII

**GROUPS OF COMPANIES, PUB OPERATING BUSINESSES
AND LICENSORS AND MID-YEAR CHANGES**

Packaging handled by licensors and pub operating businesses

38.—(1) Where in the relevant year and in the preceding year a person is a licensor, the provisions of Schedule 9 shall apply to determine whether that person has producer responsibility obligations in that capacity.

(2) Where in the relevant year and in the preceding year a person is a pub operating business, the provisions of Schedule 9 shall apply to determine whether that person has producer responsibility obligations in that capacity.

(3) For the purposes of this regulation and Schedule 9 a person is a licensor where he is a party to a licence agreement in or under which he grants a licence to use a trade mark to another.

(4) For the purposes of this regulation and Schedule 9 a person is a pub operating business where—

(a) he is a party to a pub operating agreement in or under which he grants a lease or tenancy of premises to another; and

(b) the premises to which the pub operating agreement relates—

(i) in England or Wales, are used by the tenant in order to carry on the licensable activity of—

(aa) the sale by retail of alcohol for consumption on the premises or both on and off the premises; or

(bb) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club or both, for consumption on the premises or both on and off the premises,

and in respect of which a premises licence is in force; or

(ii) in Scotland, are used by the tenant for the sale by retail or supply of alcoholic liquor for consumption on the premises or both on and off the premises, and in respect of which a relevant licence is in force, or such premises are occupied by a registered club.

(5) In England and Wales, in the definition of pub operating business—

(i) “alcohol” has the same meaning as in section 191 of the Licensing Act 2003(1) and ‘alcoholic’ shall be construed accordingly;

- (ii) “premises licence” has the same meaning as in section 11 of the Licensing Act 2003;
 - (iii) “supply of alcohol” has the same meaning as in section 14 of the Licensing Act 2003; and
 - (iv) “sale by retail” in relation to any alcohol has the same meaning as in section 192 of the Licensing Act 2003.
- (6) In Scotland, in the definition of pub operating business—
- (i) “alcoholic liquor” has the same meaning as in section 139 of the Licensing (Scotland) Act 1976⁽²⁾;
 - (ii) “registered club” has the same meaning as in section 139 of the Licensing (Scotland) Act 1976; and
 - (iii) “relevant licence” means a public house licence, an hotel licence (including a restricted hotel licence), a restaurant licence, a refreshment licence or an entertainment licence all as defined in Schedule 1 of the Licensing (Scotland) Act 1976.
- (7) For the purposes of this regulation and Schedule 9—
- “licence agreement” means an agreement or number of related agreements in or under which the licensor grants the licensee a licence that allows the licensee to use a trade mark as the name under which the licensee sells from premises goods that are associated with that trade mark, and includes an obligation (whether expressed as a positive or as a negative obligation) on the licensee that relates to the presentation of those premises;
- “licensee” means the party to a licence agreement to whom a licence to use a trade mark is granted;
- “premises” means any sales outlet on which packaging is handled and includes any land, vehicle, vessel, mobile plant and stall;
- “pub operating agreement” means an agreement or number of related agreements in or under which one person (the pub operating business) grants a tenancy or lease of premises to another person (the tenant) that includes an obligation (whether expressed as a positive or as a negative obligation) on the tenant to purchase some or all of the alcohol or alcoholic liquor (as the case may be), to be sold or supplied on or from the premises, from the pub operating business or from a person or persons nominated or authorised by or on behalf of that business;
- “tenant” means the party to a pub operating agreement to whom the lease or tenancy of premises is granted; and
- “trade mark” has the same meaning as in section 1 of the Trade Marks Act 1994⁽³⁾.

(2) 1976 c. 66
(3) 1994 c. 26