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DRAFT STATUTORY INSTRUMENTS

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**2005 No.**

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

**PART IX  
OFFENCES**

**Offences and penalties**

**40.**—(1) A producer who contravenes a requirement of—

- (a) subject to paragraph (2) below, regulation 4(4)(a);
- (b) regulation 4(4)(b); or
- (c) regulation 4(4)(c),

is guilty of an offence.

(2) A producer is not guilty of an offence under paragraph (1)(a) above in respect of any period during which, under regulation 7(7), he is treated as having been registered.

(3) An operator of a scheme who fails to comply with his recovery and recycling obligations in contravention of regulation 12(1) is guilty of an offence.

(4) A person who contravenes a requirement of regulation 23 or who is in breach of either of the conditions specified in paragraph 1(a) or 1(d) of Schedule 5 is guilty of an offence.

(5) A person who furnishes any information to the appropriate Agency in connection with its functions under these Regulations or furnishes information to which regulation 19 applies to an operator of a scheme shall be guilty of an offence if, in furnishing the information, he—

- (a) knows the information to be false or misleading in a material particular; or
- (b) furnishes such information recklessly and it is false or misleading in a material particular.

(6) A person who fails without reasonable excuse to comply with any requirement imposed in a notice under regulation 31(3) shall be guilty of an offence.

(7) A person who intentionally delays or obstructs a person authorised by the appropriate Agency in the exercise of powers referred to in regulation 35 is guilty of an offence.

(8) Where in accordance with Schedule 8 there is a group registration the holding company is guilty of an offence if—

- (a) it does not comply with its recovery and recycling obligations referred to in paragraph 5(c) of Schedule 8; or
- (b) it does not furnish a certificate of compliance in accordance with paragraph 5(d) of Schedule 8.

(9) A person guilty of an offence under any of paragraphs (1) to (8) above shall be liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

(10) Where an offence under these Regulations is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or have been attributable to neglect on the part of, any partner or a person who was purporting to act as such, that person as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.