

Draft Regulations laid before Parliament under section 93(10) of the Environment Act 1995, for approval by a resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. [XXXX]

ENVIRONMENTAL PROTECTION

**The Producer Responsibility Obligations
(Packaging Waste) (Amendment) Regulations 2012**

*Made - - - - - ***
Coming into force in accordance with regulation 1(1)
(b).*

These Regulations are made by the Secretary of State as respects England, Scotland⁽¹⁾ and Wales⁽²⁾ in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972⁽³⁾ and sections 93 to 95 of the Environment Act 1995⁽⁴⁾.

These Regulations implement Article 6(1) of Council Directive [94/62/EC](#) on packaging and packaging waste⁽⁵⁾ (“Packaging Waste Directive”) and section 93(3)(a) of the Environment Act 1995 applies.

The Secretary of State is a Minister designated⁽⁶⁾ for the purposes of section 2(2) of the European Communities Act 1972 in relation to the environment.

It appears to the Secretary of State that it is expedient for the reference to Article 6(1) of the Packaging Waste Directive to be construed as a reference to that provision as amended from time to time.

The Secretary of State makes these Regulations—

- (a) after consultation in accordance with section 93(2) of the Environment Act 1995;

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- (1) Under section 57 of the Scotland Act [1998 \(c. 46\)](#), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under European Union law in respect of devolved matters, the Secretary of State’s function in relation to implementing those obligations continues to be exercisable as regards Scotland. Section 57 is amended by [S.I. 2011/1043](#).
- (2) Under paragraph 5 of Schedule 3 to the Government of Wales Act [2006 \(c. 32\)](#), despite the transfer of the relevant functions of the Secretary of State so far as they are exercisable in relation to Wales to the Welsh Ministers by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 ([S.I. 1999/672](#)) and section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006, the Secretary of State’s function in relation to implementing obligations under European Union law continues to be exercisable as regards Wales. Paragraph 5 of Schedule 3 to the Government of Wales Act 2006 is amended by [S.I. 2011/1043](#).
- (3) [1972 c. 68](#). Section 2(2) is amended by section 27(1) of the Legislative and Regulatory Reform Act [2006 \(c. 51\)](#) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act [2008 \(c. 7\)](#). Paragraph 1A of Schedule 2 to the European Communities Act 1972 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006.
- (4) [1995 c. 25](#). Section 94 is amended by section 3(1)(b) of, and paragraph 6 of Schedule 2 to, the Competition Act [1998 \(c. 41\)](#) and by [S.I. 2000/311](#), [2004/1261](#) and [2011/1043](#).
- (5) OJ No L 365, 31.12.1994, p 10, as amended by Directive [2004/12/EC](#) of the European Parliament and of the Council (OJ No L 47, 18.2.2004, p 26).
- (6) [S.I. 2008/301](#).

- (b) having regard to the matters specified in section 93(6), as required by section 93(5) of that Act; and
- (c) in accordance with the duty in section 93(7) of that Act.

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with section 93(10) of the Environment Act 1995.

Citation, commencement and extent

- 1.—(1) These Regulations—
 - (a) may be cited as the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2012; and
 - (b) come into force on the day after the day on which they are made.
- (2) Regulation 3 extends to England and Wales only.

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

2. The Producer Responsibility Obligations (Packaging Waste) Regulations 2007(7) are amended in accordance with regulations 3 and 4.

New Part 11

3. After Part 10 (revocation and transitional provision) insert—

“PART 11

Review

Review

- 42.—(1) The Secretary of State must from time to time—
 - (a) carry out a review of regulations 2 to 40 in relation to England and Wales;
 - (b) set out the conclusions of the review in a report; and
 - (c) publish the report.
- (2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Article 6(1) of the Packaging Waste Directive (which is implemented by means of regulations 2 to 40), as amended from time to time, is implemented in other member States.
- (3) The report must in particular—
 - (a) set out the objectives intended to be achieved by the regulatory system established by regulations 2 to 40;
 - (b) assess the extent to which the objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(7) [S.I. 2007/871](#), amended by [S.I. 2010/2849](#); there are other amending instruments but none is relevant.

(4) The first report under this regulation must be published before 1st July 2017.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”.

Amendment of Schedule 2 (recovery and recycling obligations)

4.—(1) Schedule 2 is amended as follows.

(2) In paragraph 1(1)—

(a) after paragraph (b) omit “and”;

(b) after paragraph (c) insert—

“and

(d) in relation to glass, to recycle by re-melt an amount of glass packaging which is glass packaging waste, as provided in paragraph 3(4).”.

(3) In paragraph 3(2), for “2010 to 2012” substitute “2012 to 2017”.

(4) After paragraph 3(3) insert—

“(4) Where in the preceding year the producer has handled any glass (whether in the form of packaging or packaging materials), the producer shall recycle by re-melt an amount of glass packaging waste calculated as follows—

$$L \times B \times W = G$$

where—

“L” is the amount to the nearest tonne of the glass (whether in the form of packaging or packaging materials) handled in Great Britain by the producer in the preceding year;

“B” is the percentage prescribed in paragraph 4 in relation to the class of producer;

“W” is the percentage prescribed in paragraph 6A as the recycling by re-melt target for the relevant year; and

“G” is the amount by tonnage of glass packaging waste which is to be recycled by re-melt in the relevant year.”.

(5) For paragraph 5 substitute—

“5. The following is prescribed as the recovery target “X”—

(a) for the year 2012, 74%;

(b) for the year 2013, 75%;

(c) for the year 2014, 76%;

(d) for the year 2015, 77%;

(e) for the year 2016, 78%;

(f) for the year 2017, 79%.”.

(6) In paragraph 6, for Table 2 substitute—

“Table 2: Recycling targets

<i>Material</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>
Glass	81	81	81	81	81	81
Aluminium	40	43	46	49	52	55
Steel	71	72	73	74	75	76

<i>Material</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>
Paper/Board	69.5	69.5	69.5	69.5	69.5	69.5
Plastic	32	37	42	47	52	57
Wood	22	22	22	22	22	22”.

(7) After paragraph 6 insert—

“**6A.** The following percentages are prescribed as the recycling by re-melt target “W” in relation to the years indicated in the first column—

Table 2A: Recycling by re-melt targets for glass

<i>Year</i>	<i>Percentage</i>
2013	63%
2014	63%
2015	63%
2016	64%
2017	64%”.

(8) For paragraph 8 substitute—

“**8.** The recycling allocation “B” is as follows—

- (a) 29 for the year 2012;
- (b) 30 for each of the years 2013 to 2017.”.

(9) After paragraph 10 insert—

“**11.** For the purposes of this Schedule, “recycling by re-melt” means the recycling of waste glass packaging or packaging materials using a method that melts the glass before it is re-formed into a product.”.

Amendment of the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010

5. In the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010(8) omit paragraphs (4) to (6) of regulation 17.

Date

Name
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (S.I. 2007/871) (the “2007 Regulations”), which implement Article 6(1) of Council Directive 94/62/EC on packaging and packaging waste (OJ No L 365, 31.12.1994, p 10) as amended by Directive 2004/12/EC of the European Parliament and of the Council (OJ No L 47, 18.2.2004, p 26).

These Regulations were notified in draft to the European Commission in accordance with Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (OJ No L 24, 21.7.1998, p 37), as last amended by Council Directive 2006/96/EC (OJ No L 363, 20.12.2006, p 81).

Regulation 3 inserts a new regulation 42 in the 2007 Regulations. This requires the Secretary of State to review the operation and effect of the 2007 Regulations in England and Wales and publish a report by 1st July 2017 and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the 2007 Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the 2007 Regulations or to amend them.

Regulation 4 amends Schedule 2 to the 2007 Regulations. The amendments include new waste packaging recovery and recycling targets for the years 2013 to 2017. The amendments also include a new set of targets for waste glass packaging for recycling by re-melt for the years 2013 to 2017.

An impact assessment which shows the anticipated cost of compliance to businesses and the public sector and the environmental benefits in respect of these Regulations may be obtained from the Producer Responsibility Unit, Area 6D, Ergon House, Horseferry Road, London SW1P 2AL and is available alongside the Explanatory Memorandum and the instrument at www.legislation.gov.uk.