

SCHEDULE 1

Regulation 3(2) and (3)

PRODUCERS

<i>Column 1</i> Relevant function performed in Years 1 and 2	<i>Column 2</i> Subject matter of supply in Year 1	<i>Column 3</i> Class of supply in Year 1	<i>Column 4</i> Class of producer in Year 2
Manufacturer	Packaging materials	A B or C	Manufacturer
Convertor, subject to paragraph 1(2)	Packaging or packaging materials	A B or C	Convertor
Packer/filler	Packaging or packaging materials	A B or C	Packer/filler
Importer	Packaging or packaging materials	A B or C	Importer
Wholesaler	Packaging	D	Wholesaler
Seller	Packaging	E	Seller
Manufacturer, Convertor, Packer/filler, Wholesaler, or Importer	Transit packaging	B or F	Secondary provider

1.—(1) For the purposes of Column 1 in the above Table—

(a) “relevant function” means the performance by a person of the functions of one of the following—

- (i) manufacturer,
- (ii) convertor,
- (iii) packer/filler,
- (iv) importer,
- (v) wholesaler, or
- (vi) seller,

either himself or through an agent acting on his behalf, and in the course of business;

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- (b) “convertor” means a person who uses or modifies packaging materials in the production or formation packaging;
- (c) “importer” means a person who imports packaging or packaging materials into the United Kingdom;
- (d) “manufacturer” means a person who manufactures raw materials for packaging;
- (e) “packer/filler” means a person who puts goods into packaging;
- (f) “seller” means any person who supplies packaging to a user or a consumer of that packaging, whether or not the filling has taken place at the time of the supply;
- (g) “wholesaler” means a person who supplies packaging to a seller but who does not carry out the functions of a packer/filler in relation to that packaging;
- (h) “Year 1” means the preceding year; and
- (j) “Year 2” means the relevant year.

(2) Where a person performs the functions of a convertor and a packer/filler at the same time, and as part of the same packing/filling process, and in relation to the same packaging, as regards supplies of packaging or packaging materials made to or by him in connection with those functions, or that process, he is treated for the purposes of these Regulations as a producer of the class of packer/filler only.

(3) For the purposes of this Schedule a person acts “in the course of business” if he acts in the ordinary course of conduct of a trade, occupation or profession.

**2.** For the purposes of Column 3 of the above Table, and Schedule 2—

- (a) “Class A supply” means a deemed supply;
- (b) “Class B supply” means a supply, other than solely for the purpose of transport, to a person who acts as a distributor, that is to say who, in relation to the packaging or packaging materials supplied, neither performed the functions of one of the classes of producer, nor was the user or consumer;
- (c) “Class C supply” means a supply, other than a Class F supply, to a person for the application by that person of a relevant function other than that of an importer;
- (d) “Class D supply” means a supply to a seller who, at the time of the supply, was not a producer;
- (e) “Class E supply” means a supply, other than a supply of transit packaging in respect of which a Class F supply has already been made, to a user or consumer other than a person who performed a relevant function;
- (f) “Class F supply” means a supply—
  - (i) to a person who performed a relevant function,
  - (ii) to a user or consumer, or
  - (iii) to a person who acts as a distributor,
 using the transit packaging supplied to perform the functions of a packer/filler and seller; and
- (g) “supply” means doing any of the following, either himself or through an agent acting on his behalf, in relation to packaging or packaging materials owned by the supplier—
  - (i) selling, hiring out or lending,
  - (ii) providing in exchange for any consideration (including trading stamps within the meaning of section 10 of the Trading Stamps Act 1964<sup>(1)</sup>) other than money,

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(1) 1964 c. 71.

- (iii) providing in or in connection with the performance of any statutory function, or
- (iv) giving as a prize or otherwise making a gift,

and “deemed supply” means a supply which is deemed to occur when a person who has carried out a relevant function then performs another such function in relation to the same packaging or packaging materials.

3. A person satisfies the threshold tests if—
  - (a) his turnover—
    - (i) where the obligation year is 1997, 1998 or 1999, in the last financial year in respect of which audited accounts are available before the relevant date, was more than £5,000,000, and
    - (ii) where the obligation year is the year 2000 or any subsequent year, in the last financial year in respect of which audited accounts are available before the relevant date, was more than £1,000,000; and
  - (b) in the calculation year the person handled in aggregate more than 50 tonnes of packaging or packaging materials.
- 4.—(1) For the purposes of paragraph 3 above—
  - (a) “financial year” in relation to a person—
    - (i) where the person is a company is determined as provided in section 223(1) to (3) of the Companies Act 1985(2), and
    - (ii) in any other case has the meaning given in section 223(4) of the Companies Act 1985, but as if the reference there to an undertaking were a reference to that person;
  - (b) “obligation year” means a year in respect of which it is being considered whether a person is a producer and “calculation year” means a year immediately before an obligation year;
  - (c) “relevant date” means—
    - (i) subject to sub-paragraph (iii) below, where the obligation year is 1997, 31st August 1997,
    - (ii) subject to sub-paragraph (iii) below, where the obligation year is 1998 or any subsequent year, 1st April in the year, and
    - (iii) where an application for registration is made in a circumstance set out in regulation 6(3), or as required by paragraph 11 of Schedule 9, the date of the application;
  - (d) a persons “turnover” means his turnover as defined in section 262(1) of the Companies Act 1985(3) but as if the references to a company were references to that person; and
  - (e) the references to audited accounts being available are, where the person is a company, the annual accounts delivered to the registrar under section 242 of the Companies Act 1985(4).
- (2) For the purposes of paragraph 3 above, and Schedule 2, the amount of packaging or packaging materials handled is the amount in respect of which the producer made a supply referred to in Column 3 of the Table, other than a Class A supply, calculated in tonnes to the nearest tonne by—
  - (a) including packaging or packaging materials so supplied which were imported into the United Kingdom by the producer, either himself or through an agent acting on his behalf; and

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(2) 1985 c. 6; section 223 was inserted by section 3 of the Companies Act 1989 c. 40.

(3) Section 262 was inserted by section 22 of the Companies Act 1989.

(4) Section 242 was inserted by section 11 of the Companies Act 1989.

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- (b) excluding—
  - (i) any packaging or packaging materials so supplied which were exported from the United Kingdom by the producer, either himself or through an agent acting on his behalf, or which to the producer's reasonable knowledge were otherwise exported from the United Kingdom,
  - (ii) production residues, and
  - (iii) reused packaging.