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STATUTORY INSTRUMENTS

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**2005 No. 717**

**ENVIRONMENTAL PROTECTION,  
ENGLAND AND WALES**

**The Producer Responsibility Obligations (Packaging Waste)  
(Amendment) (England and Wales) Regulations 2005**

<i>Made</i>	- - - -	<i>15th March 2005</i>
<i>Laid before Parliament</i>		<i>16th March 2005</i>
<i>Coming into force</i>	- -	<i>7th April 2005</i>

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purpose of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in exercise of the powers conferred on her in respect of measures relating to the management of packaging and packaging waste, hereby makes the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Producer Responsibility Obligations (Packaging Waste) (Amendment) (England and Wales) Regulations 2005, and shall come into force on 7th April 2005.

(2) These Regulations extend to England and Wales.

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

2.—(1) The Producer Responsibility Obligations (Packaging Waste) Regulations 1997<sup>(3)</sup> are amended as follows.

(2) In regulation 21B—

- (a) in paragraph (1), sub-paragraph (b) is deleted;
- (b) for paragraph (3) there is substituted—

“The appropriate Agency shall notify him in writing of its decision under paragraph (2).”;

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(1) *S.I. 1996/266.*

(2) *1972 c. 68.* Section 2(2) was amended by the Scotland Act 1998 (*c. 46*), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(3) *S.I. 1997/648.* Relevant amendments were made by *S.I.s 2003/3238 (W 318)* and *2003/3294* (and an identical amendment was made by *S.S.I. 2003/613*).

- (c) for paragraph (5) there is substituted—
  - “Subject to regulation 21D, 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;
      - (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 the year for which the person has applied to be accredited.”.
- (3) In paragraph 1 of Schedule 2A—
  - (a) in subparagraphs (c)(i) and (d), for “year” there is substituted “period”;
  - (b) in subparagraph (c)(ii), for “that for which he is accredited” there is substituted “the year in which his period of accreditation fell”.

15th March 2005

*Elliot Morley*  
Minister of State  
Department for Environment, Food and Rural  
Affairs

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which extend to England and Wales, 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](#) (OJ No L365, 31.12.1994, p.10, as amended by Regulation [\(EC\) No 1882/2003](#) and Directive [2004/12/EC](#)).

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

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

Paragraph (3) makes consequential amendments to Schedule 2A.

The 1997 Regulations were made under powers in sections 93-95 of the Environment Act [1995 \(c. 25\)](#) (“the 1995 Act”) and were required by section 93(10) to be laid in draft and approved by a resolution of each House of Parliament. These Regulations were made under powers in section 2(2) of the European Communities Act [1972 \(c. 68\)](#) (“the 1972 Act”) instead, and are subject to annulment in pursuance of a resolution of either House of Parliament. Those specific powers in the 1995 Act may only be exercised after consultation with bodies or persons appearing to be representative of bodies or persons whose interests are, or are likely to be, substantially affected by the regulations. Whilst there is no consultation requirement before exercising the powers in section 2(2) of the 1972 Act, consultation of those bodies and persons was nevertheless carried out.

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