

EXPLANATORY MEMORANDUM TO
THE PRODUCER RESPONSIBILITY OBLIGATIONS (PACKAGING WASTE)
(AMENDMENT) REGULATIONS 2013

2013 No. 1857

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

- 2.1 This instrument corrects an error in the formula for calculating the glass re-melt recycling target for producers of glass packaging as set out in Schedule 2 to the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (S.I. 2007/871) (“2007 Regulations”).

3. **Matters of special interest to the Joint Committee on Statutory Instrument**

- 3.1 This is a free issue instrument since it corrects a defect in the 2007 Regulations.

4. **Legislative Context**

- 4.1 The instrument amends the 2007 Regulations. The 2007 Regulations impose the obligation to recover and recycle packaging waste, and related obligations on producers of packaging in order to attain the recovery and recycling targets set out in Article 6(1) of Council Directive 94/62/EC on packaging and packaging waste (as amended by Council Directive 2004/12/EC) (“the Directive”). The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2012 (S.I. 2012/3082) (“the 2012 Regulations”) amended the 2007 Regulations by including packaging waste recovery and recycling targets for 2013-17 and introducing split targets for glass based on end use. As stated above, this instrument corrects an error in the formula for calculating the glass re-melt recycling target for producers of glass packaging waste as set out in Schedule 2 to the 2007 Regulations.

5. **Territorial Extent and Application**

- 5.1 This instrument applies to Great Britain.
- 5.2 Northern Ireland will be producing similar regulations.

6. European Convention on Human Rights

The Minister of State, Department for Environment, Food and Rural Affairs has made the following statement regarding Human Rights:

In my view the provisions of the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2013 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 The Directive came into force in 1994. It aims to harmonise the management of packaging waste and prevent or reduce the impact of packaging and packaging waste on the environment by encouraging minimisation and reuse and by setting recovery and recycling targets. At the same time, it aims to avoid obstacles to trade and the distortion and restriction of competition within the EU.

Article 6(1) of the Directive, as amended, sets minimum recovery and recycling targets for packaging waste for the period to 2008, which then have to be sustained over subsequent years. The UK was required to achieve the Directive targets by 31 December 2008 and must thereafter continue to ensure that at least this level of recovery and recycling is sustained. The Directive targets are:

Minimum recovery 60%
Recycling 55% - 80%

Differentiated material-specific recycling targets of:

Glass 60%
Paper/board 60%
Metals 50%
Plastics 22.5%
Wood 15%

The targets in the Directive are implemented in Great Britain through the 2007 Regulations. The 2007 Regulations translate the EU targets into a set of targets for Great Britain which reflect domestic packaging markets and waste arisings. The targets are set at a higher level than the Directive targets to take account of the fact that small businesses are exempt from the requirement to meet recycling targets in the 2007 Regulations.

The 2007 Regulations impose obligations on businesses handling more than 50 tonnes of packaging and with a turnover of more than £2 million where the business is involved in manufacturing raw materials for packaging; converting materials into packaging; filling packaging; selling packaging to the final user, leasing out packaging or importing packaging/ packaging materials into Great

Britain.

The 2010 Regulations (S.I. 2010/2849) set targets until 2012. In order to continue to comply with the Directive requirements new targets were required for 2013 onwards. The 2012 Regulations established targets for 2013 to 2017, based on market data.

The targets and the split targets for glass have been set in this way to take into account the Government's review of waste policy for England.

The 2012 Regulations amended the 2007 Regulations and included a formula which aimed to require producers to recycle glass packaging waste by re-melt by at least 63%. However, there is an error in the formula as stated in the 2012 Regulations which means that the target is inadvertently higher than 63%.

This instrument rectifies the error in the formula in the 2012 Regulations so that the target is at least 63%, as per the original intention.

For Wales, these targets will contribute to recycling targets and policies in the Welsh Government's overarching waste strategy document- Towards Zero Waste.

The level of public interest is minimal.

8. Consultation outcome

8.1 The 2012 Regulations were made following a formal 12-week consultation and extensive engagement with a broad range of representatives from industry, regulators and other interested parties. The consultation included the correct target with a requirement for producers to recycle glass by re-melt by at least 63%. This instrument is to correct a formula for a target which has already been established in the 2012 Regulations and does not impose any new burden on any businesses.

For the purpose of clarity and transparency, an informal written consultation was undertaken with a broad range of representatives from industry, regulators and other interested parties on the revised draft regulation. The consultation ran from the 26th February 2013 to the 31st March 2013 and there have not been any responses.

9. Guidance

9.1 The environment agencies are enforcing the policy intention for producers to recycle glass by re-melt by at least 63% and, where relevant, will update their guidance based on the changes made by this instrument.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is neutral.
- 10.2 The impact on the public sector is negligible.
- 10.3 An Impact Assessment has not been prepared for this instrument which is consistent with the advice from Defra Better Regulation Unit.

11. Regulating small business

- 11.1 The legislation may apply to small business; however there is a de minimis so that businesses under certain threshold levels are exempt. However, there will be no difference regarding the impact to small businesses as a result of this amendment as this instrument simply corrects an error in the formula as explained in section 7 above.

12. Monitoring & review

- 12.1 The UK Packaging system is monitored continually by Government, the Agencies, the Advisory Committee on Packaging (ACP) and industry generally. The ACP, which includes representatives of the packaging industry, as well as retailers and local authorities, also monitors the effectiveness of the Packaging Regulations and advises Government as and when changes are needed.

13. Contact

Graeme Henton at the Department for Environment, Food and Rural Affairs,
Noble House, 17 Smith Square, London SW1P 3JR Tel: 020 7238 5828 or email:
graeme.henton@defra.gsi.gov.uk.