

EXPLANATORY MEMORANDUM TO
THE PRODUCER RESPONSIBILITY OBLIGATIONS (PACKAGING WASTE)
(AMENDMENT) REGULATIONS 2016

2016 SI No. 1146

1. Introduction

- 1.1 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.

2. Purpose of the instrument

- 2.1 The instrument amends the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (S.I. 2007/871) (“the 2007 Regulations”) by setting packaging targets for plastic for 2016 to 2020 and for glass for 2018 to 2020. The target for recycling by re-melt for 2016 and 2017 is continued for 2018 to 2020.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

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 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”).
- 4.2 Public consultation was carried out in 2015 on the proposed changes. New targets are being included as the regulations currently only have targets until 2017 for all materials.

5. Extent and Territorial Application

- 5.1 This instrument extends to England, Wales and Scotland.
- 5.2 The territorial application of this instrument is England, Wales and Scotland.
- 5.3 Similar regulations will be made in parallel for Northern Ireland.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required:

7. Policy background

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.

7.2 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%

7.3 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.

7.4 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.

7.5 The existing business targets for 2013-17 were consulted on in 2011 and final targets announced at Budget in March 2012. The targets were set using the best evidence available from business at the time.

7.6 Defra commissioned a report, PlasticFlow, which reported in 2014 and provided an updated picture of the plastic market in terms of material placed on the market. The report indicated that the amount of plastic waste placed on the market was significantly lower than the estimates made in 2011-12. Therefore, the targets in the Regulations are based on the expectation of much higher waste arising. Therefore it is possible to reduce the business targets on obligated producers and still maintain a similar recycling rate.

7.7 In addition, current domestic targets for all materials expire in 2017. The Packaging Directive requires member states to deliver a specified recycling rate by 2008 and

maintain that rate each year thereafter. Therefore, without targets beyond 2017 we would be in breach of our Packaging Directive requirements.

- 7.8 This proposes new targets for plastic for 2016-17 and for new targets for glass and plastic for 2018-20. The target for recycling by re-melt for 2016 and 2017 is continued for 2018 to 2020.

8. Consultation outcome

- 8.1 The draft Regulations are put forward following extensive engagement with a broad range of representatives from industry, regulators and other interested parties. A number of informal events were held prior to the formal consultation, as well as bilateral discussions and meetings to complement these consultations.
- 8.2 Informal consultation with the Advisory Committee on Packaging (“ACP”), key materials organisation and trade bodies, other government departments and regulators took place in developing a number of the proposals contained within this Impact Assessment and consultation document.
- 8.3 The Government undertook a formal consultation on these proposals. This was accompanied by an impact assessment which presented the overall costs and benefits of the proposals.
- 8.4 A formal consultation ran from November 2015 to December 2015. 63 responses were received. Overall, respondents were supportive of the proposal. The new targets for plastic were felt to reflect the best balance between higher recycling and managing costs for producers and the glass targets would help to drive markets and deliver long term gains.
- 8.5 The consultation documents and summaries of responses can be found at <https://consult.defra.gov.uk/waste/plasticandglasstargets>. Other documents can be obtained from the contact at the end of this memorandum.

9. Guidance

- 9.1 The environment agencies 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 limited. The proposed targets are expected to have a net cost to producers over 5 years of £27m.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment is submitted with this memorandum and is published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to include a de minimis within the Regulations to exempt companies that do not handle more than 50t of packaging and have a turnover of more than £2m.

11.3 The basis for the final decision on what action to take to assist small business is part of the Impact Assessment. The changes include proposals to reduce administrative burdens which should particularly help small firms as they generally have less time to spend on red tape.

12. Monitoring & review

12.1 The UK packaging system is monitored continually by Government, the Agencies, the 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.

12.2 The Regulations also include a review clause, thereby ensuring that they will be reviewed on a regular basis.

13. Contact

13.1 Ian Atkinson at the Department for Environment, Food and Rural Affairs, Area 2B, Nobel House, Horseferry Road, London SW1P 2AL, telephone: 020 8026 3260 and e-mail ian.atkinson@defra.gsi.gov.uk can answer any queries regarding the instrument.