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DRAFT STATUTORY INSTRUMENTS

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**2007 No.**

**The Producer Responsibility Obligations  
(Packaging Waste) Regulations 2007**

**PART I  
GENERAL**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 and shall come into force on the day after the day on which they are made.

(2) These Regulations extend to Great Britain.

**Interpretation and notices**

2.—(1) In these Regulations—

“the Packaging Waste Directive” means Council Directive [94/62/EC](#)(1) on packaging and packaging waste;

“the Waste Directive” means Council Directive [2006/12/EC](#)(2) on waste;

“the 1995 Act” means the Environment Act 1995(3); and

“the 1990 Act” means the Environmental Protection Act 1990.

(2) In these Regulations—

“accredited exporter” means an exporter who is accredited by the appropriate Agency under regulation 24;

“accredited reprocessor” means a reprocessor who is accredited by the appropriate Agency under regulation 24;

“allocation method” means the method set out in paragraph 7 of Schedule 2 for calculating the recycling obligations of a small producer who has elected under regulation 7 to follow this method;

“appropriate Agency” means—

(a) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate Agency in England or Wales, the Environment Agency;

(b) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate Agency in Scotland, SEPA;

(c) for the purposes of any provision of these Regulations relating to the obligations of any other person—

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(1) OJNo. L 365, 31.12.1994, p. 10, as last amended by Council Directive [2005/20/EC](#), OJ No. L 70, 16.3.2005, p.17.

(2) OJ No. L 114, 27.4.2006, p. 9.

(3) [1995 c. 25](#).

- (i) the Environment Agency, where at the beginning of the relevant year the person’s registered office or principal place of business is in England or Wales;
- (ii) SEPA, where at the beginning of the relevant year the person’s registered office or principal place of business is in Scotland;
- (iii) at the election of the person, either the Environment Agency or SEPA, where at the beginning of the relevant year the person does not have a registered office or principal place of business in Great Britain; or
- (iv) in relation to schemes, where there is more than one operator of a scheme and such operators have registered offices or principal places of business in either England or Wales and in Scotland—
  - (aa) the Environment Agency where the operators have elected to apply for approval of the scheme from the Secretary of State; or
  - (bb) SEPA where the operators have elected to apply for approval of the scheme from the Scottish Ministers;

“appropriate authority” means—

- (a) for the purposes of regulation 4(7)—
  - (i) the Secretary of State in relation to England;
  - (ii) the National Assembly for Wales in relation to Wales;
  - (iii) the Scottish Ministers in relation to Scotland;
- (b) for the purposes of regulation 7(10) relating to the obligation of a producer to submit operational plans—
  - (i) the Secretary of State where the producer is registered or is in the process of registering with the Environment Agency;
  - (ii) the Scottish Ministers where the producer is registered or is in the process of registering with SEPA;
- (c) for the purposes of regulation 13 relating to the approval of schemes—
  - (i) subject to paragraph (ii), where the operator of the scheme has his registered office or principal place of business in England or Wales, the Secretary of State;
  - (ii) where the operator of the scheme has his registered office or principal place of business in Wales and the scheme relates to Wales only, the National Assembly for Wales;
  - (iii) where the operator of the scheme has his registered office or principal place of business in Scotland, the Scottish Ministers; or
  - (iv) at the election of the operator of the scheme or, where there is more than one operator, the operator stated under regulation 14(3)(h), either the Secretary of State or the Scottish Ministers where—
    - (aa) at the date of the application the operator of the scheme does not have a registered office or principal place of business in Great Britain; or
    - (bb) there is more than one operator of the scheme and such operators have registered offices or principal places of business in either England or Wales and in Scotland;
- (d) for the purposes of any provision in these Regulations relating to the exercise of functions in respect of determining appeals against decisions of the Environment Agency, the Secretary of State; and

(e) for the purposes of any provision in these Regulations relating to the exercise of functions in respect of determining appeals against decisions of SEPA, the Scottish Ministers;

“approved person” means the person for the time being approved under regulation 34 for the purpose of issuing certificates of compliance under regulation 21 and signing the form referred to in regulation 7(4)(c) or 19(2)(b) in relation to a particular producer;

“calculation year” means the year preceding an obligation year;

“common database” means the electronic database held jointly by the Environment Agency and SEPA in which information under regulation 36(1) and (2) is placed.

“consumer information obligations” has the meaning given to it in regulation 4(4)(d);

“disposal” has the meaning given to it in Article 3(10) of the Packaging Waste Directive;

“energy recovery” has the meaning given to it in Article 3(8) of the Packaging Waste Directive;

“exporter” means a person who, in the ordinary course of conduct of a trade, occupation or profession, owns and exports packaging waste for reprocessing outside the United Kingdom;

“financial year” in relation to a person—

(a) where the person is a company is determined as provided in section 223(1) to (3) of the Companies Act 1985(4); and

(b) 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;

“obligation year” means, for the purposes of this regulation and Schedule 10, a year in respect of which it is being considered whether a person is a producer;

“organic recycling” has the meaning given to it in Article 3(9) of the Packaging Waste Directive;

“packaging” has the meaning given to it in Article 3(1) of the Packaging Waste Directive;

“packaging materials” means materials used in the manufacture of packaging and includes raw materials and processed materials prior to their conversion into packaging;

“packaging waste” has the meaning given to it in Article 3(2) of the Packaging Waste Directive; but does not include packaging that became waste outside the United Kingdom;

“partnership” has the meaning given in section 1 of the Partnership Act 1890(5);

“PERN” means a packaging waste export recovery note issued by an accredited exporter on a form supplied to him by the appropriate Agency, as evidence of the export of the tonnage of packaging waste specified in the note for reprocessing outside the United Kingdom;

“preceding year” means the year preceding a relevant year;

“PRN” means a packaging waste recovery note issued by an accredited reprocessor on a form supplied to him by the appropriate Agency, as evidence of the receipt of the tonnage of packaging waste specified in the note for reprocessing within the United Kingdom;

“producer” has the meaning given in regulation 4 and includes a small producer unless otherwise stated, and the classes of producer are those set out in column 4 of Table 1 in Schedule 1;

“producer responsibility obligations” are the producer registration, recovery and recycling, certifying and consumer information obligations specified in regulation 4;

“recovery” means any of the applicable operations provided for in Annex IIB to the Waste Directive and for the purposes of these Regulations incineration at waste incineration plants

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(4) 1985 c. 6 as amended by the Companies Act 1989 (1989 c. 40).

(5) 1890 c.39.

with energy recovery shall be treated as if it is recovery; and “recover” and “recovery operation” shall be construed accordingly;

“recovery and recycling obligations” has the meaning given in regulation 4(4)(b);

“recyclable material” means—

- (a) glass;
- (b) aluminium;
- (c) steel;
- (d) paper/board;
- (e) plastic; or
- (f) wood,

and packaging materials composed of a combination of any of those materials are to be treated as made of the material which is predominant by weight;

“recycling” has the meaning given to it in Article 3(7) of the Packaging Waste Directive; and “recycle” shall be construed accordingly;

“recycling obligations” means the obligation to recycle set out in regulation 4(4)(b)(ii);

“relevant authorisation” means—

- (a) a permit granted under regulation 10 of the Pollution Prevention and Control (England and Wales) Regulations 2000<sup>(6)</sup> or regulation 7 of the Pollution Prevention and Control (Scotland) Regulations 2000<sup>(7)</sup>;
- (b) an authorisation granted under section 6 of the 1990 Act;
- (c) a waste management licence granted under section 36 of the 1990 Act; or
- (d) an exemption registered under regulation 18 of the Waste Management Licensing Regulations 1994<sup>(8)</sup>.

“relevant date” means—

- (a) 7th April in the obligation year; or
- (b) where an application for registration is made in a circumstance set out in regulation 7(3), or as required by paragraph 10 of Schedule 10, the date of the application;

“relevant year” means the year referred to in regulation 4(2), that is to say a year in respect of which a person is a producer;

“reprocessing site” means a site at which reprocessing takes place;

“reprocessor” means a person who, in the ordinary course of conduct of a trade, occupation or profession, carries out one or more activities of recovery or recycling, and “reprocessing” shall be construed accordingly;

“reuse” has the meaning given to it in Article 3(5) of the Packaging Waste Directive;

“scheme” means a scheme which is (or, if it were to be registered in accordance with these Regulations would be) a scheme whose members for the time being are, by virtue of these Regulations and their membership of that scheme, exempt from the requirement to comply with their producer responsibility obligations and “registered scheme” means a scheme which is registered with the appropriate Agency in accordance with these Regulations;

“SEPA” means the Scottish Environment Protection Agency;

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<sup>(6)</sup> S.I. 2000/1973 as amended S.I. 2004/107. There are other amendments not relevant to these Regulations.

<sup>(7)</sup> S.S.I. 2000/323 as amended S.S.I. 2004/26. There are other amendments not relevant to these Regulations.

<sup>(8)</sup> S.I. 1994/1056 as amended by S.I. 1998/606 and S.I. 2005/1728. There are other amendments but none are relevant to these Regulations.

“SIC code” means a code included in “Indexes to the United Kingdom Standard Industrial Classification of Economic Activities 2003”, published by the Office for National Statistics in 2003<sup>(9)</sup>;

“small producer” means a producer who satisfies the threshold tests in paragraph 3 of Schedule 1 but whose turnover in the last financial year—

- (a) in respect of which audited accounts are available; or
- (b) where audited accounts are not required, in respect of which accounts are available, before the relevant date was £5,000,000 or less; and where audited accounts are required they shall be considered to be available when the annual accounts have been delivered to the registrar under section 242 of the Companies Act 1985;

“transit packaging” means—

- (a) grouped packaging or secondary packaging, as defined in paragraph (b) in Article 3(1) of the Packaging Waste Directive; or
- (b) transport packaging or tertiary packaging as defined in paragraph (c) in Article 3(1) of the Packaging Waste Directive;

“turnover” means, in relation to a person, his turnover as defined in section 262(1) of the Companies Act 1985 but as if the references to a company were references to that person; and

“year” means a calendar year beginning on 1st January.

(3) Where—

- (a) notices are to be served on a producer under regulations 7(7)(a), 10 or 11(3);
- (b) information is to be provided by a producer under regulations 7 or 8;
- (c) fees are to be paid by a producer under regulation 9(2); or
- (d) records and returns are to be maintained and furnished by a producer under regulation 20,

they shall be served on, provided, paid, or maintained and furnished by, in the case of a partnership, a partner acting on behalf of the partnership, and references in these Regulations to the producer shall be read accordingly.

(4) Where there is more than one operator of a scheme—

- (a) notices to be served on the operator of the scheme under regulations 14(5), 17 or 18(3) shall be served on the operator stated under regulation 14(3)(h);
- (b) where information is to be provided by the operator of the scheme under regulations 14 and 15, fees are to be paid by the operator of the scheme under regulation 16, records and returns are to be maintained and furnished by the operator of the scheme under regulation 22, and appeals may be made by the operator of the scheme under regulation 27, they shall be provided, paid, or maintained and furnished, and such appeals may only be made, by the operator stated under regulation 14(3)(h),

and references in these Regulations to the operator of the scheme shall be read accordingly.

(5) In these Regulations—

- (a) any document which is to be provided or given to any person may be provided or given to that person by electronic means if the document is capable of being reproduced by that person in legible form;
- (b) any requirement to make, keep or retain a record or to maintain a register may be satisfied in electronic form if the text is capable of being produced by the person subject to the requirement in a legible documentary form;

- (c) any requirement for a signature may be satisfied by an electronic signature incorporated into the document; and
- (d) “electronic signature” means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.

**Exclusion of charities from producer responsibility obligations**

**3.** Parts II, III and IV of these Regulations do not apply to a charity within the meaning given in section 506 of the Income and Corporation Taxes Act 1988<sup>(10)</sup>.

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<sup>(10)</sup> 1988 c. 1.