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DRAFT STATUTORY INSTRUMENTS

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**2023 No.**

**The Packaging Waste (Data Reporting)  
(England) Regulations 2023**

**PART 2**

**Producers and obligations**

**Producer obligations**

- 15.**—(1) This regulation applies to a producer (“P”) who is established in England.
- (2) If P is a small producer, but not an online marketplace operator or a seller, P is subject to the data collection obligations in regulation 16(2).
- (3) If P is a large producer, but not an online marketplace operator or a seller, P is subject to—
- (a) the data collection obligations in regulation 16(3); and
  - (b) the data reporting obligations in regulation 17.
- (4) If P is an online marketplace operator, P is subject to—
- (a) the data collection obligations in regulation 16(4); and
  - (b) where P is a large producer, the data reporting obligations in regulation 17.
- (5) If P is a small or large producer who is a seller, P is subject to the data collection obligations in regulation 16(5).
- (6) The references in paragraphs (2) and (3) to an online marketplace operator and a seller are to an online marketplace operator or seller which performs no other function referred to in regulation 8(1) in relation to packaging.
- (7) Where P is a small or large producer and P performs more than one such function in relation to packaging, P is subject to the obligations imposed under paragraphs (2) to (5), so far as relevant, in relation to each function P performs.
- (8) If P is a producer who is a licensor or a pub operating business, Schedule 2 applies to determine whether P is subject to the data collection obligations in regulation 16(6).
- (9) Paragraph (8) does not affect any obligations which a licensor or a pub operating business has under these Regulations otherwise than under Schedule 2.

**Data collection obligations**

- 16.**—(1) The data collection obligations in this regulation are as follows.

*Small producers other than online marketplace operators and sellers*

- (2) A producer subject to the data collection obligations in this paragraph, must maintain for each data collection period, and retain for at least 7 years after the end of the data collection period to which they relate, records of the information referred to in paragraph 10(2) and 21(a) of Schedule 1.

*Large producers other than online marketplace operators and sellers*

- (3) A producer subject to the data collection obligations in this paragraph must—
- (a) maintain for each data collection period, and retain for at least 7 years after the end of the data collection period to which they relate, records of the information listed in Schedule 1;
  - (b) retain for 7 years evidence—
    - (i) of the amount of packaging waste which they have collected and sent for recycling, as reported on under paragraph 23(1) and (3) of Schedule 1;
    - (ii) that any relevant packaging waste included in the packaging waste referred to paragraph (i) has been recycled, and for these purposes “relevant packaging waste” has the same meaning as in paragraph 23(5) of Schedule 1.

*Online marketplace operators*

(4) A producer subject to the data collection obligations in this paragraph must maintain for each data collection period and retain for at least 7 years after the end of the data collection period to which they relate, records of the information listed in Parts 4 and 5 of Schedule 1.

*Sellers*

(5) A producer subject to the data collection obligations in this paragraph, must maintain for each data collection period, and retain for at least 7 years after the end of the data collection period to which they relate, records of the information listed in Part 5 of Schedule 1.

*Licensors and pub operating businesses*

(6) A producer subject to the data collection obligations in this paragraph must maintain for each data collection period, and retain for at least 7 years after the end of the data collection period to which they relate, records of the information listed in paragraphs 22 and 23(3) of Part 5 of Schedule 1.

- (7) For the purposes of this regulation, “data collection period” means—
- (a) the period from the date on which these Regulations come into force until 31st December 2023; and
  - (b) in subsequent years, the period of 12 months starting on 1st January.

**Data reporting obligations**

17.—(1) A large producer (“LP”) who is subject to obligations in this regulation must, subject to paragraph (2), report the following information to the Environment Agency every six months, in accordance with this regulation, in such form and manner as the Environment Agency may direct—

- (a) the information in Part 2 of Schedule 1;
  - (b) where LP is a brand owner, packer/filler, importer or service provider, the information in Part 3 and paragraph 23 of Schedule 1;
  - (c) where LP is a distributor, the information in paragraphs 10 to 13, 16, 17 and 23 of Schedule 1; and
  - (d) where LP is an online marketplace operator, the information in Part 4 and paragraph 23 of Schedule 1.
- (2) The first report required under paragraph (1) must be made—
- (a) for the six months ending on 30th June 2023; or
  - (b) if LP does not have sufficient data to report on the period from 1st January to the date on which these Regulations come into force (“the commencement date”), for the period starting on the commencement date and ending on 30th June 2023;

and must be submitted on or before 1st October 2023.

(3) Subsequent reports must be submitted—

- (a) for the six months ending on 31st December, on or before 1st April in the following year;
- (b) for the six months ending on 30th June, on or before 1st October in the same year.

(4) LP must ensure that the information reported to the Environment Agency under this regulation—

- (a) is as accurate as reasonably possible; and
- (b) is verified by the signature of the approved person of LP.

### **Notification of winding-up, receivership, administration, etc**

**18.—**(1) A producer must inform the Environment Agency as soon as is practicable upon becoming aware that one or more relevant circumstances apply or are about to apply to them.

(2) For the purposes of this regulation “relevant circumstances” are—

(a) in the case of a corporate body—

- (i) a winding-up order has been made or a resolution for voluntary winding-up has been passed;
- (ii) a determination for a voluntary winding-up has been made;
- (iii) a receiver or a manager of the company or limited liability partnership’s undertaking has been duly appointed;
- (iv) its undertaking has entered administration;
- (v) a voluntary arrangement proposed for the purposes of Part 1 of the Insolvency Act 1986 has been approved under that Part of the Act;

(b) in the case of an individual—

- (i) a moratorium has been granted in a debt relief order, within the meaning of section 251A of the Insolvency Act 1986<sup>(1)</sup>;
- (ii) a composition or arrangement has been made with creditors;
- (iii) a receiver or trustee in bankruptcy has been duly appointed;
- (iv) a bankruptcy order has been made.

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(1) 1986 c. 45. Section 251A was inserted by paragraph 1 of Schedule 17 to the Tribunals, Courts and Enforcement Act 2007 (c. 15).