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DRAFT STATUTORY INSTRUMENTS

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**2023 No.**

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

**PART 5**

**Enforcement and Review**

**Offences and penalties**

**28.**—(1) A person who contravenes the requirement in regulation 14(3) (notice to the Environment Agency) is guilty of an offence.

(2) A producer who contravenes a requirement of—

- (a) regulation 16 (data collection obligation);
- (b) regulation 17 (data reporting obligation);
- (c) regulation 18 (notification of winding-up, receivership, administration etc.);

is guilty of an offence.

(3) The operator of a registered scheme who contravenes a requirement under—

- (a) regulation 20(1) (data reporting obligations);
- (b) regulation 20(2) (data collection obligations);

is guilty of an offence.

(4) A person who furnishes any information to the Environment Agency in connection with the Agency's functions under these Regulations is guilty of an offence if, in furnishing the information, that person—

- (a) knows the information to be false or misleading in a material particular; or
- (b) provides such information recklessly, and the information is false or misleading in a material particular.

(5) A person who fails without reasonable excuse to comply with any requirement imposed in a notice under regulation 23(3) is guilty of an offence.

(6) A person who intentionally delays or obstructs a person authorised by the Environment Agency in the exercise of powers referred to in regulation 26 is guilty of an offence.

(7) An offence under any of paragraphs (1) to (6) is punishable—

- (a) on conviction on indictment, by a fine; or
- (b) on summary conviction, by a fine.

(8) Where—

- (a) an offence under these Regulations has been committed by a body corporate or an unincorporated association; and

- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
    - (i) a relevant individual; or
    - (ii) an individual purporting to act in the capacity of a relevant individual;
- the individual as well as the body corporate or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.
- (9) In paragraph (7), “relevant individual” means—
- (a) in relation to a body corporate—
    - (i) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;
    - (ii) where the affairs of the body are managed by its members, a member;
  - (b) in a limited liability partnership, a member;
  - (c) in relation to a partnership other than a limited liability partnership, a partner;
  - (d) in relation to an unincorporated association other than a partnership, a person who is concerned in the management or control of the association.

## Review

- 29.**—(1) The Secretary of State must from time to time—
- (a) carry out a review of the regulatory provision contained in these Regulations; and
  - (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before 1st January 2028.
- (3) Subsequent reports must be published at intervals not exceeding 5 years.
- (4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—
- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
  - (b) assess the extent to which those objectives are achieved;
  - (c) assess whether those objectives remain appropriate; and
  - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).