
DRAFT STATUTORY INSTRUMENTS

2023 No.

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

PART 1

General

Threshold criteria for large and small producers

- 11.—**(1) A person satisfies the criteria in this paragraph if—
- (a) that person's turnover in the last financial year—
 - (i) in respect of which audited accounts are available; or
 - (ii) where audited accounts are not required for that person, in respect of which accounts are available;before the relevant date was more than £2,000,000, and
 - (b) in the calculation year the person handled in aggregate more than 50 tonnes of packaging or packaging materials.
- (2) A person satisfies the criteria in this paragraph if—
- (a) that person's turnover in the last financial year—
 - (i) in respect of which audited accounts are available; or
 - (ii) where audited accounts are not required for that person, in respect of which accounts are available;before the relevant date was more than £1,000,000; and
 - (b) in the calculation year the person handled in aggregate more than 25 tonnes of packaging or packaging materials.
- (3) Each company in a group of companies which is a producer satisfies the criteria in this paragraph if—
- (a) the aggregate of the turnovers of the companies in the group which are producers was more than £2,000,000 in the last financial year in respect of which audited accounts are available before the relevant date; and
 - (b) in the calculation year the aggregate of the amounts of packaging or packaging materials handled by each such company is more than 50 tonnes of packaging or packaging materials.
- (4) Each company in a group of companies which is a producer satisfies the criteria in this paragraph if—
- (a) the aggregate of the turnovers in the last financial year in respect of which audited accounts are available before the relevant date of the companies in the group which are producers was more than £1,000,000; and

- (b) in the calculation year the aggregate of the amounts of packaging or packaging materials handled by each such company is more than 25 tonnes of packaging or packaging materials.
- (5) Where the person (“MB”) is a corporate body which has been formed by the merger of two or more corporate bodies—
- (a) MB’s turnover in the year of the merger is to be calculated for the purposes of this regulation as the sum of the turnovers in the last financial year of each company which has been merged; and
- (b) MB is to be treated as having handled in the year of the merger the sum of the amount of packaging or packaging materials handled by each of those companies in the calculation year.
- (6) Where the assets and liabilities of a corporate body (“CB”) have been divided between two or more corporate bodies (“new bodies”), and no audited accounts are yet available for the new bodies—

- (a) each new body is to be treated as having a turnover equal to—

$$\frac{A}{XA} \times XT$$

where—

- (i) “A” is the value of the assets of the new body following the division;
- (ii) “XA” is the value of the assets of CB before the division; and
- (iii) “XT” is the turnover of CB in the year preceding the division year; and
- (b) each new body is to be treated as having handled an amount of packaging or packaging materials equal to—

$$\frac{A}{XA} \times XT$$

where “A” and “XA” have the meaning given in sub-paragraph (a), and “XP” means the amount of packaging or packaging materials handled by CB in the year preceding the division year.

- (7) For the purposes of this regulation—
- (a) audited accounts are to be treated as being available, where the person is a company, where annual accounts have been delivered to the registrar under section 441 of the Companies Act 2006⁽¹⁾;
- (b) “the division year” is the calendar year in which the assets and liabilities of CB were divided between two or more companies;
- (c) the “relevant date” is 7th April in an obligation year;
- (d) a “group of companies” means a holding company and one or more subsidiaries, and for this purpose, “subsidiary” and “holding company” have the same meanings as they have in section 1159 of the Companies Act 2006.
- (8) For the purposes of this regulation, the amount of packaging or packaging materials handled by a person (“P”) is the amount supplied in any nation in the United Kingdom in respect of which P is a producer under regulation 8, calculated in tonnes to the nearest tonne—

(1) 2006 c. 46. Section 441 has been amended by S.I. 2008/393 and 2012/2301.

- (a) including packaging or packaging materials which were imported into the United Kingdom by P or an agent acting on P's behalf (and for these purposes, packaging includes reusable packaging on the first occasion that packaging is used);
 - (b) excluding exempt packaging.
- (9) If P performs two or more functions as producer under regulation 8 in relation to the packaging—
 - (a) subject to sub-paragraph (b), all packaging in relation to which P performs a function is to be taken into account for the purposes of paragraphs (1)(b), (2)(b), (3)(b) and (4)(b);
 - (b) if the functions P performs are performed in relation to the same packaging, that packaging is only to be taken into account once for the purposes of paragraphs (1)(b), (2)(b), (3)(b) and (4)(b).
- (10) In this regulation—
 - “calculation year” means the calendar year preceding an obligation year;
 - “obligation year” means a calendar year in respect of which it is being considered whether a person is subject to data collection requirements or data collecting and reporting requirements under these Regulations.