
STATUTORY INSTRUMENTS

1997 No. 648

**The Producer Responsibility Obligations
(Packaging Waste) Regulations 1997**

**PART I
GENERAL**

Interpretation and notices

2.—(1) In these Regulations—

“the Act” means the Environment Act 1995;

“the 1990 Act” means the Environmental Protection Act 1990(1);

“the Director” means the Director General of Fair Trading;

“energy recovery” means the use of combustible packaging waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;

“organic recycling” means the aerobic (composting) or anaerobic (biomethanization) treatment, under controlled conditions and using micro-organisms, of the biodegradable parts of packaging waste, which produces stabilized organic residues or methane; for the purposes of these Regulations landfill shall not be considered a form of organic recycling;

“packaging” means all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer, including non-returnable items used for the same purposes but only where the products are—

- (a) sales packaging or primary packaging, that is to say packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;
- (b) grouped packaging or secondary packaging, that is to say packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale; it can be removed from the product without affecting its characteristics; or
- (c) transport packaging or tertiary packaging, that is to say packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packagings in order to prevent physical handling and transport damage; for the purposes of these Regulations transport packaging does not include road, rail, ship and air containers;

“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” means any packaging or packaging material covered by the definition of waste in article 1 of Directive 75/442 EC(2) (“the Waste Directive”) which, together with Annex 1 to that Directive, is reproduced in Part I of Schedule 3 to these Regulations, other than production residues and, by virtue of article 2(1)(b)(i) of the Waste Directive, radioactive waste;

“preceding year” has the meaning given in regulation 3;

“producer” has the meaning given in regulation 3 and the classes of producer are those set out in column 4 of the Table in Schedule 1;

“producer responsibility obligations” are the producer registration, recovery and recycling, and certifying obligations specified in regulation 3;

“recovery” means any of the applicable operations provided for in Annex IIB to the Waste Directive, reproduced in Part II of Schedule 3;

“recycling” means the reprocessing in a production process of the waste materials for the original purpose or for other purposes including organic recycling but excluding energy recovery;

“relevant year” has the meaning given in regulation 3;

“reprocessor” means a person who, in the ordinary course of conduct of a trade, occupation or profession, carries out the activities of recovery or recycling;

“reuse” means any operation by which packaging, which has been conceived and designed to accomplish within its life cycle a minimum number of trips or rotations, is refilled or used for the same purpose for which it was conceived, with or without the support of auxiliary products present on the market enabling the packaging to be refilled; such reused packaging will become packaging waste when no longer subject to reuse;

“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;

“transit packaging” means—

- (a) grouped packaging or secondary packaging, as defined in paragraph (b) of the definition of packaging in this regulation; or
- (b) transport packaging or tertiary packaging as defined in paragraph (c) of that definition of packaging; and

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

(2) Where notices are to be served on a producer under regulations 6(6), 10, and 11(3), information is to be provided by a producer under regulations 7 and 8, fees are to be paid by a producer under regulation 9(2), and records and returns are to be maintained and furnished by a producer under regulation 22, they shall be served on, provided, paid, or maintained and furnished, by

- (a) in the case of a partnership with a principal place of business in England and Wales, the partner notified under regulation 6(4)(e), or in accordance with the undertaking referred to in regulation 7(a)(ii), or
- (b) in the case of a partnership with a principal place of business in Scotland, by a partner acting on behalf of the partnership,

(2) O.J. No. L194, 25.7.75, p. 39; articles 1 to 12 and Annexes I and IIB were amended by Directive 91/156/EEC, O.J. No. L78, 26.3.91, p. 32.

and references in these Regulations to the producer shall be read accordingly.

(3) Where the operator of a scheme is a partnership, or where this is not the case but there is more than one operator of a scheme—

- (a) notices to be served on the operator of the scheme under regulations 12(6), 16, 17(3), 31(5) and (10), shall be served on the partner or operator, respectively, notified under regulation 12(3)(h), or in accordance with the condition referred to in regulation 13(d)(ii); and
- (b) where information is to be provided by the operator of the scheme under regulations 13 and 14, fees are to be paid by the operator of the scheme under regulation 15(3), records and returns are to be maintained and furnished by the operator of the scheme under regulation 24, and appeals may be made by the operator of the scheme under regulation 18, they shall be provided, paid, or maintained and furnished, and such appeals may only be made, by the partner or operator, respectively, notified under regulation 12(3)(h), or in accordance with the condition referred to in regulation 13(d)(ii),

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