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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace with amendments the Packaging (Essential Requirements) Regulations 1998 (“the 1998 Regulations”). The 1998 Regulations implemented Articles 9 and 11 of Directive [94/62/EC](#) of the European Parliament and the Council on packaging and packaging waste (O.J. No. L365, 31.12.94, p. 10) which relate to the essential requirements to be satisfied by packaging. These Regulations implement in addition two Commission Decisions providing for derogations in respect of plastic crates and pallets and glass packaging. These are Commission Decision [1999/177/EC](#) (O.J. L056, 04.03.98, p.47) and Commission Decision [2001/171/EC](#) (O.J. L062, 02.03.01, p.20). References in the Regulations to the Community or a member State include respectively a reference to the EEA or an EEA State which are defined in regulation 2(1)(c).

Part II provides for the application of the Regulations. They apply to all packaging (as defined in regulation 2(2)) other than those excluded by regulation 4.

Part III sets out the general requirements of the Regulations. Regulation 5 imposes a duty on a responsible person (as defined in regulation 2(2)) who places packaging on the market to ensure that it satisfies the relevant essential requirements. The essential requirements (Annex II of Directive [94/62/EC](#)) are set out in Schedule I. Regulation 6 imposes a duty on a responsible person who places the product on the market to ensure that the sum of the concentration levels of lead, cadmium, mercury and hexavalent chromium of packaging or of its packaging components, which is placed on the market on or after certain dates do not exceed certain limits on a sliding scale. Regulation 6 does not apply to packaging which is made entirely of lead crystal glass (regulation 6(2)). Regulation 6(3) introduces derogations from regulation 6(1) in respect of plastic crates and pallets and glass packaging providing respective conditions set out in Schedules II and III are met.

Regulation 7(1) provides for the responsible person to keep technical documentation on compliance with the essential requirements and the heavy metals concentration limits in respect of packaging and to make this available at the request of the enforcement authority for a period of four years from the date packaging is placed on the market.

Regulation 7(2) makes provision for the manufacturer or his authorised representative or if neither is established in the Community, the responsible person who places the product on the market to comply with the provisions relating to information set out in Schedules II and III to be submitted in certain circumstances and on request to the enforcement authorities.

Part IV relates to enforcement of the Regulations. The enforcement authorities are the weights and measures authorities in Great Britain and the Department of Enterprise, Trade and Investment in Northern Ireland (regulation 9 and Schedule IV). In Scotland, proceedings are brought by the Procurator-Fiscal or Lord Advocate. Regulation 9 provides for offences. Regulation 10 provides for penalties for breaches of the Regulations. There are also provisions relating to the defence of due diligence (regulation 11) as well as liability of persons other than the principal offender (regulation 12).

A Regulatory Impact Assessment (RIA) in respect of these Regulations is available and a copy may be obtained from the Department of Trade and Industry. As these Regulations maintain the implementation of Council Directive [94/62/EC](#) on packaging and packaging waste together with two Decisions relating to derogations, a transposition note (TN) setting out how the Government will transpose into UK law the main elements of this Directive and the derogations has been prepared. Copies of the RIA and TN are available from SD3 Bay 425, the Department of Trade and Industry,

**Status:** *This is the original version (as it was originally made).*

151 Buckingham Palace Road, London SW1W 9SS. Copies of these documents have been placed in the libraries of both Houses of Parliament.