
STATUTORY INSTRUMENTS

2003 No. 1941

The Packaging (Essential Requirements) Regulations 2003

PART I

PRELIMINARY

Citation, commencement and revocation

1.—(1) These Regulations may be cited as the Packaging (Essential Requirements) Regulations 2003 and shall come into force on 25th August 2003.

(2) The Packaging (Essential Requirements) Regulations 1998(1) are hereby revoked.

Interpretation

2.—(1) In these Regulations—

- (a) “the Directive” means Directive 94/62/EC of the European Parliament and the Council on packaging and packaging waste(2);
- (b) “the 1987 Act” means the Consumer Protection Act 1987(3); and
- (c) except for the references to the European Communities in the definition of “the Commission” and in relation to the Official Journal, a reference to the Community includes a reference to the EEA, and a reference to a member State includes a reference to an EEA State: for this purpose—
 - (i) the “EEA” means the European Economic Area;
 - (ii) an “EEA State” means a State which is a Contracting Party to the EEA Agreement; and
 - (iii) the “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993(4).

(2) In these Regulations—

“the Commission” means the Commission of the European Communities;

“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;

“enforcement authority” shall be construed in accordance with regulation 9 and Schedule IV;

“essential requirements” means the essential requirements in Annex II of the Directive and which are set out in Schedule I hereto;

(1) S.I. 1998/1165.

(2) O.J. No. L365, 31.12.94, p. 10.

(3) 1987 c. 43.

(4) The application of the Directive was extended to the EEA from 1st December 1995 by virtue of Decision No. 67/95 of the EEA Joint Committee O.J. No. L8/38 which inserted a reference to that Directive after point 6 in Chapter XVII of Annex II to the EEA Agreement.

“importer” means an importer of packaging which is packed or filled packaging into the United Kingdom;

“incidental presence” means the presence of a metal as an unintended ingredient of a packaging or packaging component;

“intentionally introduced” means the act of deliberately utilising a substance in the formulation of a packaging or a packaging component where its continued presence is desired in the final packaging or packaging component to provide a specific characteristic, appearance or quality; for the purpose of these Regulations, the use of recycled materials as a feedstock for the manufacture of new packaging materials where some portion of the recycled materials may contain amounts of regulated metals is not intentional introduction;

“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 stabilised 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, and which 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 component” means any part of packaging that can be separated by hand or by using simple physical means;

“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 the Waste Directive but not including production residues;

“packaging waste management” means the management of waste as defined in the Waste Directive;

“ppm” means parts per million by weight;

“product loops which are in a closed and controlled chain” means product loops in which products circulate with a controlled reuse and distribution system and in which the recycled material originates only from these entities in the chain so that the introduction of external material is the minimum which is technically feasible and from which these entities may only be removed in a specially authorised procedure so that return rates are maximised;

“recovery” means any of the applicable operations provided for in Annex II B of the Waste Directive;

“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;

“regulated metals” means lead, cadmium, mercury or hexavalent chromium or a combination of two or more of the said metals, as the case may be;

“responsible person” means, in relation to packaging, the person who is—

- (a) responsible for packing or filling products into packaging, or
- (b) any person presenting himself as being so responsible by affixing to the packed or filled packaging his name, trade mark or other distinctive mark, or
- (c) the person who reconditions the packaging for reuse (except that reuse in itself shall not constitute reconditioning of the packaging), or
- (d) the importer; and
- (e) for the purposes of regulation 7(2) only includes the manufacturer or his authorised representative in the Community.

“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 and reused packaging shall be construed accordingly; such reused packaging will become packaging waste when no longer subject to reuse; and

“Waste Directive” means Council Directive [75/442/EEC](#) on waste⁽⁵⁾.

(5) O.J. No. L194, 25.7.75, p. 39; Articles 1 to 12 and Annexes I and II B were amended by Directive [91/156/EEC](#), O.J. No. L78, 26.3.91, p. 32.