

**EXPLANATORY MEMORANDUM TO**  
**THE PRODUCER RESPONSIBILITY OBLIGATIONS (PACKAGING WASTE)**  
**(AMENDMENT) (ENGLAND) REGULATIONS 2020**

**2020 No. 1336**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument amends the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (“S.I. 2007/871”) (“the 2007 Regulations”) by varying the packaging waste targets for all materials as well as varying the targets set for specific materials .

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As this instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The extent of the parent instrument, the 2007 Regulations, is England and Wales and Scotland.
- 4.2 The territorial application of this instrument is England.

**5. European Convention on Human Rights**

- 5.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**6. Legislative Context**

- 6.1 This instrument amends the Producer Responsibility (Packaging Waste) Regulations 2007, which is a Great Britain (“GB”) instrument, in relation to England only.
- 6.2 Similar amending instruments will be made in relation to Wales and Scotland by the Scottish Government and Welsh Government. Northern Ireland have separate Regulations and will make similar changes in parallel.

- 6.3 The 2007 Regulations impose producer responsibility obligations on producers of packaging to recover and recycle a calculated amount of packaging waste in order to attain the Government's intended recycling rate.
- 6.4 The current packaging waste recovery and recycling targets expire at the end of 2020. The 2007 Regulations are being amended, in relation to England only, to set new recycling targets. Consequential amendments reflect that no recovery targets are being set.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The 2007 Regulations impose obligations to recycle a proportion of the packaging they place on the market on businesses handling more than 50 tonnes of packaging and with a turnover of more than £2 million where the business is involved in manufacturing raw materials for packaging; converting materials into packaging; filling packaging; selling packaging to the final user, leasing out packaging or importing packaging/ packaging materials into GB.
- 7.2 The existing packaging waste recycling and recovery business targets for 2018-2020 were consulted on in 2016 and final targets announced at Budget in March 2017.
- 7.3 This instrument amends the 2007 Regulations, in relation to England only, to vary the overall target for the recycling of packaging waste, as well as the material specific packaging waste recycling targets for 2021 and 2022.
- 7.4 Current targets in the 2007 Regulations set an overall recovery target on producers, of which a minimum of 92% had to be achieved by recycling. This left a maximum of 8% of the total obligation which could be achieved by recovery activities. No recovery targets are being set this time, meaning producers only have to meet recycling targets for packaging waste in order to meet their producer responsibility obligations. This reflects the culmination of a gradual shift when varying targets to encourage a reduction in the amount of waste going for disposal and to landfill. Instead, the focus is on moving the management of waste up the waste hierarchy and on recycling targets as a means of evidencing producer responsibility obligations are met. This has a better environmental outcome and removes an incentive for material going to activities which are lower on the waste hierarchy.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union nor trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 None.

## **10. Consultation outcome**

- 10.1 This instrument has been drafted following engagement with a broad range of representatives from industry, regulators and other interested parties. A number of informal events were held prior to the formal consultation, as well as bilateral discussions and meetings to complement these consultations.

- 10.2 Informal consultation with the independent Advisory Committee on Packaging (“ACP”), key materials organisation and trade bodies, other government departments and regulators took place in developing a number of the proposals contained within the Impact Assessment and consultation document.
- 10.3 Public consultation on new recycling targets was carried out in 2019, as part of the UK Government’s wider consultation (from February to May) on reform of the packaging system. That consultation included a proposal not to set an overall packaging waste recovery target.
- 10.4 The consultation document, Reforming the UK Packaging Producer Responsibility System, discussed the rationale for reforming the current producer responsibility system, set out the key principles and features of an extended producer responsibility system for packaging and proposed packaging waste recycling targets to 2030.
- 10.5 A total of 565 responses to the specific questions on targets for 2021 and 2022 were received. A significant minority supported the consultation proposals, with some support for setting higher recycling targets. It was felt there needed to be a clear trajectory from current performance, in the form of incremental increases to ensure expected higher recycling targets for 2025 and 2030 set under a reformed scheme could be achieved.
- 10.6 Post consultation there was further discussion with the ACP and other industry representatives prior to announcement, taking into account the impact of covid on the sector, to ensure that the targets were still appropriate.
- 10.7 Taking into account the comments received the UK Government is amending the 2007 Regulations, in relation to England, and introducing recycling targets for 2021 and 2022 in line with the proposals in the consultation.
- 10.8 As the 2007 Regulations create a market-based mechanism for encouraging recycling, and the business recycling targets drive these markets, changes to the targets are classified as a “tax and spend” measure and require approval from Treasury. Following the consultation, the new targets were agreed with the Treasury and announced on 9 November 2020.
- 10.9 The consultation document and summary of responses can be found at <https://consult.defra.gov.uk/environmental-quality/consultation-on-reforming-the-uk-packaging-produce/> . Other documents can be obtained from the contact at the end of this Memorandum.

## **11. Guidance**

- 11.1 The environment agencies as enforcers of the 2007 Regulations will update their guidance based on the changes made by this instrument.

## **12. Impact**

- 12.1 A consultation Impact Assessment has been produced for the full range of reforms, though the impact of these specific changes has not been disaggregated (<https://consult.defra.gov.uk/environmental-quality/consultation-on-reforming-the-uk-packaging-produce/> ).
- 12.2 The impact of these changes on business or voluntary bodies is limited, as the proposed increases in targets are incremental and costs/revenue associated with the recovery obligation are relatively low (the associated costs were £267k in 2019).

12.3 There is no impact on the public sector or charities.

### **13. Regulating small business**

13.1 This instrument applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to include a threshold within the Regulations to exempt companies that do not handle more than 50 tonnes of packaging a year and have an annual turnover of more than £2 million.

13.3 The basis for the final decision on what action to take to assist small business is part of the Impact Assessment.

### **14. Monitoring & review**

14.1 The UK packaging waste regime is monitored by Government, the Environment Agencies, the ACP and industry generally. The ACP, which includes representatives of the packaging industry, as well as retailers and local authorities, also monitors the effectiveness of the Packaging Regulations and advises Government as and when they consider changes may be needed.

14.2 The 2007 Regulations also include a review clause, thereby ensuring that they will be reviewed on a regular basis.

### **15. Contact**

15.1 Ian Atkinson at the Department for Environment, Food and Rural Affairs, Seacole Building, 2 Marsham Street London, SW1P 4DF telephone: 020 8026 3260 and e-mail [ian.atkinson@defra.gov.uk](mailto:ian.atkinson@defra.gov.uk). can answer any queries regarding this instrument.

15.2 Chris Preston, Deputy Director for Resources and Waste, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Parliamentary Under Secretary of State for the Environment, Rebecca Pow MP, at the Department of Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.