

**EXPLANATORY MEMORANDUM TO**  
**THE PRODUCER RESPONSIBILITY OBLIGATIONS (PACKAGING WASTE)**  
**(AMENDMENT) (ENGLAND AND WALES) REGULATIONS 2022**

**2022 No. 1222**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by the Department for Environment Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

**2. Purpose of the instrument**

2.1 The purpose of this statutory instrument is to amend overall and material-specific recycling targets for packaging producers for the year 2023, as the Regulations currently cover up to and including the year 2022.

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

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

3.1 None.

**4. Extent and Territorial Application**

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England and Wales.

**5. European Convention on Human Rights**

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

**6. Legislative Context**

6.1 This instrument makes amendments to provisions in the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (the 2007 Regulations) which were made under the Environment Act 1995 and saved under Regulation 6 of the Environment Act 2021 (Commencement No.2 and Saving Provisions) Regulations 2022. Under that regulation, the saved provisions are to be treated as if made under the Environment Act 2021 (EA 2021).

6.2 This instrument amends the 2007 Regulations, which extend to and apply in Great Britain, in relation to England and Wales only.

6.3 A similar instrument will be made amending the 2007 Regulations in relation to Scotland by the Scottish Government. Northern Ireland has separate regulations dealing with the same subject matter and will make similar changes in parallel.

6.4 The 2007 Regulations impose producer responsibility obligations on producers of packaging to recycle a calculated amount of packaging waste in order to attain the Government's intended recycling rate.

6.5 The current packaging waste recycling targets expire at the end of 2022. The 2007 Regulations are being amended, in relation to England and Wales only, to set new recycling targets for 2023.

## **7. Policy background**

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

7.1 The UK Government and Devolved Administrations have ambitious goals to protect the environment and to drive down unnecessary waste. The current producer responsibility system for packaging has operated since 1997 and is to be reformed.

### *Explanations*

#### What did any law do before the changes to be made by this instrument?

7.2 The UK Government and Devolved Administrations intend to reform the arrangements for packaging producer responsibility. A new Statutory Instrument made using the powers in the Environment Act 2021 is being developed. When introduced it will revoke the Producer Responsibility Obligations (Packaging Waste) Regulations 2007.

#### Why is it being changed?

7.3 The UK Government and Devolved Administrations are committed to the introduction of Extended Producer Responsibility for packaging (EPR) which will make producers financially responsible for the costs of managing packaging waste generated by households and packaging waste disposed of in street bins managed by local authorities. These commitments are reflected in the summary of responses and Government Response to the 2021 consultation on EPR and will bring about reforms to the current system.

#### What will it now do?

7.4 In the meantime, the 2007 Regulations need to be updated to set overall and material-specific recycling targets for 2023. The UK Government and the Devolved Administrations announced in their response to the 2021 consultation that the 2022 recycling targets would be rolled over to 2023, to provide continuity in a year where businesses will need to prepare for changes to the regime.

## **8. European Union Withdrawal and Future Relationship**

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

9.1 No consolidation is necessary here as these are limited amendments to the 2007 Regulations, which we expect to be revoked.

## **10. Consultation outcome**

10.1 The proposed recycling targets were consulted on as part of the UK-wide consultation on EPR for Packaging, held from 24th March to 4th June 2021. A total of 1,241 responses were received to this consultation.

10.2 On the question of whether recycling targets for 2022 should be rolled over to 2023, a total of 976 respondents gave an answer, with 78% agreeing with the proposal, 9% disagreeing and 13% not expressing a view.

10.3 A link to the full Government response to the consultation can be found here [EPR Consultation Government response template \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/epr-consultation-government-response-template)

## **11. Guidance**

11.1 Guidance has not been produced for this instrument.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies as the 2022 recycling targets will be rolled over to 2023. As a comparator the proposed increase in targets between 2021 and 2022 was incremental and therefore costs/revenue associated with the recycling obligations were relatively low (the associated costs were £873,000 between 2021 and 2022).

12.2 There is no, or no significant, impact on the public sector.

12.3 A Consultation Impact Assessment on the proposals for a packaging EPR regime, which includes recycling targets for 2023, is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website. The impact of the rollover of the 2022 targets to 2023 has not been disaggregated in this impact assessment.

## **13. Regulating small business**

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses, the 2007 Regulations exempt companies that do not handle more than 50 tonnes of packaging a year and do not have an annual turnover of more than £2 million.

## **14. Monitoring & review**

14.1 The department does not intend to monitor this instrument as the targets will automatically expire after 2023 and will be replaced by the targets set in the new EPR Regulations.

## **15. Contact**

15.1 Vicky Burt at the Department for Environment Food and Rural Affairs Telephone: 0208 225 7058 or email: [vicky.burt@defra.gov.uk](mailto:vicky.burt@defra.gov.uk) can be contacted with any queries regarding the 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 Rebecca Pow, Parliamentary Under Secretary of State at the Department for Environment Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.