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DRAFT STATUTORY INSTRUMENTS

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**1999 No.**

**ENVIRONMENTAL PROTECTION**

**The Producer Responsibility Obligations (Packaging  
Waste) (Amendment) (No. 2) Regulations 1999**

|                                |         |                       |
|--------------------------------|---------|-----------------------|
| <i>Made</i>                    | - - - - | <i>1999</i>           |
| <i>Coming into force</i>       |         |                       |
| <i>except for regulation 3</i> |         | <i>1999</i>           |
| <i>Regulation 3</i>            |         | <i>1st March 2000</i> |

The Secretary of State—

- (a) in exercise of his powers under sections 93, 94 and 95 of the Environment Act 1995<sup>(1)</sup>, for the implementation of articles 6(1) and 13 of Directive 94/62/EC<sup>(2)</sup>, after consultation in accordance with section 93(2) of that Act, and after having regard to the matters specified in section 93(6) as required by section 93(5) of that Act;
- (b) being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(3)</sup> in relation to the management of packaging and packaging waste<sup>(4)</sup>, in exercise of his powers under section 2(2) of that Act<sup>(5)</sup>, and
- (c) in exercise of all other powers enabling him in that behalf,

hereby makes the following Regulations, a draft of which has been laid before and approved by a resolution of each House of Parliament:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Producer Responsibility Obligations (Packaging Waste) (Amendment) (No. 2) Regulations 1999 and shall come into force, except for regulation 3, on the day after the day on which they are made.

(2) Regulation 3 shall come into force on 1st March 2000.

(3) These Regulations apply to England, Wales and Scotland.

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(1) 1995 c. 25; see section 93(8) for the definitions of “prescribed” and “regulations”. See also the Government of Wales Act 1998 (c. 38), Schedule 3 paragraph 5, and the Scotland Act 1998 (c. 46), section 57(1), as respects the continued exercise of the Secretary of State’s functions for the purpose of implementing any Community obligation of the United Kingdom.

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

(3) 1972 c. 68.

(4) S.I.1996/266.

(5) Regulation 2(3) is made partly under this power.

## **Amendment of the Producer Responsibility Obligations (Packaging Waste) Regulations 1997**

2.—(1) The Producer Responsibility Obligations (Packaging Waste) Regulations 1997<sup>(6)</sup> (“the 1997 Regulations”) are amended as follows.

(2) In regulation 2(1) (interpretation)–

(a) for the definition of “packaging waste” substitute–

““packaging waste” means waste from packaging or packaging materials which became waste in the United Kingdom;”;

(b) in the definition of “producer responsibility obligations”, for the words “and certifying obligations” substitute “certifying and consumer information obligations”;

(c) after the definition of “recovery” insert–

““recyclable material” has the meaning given by paragraph 6(1) of Schedule 2;”;

(d) after the definition of “scheme” insert–

““SIC code” means a code included in “Indexes to the United Kingdom Standard Industrial Classification of Economic Activities 1992”, published by the Office for National Statistics in 1997<sup>(7)</sup>;

“special producer” has the meaning given by regulation 4(4);”;

(e) after the definition of “transit packaging” insert–

““waste” has the same meaning as in Article 1(a) of the Waste Directive except that it does not include–

(a) production residues; or

(b) waste excluded from the scope of that Directive by Article 2, and Articles 1(a) and 2 of, and Annex I to, that Directive are reproduced in Part I of Schedule 3 to these Regulations;

“the Waste Directive” means Directive [75/442/EEC](#) on waste, as amended by Directive [91/156/EEC](#)<sup>(8)</sup>.”.

(3) In regulation 3 (producers and producer responsibility obligations)–

(a) at the end of paragraph (5)(a), omit “and”; and

(b) after paragraph (5)(b), add–

“and–

(c) if his main activity is that of seller, provide the necessary information to consumers of the goods sold by him about–

(i) the return, collection and recovery systems available to them;

(ii) their role in contributing to reuse, recovery and recycling of packaging and packaging waste;

(iii) the meaning of markings on packaging existing on the market, and

(iv) the chapter dealing with the management of packaging and packaging waste in any strategy prepared under section 44A or 44B of the 1990 Act<sup>(9)</sup> (national waste strategy);

(in these Regulations referred to as the “consumer information obligations”).

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<sup>(6)</sup> S.I. [1997/648](#), amended by S.I. [1999/1361](#).

<sup>(7)</sup> ISBN 0–11–620–923–2.

<sup>(8)</sup> O.J. No. L194, 25.7.75, p. 39; articles 1 to 12 and Annexes I and IB were amended by Directive [91/156/EEC](#) (O.J. No. L78, 26.3.91, p. 32).

<sup>(9)</sup> [1990 c. 43](#); sections 44A and 44B were inserted by section 92 of the Environment Act 1995.

(5A) The Secretary of State shall take such steps as may be appropriate to ensure that users of packaging, including in particular consumers, obtain the necessary information about the matters referred to in paragraph (5)(c).”.

(4) In regulation 4 (exclusions and limitations)–

- (a) in paragraph (1)(b), after “obligations” insert “and, where applicable, consumer information obligations”; and
- (b) omit paragraph 4(3).

(5) In regulation 6 (application for producer registration)–

- (a) in paragraph (1), for “1st April” substitute “7th April”;
- (b) for paragraph (4)(c) substitute–

“ (c) subject to paragraph (8) below, be accompanied by the following further information, on a form supplied for that purpose by the appropriate Agency, in relation to the relevant year–

- (i) each class of producer to which the applicant belongs;
- (ii) whether or not he is a special producer;
- (iii) if he belongs to more than one class of producer, which of those classes constitutes his main activity as a producer;
- (iv) the relevant SIC code for the class of producer to which the applicant belongs or, as the case may be, for the applicant’s main activity;
- (v) in relation to each such class of producer (excluding special producer)–
  - (a) the amount of packaging waste which he is required to recover by virtue of paragraph 2(1) of Schedule 2;
  - (b) the amount of packaging waste which he is required to recycle for each kind of recyclable material by virtue of paragraph 2(3) of Schedule 2;

(vi) the basis on which the amounts referred to in paragraph (v) were calculated;”;

(c) at the end of paragraph (4)(d) delete “and” and insert–

“(dd) where the applicant is a person whose turnover for the purposes of paragraph 3 of Schedule 1 was more than £5,000,000, be accompanied by a plan setting out the steps intended to be taken to comply with the producer’s recovery and recycling obligations; and”;

(d) in paragraph (5)(a), after “(d)” insert “, (dd)”;

(e) in paragraph (5)(b), for “the Agency” substitute “the appropriate Agency”;

(f) in paragraph (6)(b), for the words “from the beginning” to the end of that paragraph substitute

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- (i) where the application was made within the time limit specified in regulation 6(1), from the beginning of the relevant year;
- (ii) where the application was made within the time limit specified in regulation 6(3)(b), from the date of the relevant occurrence;
- (iii) in any other case, from the date specified in the confirmation, until any cancellation of the producer’s registration in accordance with regulation 11.”; and

- (g) in paragraph (8), for “56 days” substitute “28 days”.
- (6) In regulation 8 (continuation of producer registration)—
  - (a) at the beginning insert “(1)”;
  - (b) for “1st April” substitute “7th April”; and
  - (c) at the end insert—
    - “(2) On or before 30th June in a relevant year, the producer shall provide to the appropriate Agency a revised version of the plan referred to in regulation 6(4)(dd).”.
- (7) In regulation 9 (forms and fees for producer registration)—
  - (a) in paragraph (1), for “a copy of any form” substitute “the form”; and
  - (b) in paragraph (2), for “£750” substitute “£950”.
- (8) In regulation 12 (application for registration of a scheme)—
  - (a) in paragraph (1), for “1st April” substitute “7th April”;
  - (b) for paragraph (3)(c) substitute—
    - “(c) subject to paragraph (7) below, be accompanied by the following further information, on a form supplied for that purpose by the appropriate Agency, in relation to the relevant year—
      - (i) each class of producer in the scheme;
      - (ii) whether any of the producers is a special producer, and if so how many;
      - (iii) if any producer belongs to more than one class of producer, which of those classes constitutes his main activity as a producer;
      - (iv) the relevant SIC code for the activity or, as the case may be, the main activity of each class of producer in the scheme;
      - (v) in relation to each such class of producer (excluding special producer)—
        - (a) the amount of packaging waste which is required to be recovered by virtue of paragraph 2(1) of Schedule 2; and
        - (b) the amount of packaging waste which is required to be recycled for each kind of recyclable material by virtue of paragraph 2(3) of Schedule 2,
- (c) in paragraph (6)(b), for “of application” substitute “in relation to which the application is made”; and
- (d) in paragraph (7), after “shall” insert “, if it does not accompany the application, be provided not later than 15th April in the year of application, and shall”.
- (9) In regulation 14 (continuation of registration of a scheme)—
  - (a) at the beginning insert “(1)”;
  - (b) for “1st April” substitute “7th April”; and
  - (c) at the end insert—
    - “(2) On or before 30th June in a relevant year and in respect of a scheme that is registered, the operator of the scheme shall provide to the appropriate Agency a revised version of the operational plan for the scheme.”.

- (10) In regulation 15 (forms and fees for registration of a scheme)—
- (a) in paragraph (1), for “a copy of any form” substitute “the form”; and
  - (b) in paragraph (2)—
    - (i) for “£600” substitute “£760”;
    - (ii) for “£450” substitute “£570”;
    - (iii) for “£300” substitute “£380”; and
    - (iv) for “£100” substitute “£126”.
- (11) In regulation 22(2)(b) (producers—records and returns), for “packaging material” substitute “recyclable material”.
- (12) In regulation 24 (schemes—records and returns)—
- (a) in paragraph (1), for “upon request” substitute  
“—
    - (a) where the information is in respect of 1998, upon request;
    - (b) where the information is in respect of any later year, on or before 31st January in the year immediately following that year.”;”
  - (b) at the end of paragraph (3)(b), omit “and”; and
  - (c) after paragraph (3)(c), add  
“and
    - (d) for each member of the scheme who is a special producer, the information referred to in Part V of Schedule 3.”.”
- (13) In regulation 25 (monitoring), after paragraph (2) insert—
- “(3) For the purposes of the discharge of its functions under these Regulations, an appropriate Agency may, by notice in writing served on—
- (a) any person who has, or who the Agency has reason to believe has, producer responsibility obligations under regulation 3, or
  - (b) any person who is a member of a registered scheme,
- require him to maintain such records, and furnish such returns to the Agency, of such information specified in the notice as the Agency reasonably considers it needs for those purposes, in such form and within such period following service of the notice, or at such time, as is so specified.”.
- (14) After regulation 25 insert—
- “Monitoring – publication**
- 25A.** The appropriate Agency shall take such steps as seem to it appropriate to publish, in relation to each year commencing with 2000, the following details of the monitoring carried out under regulation 25—
- (a) the Agency’s policy in relation to monitoring and enforcement of producer responsibility obligations; and
  - (b) an indication of the minimum number of persons which it proposes to monitor in the course of that year.”
- (15) In regulation 34 (offences and penalties), in paragraph (3) after sub-paragraph (a) insert—
- “(aa) fails without reasonable excuse to maintain any record or furnish any return required by an appropriate Agency in accordance with regulation 25(3);”.
- (16) In Schedule 1 (producers)—