
D R A F T S T A T U T O R Y I N S T R U M E N T S

2024 No.

ENVIRONMENTAL PROTECTION

**The Producer Responsibility Obligations (Packaging and
Packaging Waste) Regulations 2024**

Made - - - - - ***
Coming into force ***

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These Regulations are made by the Secretary of State for Environment, Food and Rural Affairs in exercise of the powers conferred by sections 50, 51 and 52 of, and paragraphs 1 to 5, 7, and 12 to 19 of Schedule 4, paragraphs 1 to 9 and 11 to 17 of Schedule 5 and paragraphs 1, 4, and 7 to 13 of Schedule 6 to, the Environment Act 2021 (“the Act”)(a).

The Scottish Ministers have consented to the making of these Regulations in relation to Scotland, the Welsh Ministers have consented to the making of these Regulations in relation to Wales, and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland have consented to the making of these Regulations in relation to Northern Ireland, in accordance with section 50(3), 51(3) and 52(4) of the Act.

In accordance with paragraph 8 of Schedule 4, paragraph 10 of Schedule 5 and paragraph 5 of Schedule 6 to the Act, the Secretary of State has consulted those persons appearing to them to represent the interests of those likely to be affected.

The Secretary of State is satisfied that the Regulations satisfy the requirements set out in paragraph 9 of Schedule 4 to the Act.

A draft of these Regulations has been laid before, and approved by a resolution of, each House of Parliament in accordance with section 143(5)(b) of the Act.

(a) 2021 c. 30.

PART 1

General

Citation, commencement, application and extent

1.—(1) These Regulations may be cited as the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024.

(2) They come into force as follows—

(a) ;

(b) all other provisions on ** ***** **].

(3) The regulations in Part 7 apply to reprocessors and exporters only in relation to the accreditation year and registration year beginning on 1st January 20** and subsequent years.

(4) In paragraph (3)—

“accreditation year” means the year in respect of which a person is accredited or applies for accreditation as a reprocessor, or as the case may be, an exporter;

“registration year” means the year in respect of which a person is registered or required to register as a reprocessor, or as the case may be, an exporter.

(5) These Regulations extend to England and Wales, Scotland and Northern Ireland and apply to England, Wales, Scotland and Northern Ireland.

Interpretation

2.—(1) In these Regulations—

“the 1990 Act” means the Environmental Protection Act 1990(a);

“the 2007 Regulations” means the Producer Responsibility Obligations (Packaging Waste) Regulations 2007(b);

“the 2007 (NI) Regulations” means the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007(c);

“the 2023 Data Regulations” means—

(a) the Packaging Waste (Data Reporting) (England) Regulations 2023(d),

(b) the Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023,

(c) the Packaging Waste (Data Reporting) (Scotland) Regulations 2023(e), or

(d) the Packaging Waste (Data Reporting) (No. 2) (Northern Ireland) Regulations 2023(f);

“appropriate agency” has the meaning given in regulation 4;

“appropriate authority” means—

(a) the Secretary of State in relation to England;

(b) the Welsh Ministers in relation to Wales;

(c) the Scottish Ministers in relation to Scotland;

(d) DAERA in relation to Northern Ireland;

“approved person” means a person for the time being approved under regulation 110 for the purposes set out in that regulation;

(a) 1990 c. 43.
(b) S. I. 2007/871.
(c) S.R. 2007 No. 198.
(d) S.I. 2023/219.
(e) S.S.I. 2023/7.
(f) S.I. 2023/25.

“binned packaging waste” means packaging which is collected from public bins and which is—

- (a) in England, Wales or Scotland, any litter or refuse collected under section 89(1)(a), (c), or (f) of the 1990 Act^(a);
- (b) in Northern Ireland, litter collected under Articles 7(1)(a), 12(10) and 12C(3) of the Litter (Northern Ireland) Order 1994^(b);

“branded packaging” has the meaning given in regulation 9(4);

“brand owner” has the meaning given in regulation 9(4);

“certification obligation” means the obligation in regulations 16(3)(d) and 53;

“charging scheme” means a charging scheme referred to in paragraph 9 of Schedule 2;

“commonly binned items” means items on the list of commonly binned items of packaging compiled by the scheme administrator under regulation 70;

“compliance scheme” means a scheme which is (or if it were registered in accordance with these Regulations would be) a scheme whose members for the time being are, by virtue of these Regulations and their membership of that scheme, exempt from certain producer responsibility obligations, and a “registered compliance scheme” is a compliance scheme which is registered in accordance with these Regulations;

“consumer” means, unless otherwise stated, an individual acting for purposes which are outside that individual’s trade, business, craft or profession;

“DAERA” means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;

“disposal” has the meaning given in Article 3(19) of the Waste Directive;

“disposal costs” include—

- (a) all the costs referred to in regulation 71(1) read with regulation 71(2) and (3);
- (b) public information disposal costs as defined by regulation 57(1);

“distributor” means a person who manufactures or imports unfilled packaging and supplies that packaging to another person;

“drink” has the meaning given in regulation 5;

“drink container” means a bottle or can which—

- (a) is made wholly or mainly from polyethelene terephthalate (PET) plastic, steel or aluminium,
 - (b) has a capacity of at least [50] millilitres but no more than three litres of liquid,
 - (c) when it is filled for supply, is securely closed, and
 - (d) is likely to be used only once, or for a short period of time, before being discarded,
- together with any label applied to it and its lid or other closures;

“enforcement agency” has the meaning given in regulation 117;

“exempt packaging” means packaging which is exempt in relation to a producer in accordance with regulation 13(2);

“exporter” means a person who, in the ordinary course of conduct of a trade, occupation or profession, owns and exports packaging waste for reprocessing outside the United Kingdom;

“fibre-based composite cup” means a container designed to hold liquid for drinking from which is wholly or partly made from fibre-based composite material;

(a) There are amendments to section 89 which are not relevant to these Regulations.

(b) S.I. 1994/1896 (N.I. 10). Article 12C was inserted by Schedule 2 to the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23).

“fibre-based composite material” means packaging material which is made of paperboard or paper fibres, laminated with plastic, and which may also have layers of other materials, to form a single unit that cannot be separated by hand;

“fit and proper person” means a person whom the appropriate agency has determined is a fit and proper person in accordance with regulation 107;

“ground litter” means litter collected by relevant authorities in discharge of their duties under section 89(1)(a), (c) or (f) of the 1990 Act, or under Article 7(1)(a) or (e) of the Litter (Northern Ireland) Order 1994, but does not include in either case any binned packaging waste;

“group of companies” means a holding company and one or more subsidiaries, and for this purpose, “subsidiary” and “holding company” have the same meanings as they have in section 1159 of the Companies Act 2006(a);

“household packaging” has the meaning given in regulation 7;

“household packaging waste” has the meaning given in regulation 8;

“importer” means—

- (a) the person responsible for importing packaging into the United Kingdom, whether or not that packaging ends up as being supplied, or
- (b) where the person referred to in paragraph (a) of this definition is not established in the United Kingdom, the first person in the United Kingdom who takes ownership of the packaging;

“issue” in relation to a PRN or PERN means to sell or otherwise supply to a producer or operator of a scheme or to the representative of a producer or operator of a scheme, and a reprocessor or exporter may issue a PRN or PERN to themselves;

“labelling authority” has the meaning given in regulation 27(3);

“large producer” means a producer who satisfies the criteria in regulation 12(1);

“large producer obligations” means the obligations imposed on a large producer under regulation 16;

“licensor” has the meaning given in regulation 103(4);

“NRW” means the Natural Resources Body for Wales;

“online marketplace” means a website, or any other means by which information is made available over the internet, which facilitates the sale or other supply of goods through the website or other means by persons other than the operator, whether or not the operator also supplies goods through the online marketplace;

“operator” in relation to an online marketplace, means the person who controls access to, and the contents of, the online marketplace provided that the person is involved in—

- (a) determining any terms and conditions applicable to the sale or other supply of goods,
- (b) processing, or facilitating the processing, of payment for the goods, and
- (c) the ordering or delivery, or facilitating the ordering or delivery, of the goods;

“overseas reprocessing site” means a site outside the United Kingdom at which recycling takes place;

“packaging” has the meaning given in regulation 6;

“packaging category” means one of the categories referred to in regulation 6(4);

“packaging litter” means any packaging which has become litter;

“packaging materials” means materials used in the manufacture of packaging and includes raw materials and processed materials prior to their conversion into packaging;

(a) 2006 c. 46.

“packaging sub-category” means a subdivision of a packaging category specified by the scheme administrator under regulation 6(7);

“packaging waste” means any packaging or packaging material which is waste, but does not include packaging which is discarded and becomes waste outside the United Kingdom;

“packer/filler” means a person who puts goods into packaging;

“PERN” means a packaging waste export recycling note issued by an accredited exporter in a format specified by the appropriate agency, as evidence of the export and receipt at the final destination site of the tonnage of packaging waste specified in the note for reprocessing outside the United Kingdom;

“place of worship” means—

- (a) in England and Wales, a hereditament or premises exempted from local non-domestic rating by virtue of paragraph 11 of Schedule 5 to the Local Government Finance Act 1988 (places of worship etc.)(a);
- (b) in Scotland, a hereditament or premises exempted from local non-domestic rating by virtue of section 22 of the Valuation and Rating (Scotland) Act 1956 (churches etc.)(b);
- (c) in Northern Ireland, any hereditament which is distinguished as exempt from rates by virtues of Article 41(2)(b) of the Rates (Northern Ireland) Order 1977(c) in so far as it relates to purposes connected with public religious worship;

“primary packaging” has the meaning given in regulation 6(1)(a);

“PRN” means a packaging waste recycling note issued by an accredited reprocessor in a format specified by the appropriate agency, as evidence of the receipt of the tonnage of packaging waste specified in the note for reprocessing within the United Kingdom;

“producer” has the meaning given in regulation 9;

“producer responsibility obligations” means large producer obligations imposed under regulation 16, small producer obligations imposed under regulation 17, and seller obligations imposed under regulation 18;

“public bin” means a receptacle for waste material—

- (a) maintained by a relevant authority in a street or public place, and
- (b) designed to collect waste material to be sent for recovery or disposal;

“pub operating business” has the meaning given in regulation 103(5);

“record keeping obligations” means the obligations in regulations 16(3)(a), 17(3)(a), 18(3)(a) and 48;

“recovery”, except in regulation 5(3), has the meaning given in Article 3(15) of the Waste Directive;

“recyclable” in relation to packaging or materials, means any packaging which is, or materials which are, capable of being recycled;

“recyclability”, in relation to packaging, is the quality of being recyclable;

“recycling” has the meaning given in Article 3(17) of the Waste Directive, and “recycle” is to be construed accordingly;

“recycling obligations” means the obligations in regulation 16(3)(c) and Schedule 1;

“registration obligations” means the obligations in regulation 16(2), 17(2), 18(2) and 37;

“relevant authorisation” has the meaning given in paragraph (3), read with paragraph (4);

“relevant authority” means—

- (a) a waste collection authority;

(a) 1988 c. 41. Paragraph 11 was amended by paragraph 3 of Part 1 of Schedule 10 to the Local Government Finance Act 1992 (c. 114).

(b) 1956 c. 60. Section 22 was substituted by paragraph 10 of Schedule 13 to the Local Government Finance Act 1992 (c. 114).

(c) S.I. 1977/2157 (N.I. 28).

- (b) a waste disposal authority;
 - (c) a district council established under section 1 of the Local Government Act (Northern Ireland) 1972(a);
 - (d) the Council of the Isles of Scilly;
- “relevant packaging sub-category” has the meaning given in regulation 6(11);
- “relevant year”, in relation to a person, means a calendar year in respect of the whole or any part of which a person is a producer;
- “reporting obligations” means the obligations in regulations 16(3)(b), 17(3)(b), 18(3)(b) and 50 to 52;
- “reprocessing site”, except in the expression “overseas reprocessing site” means a site in the United Kingdom at which recycling takes place;
- “reprocessor” means a person who, in the ordinary course of conduct of a trade, occupation or profession, carries out one or more recycling activities, and “reprocessing” shall be construed accordingly;
- “requirement year” means a calendar year in respect of which it is being considered whether a person is subject to the requirements imposed on a large or small producer or on a seller under these Regulations;
- “reuse” means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived;
- “reusable packaging” means packaging which has been designed to be used multiple times by being refilled or reused for the same purpose for which it was conceived;
- “scheme”, except in the expression “scheme administrator”, means a compliance scheme or a take back scheme, and “registered scheme” means a scheme which is registered in accordance with these Regulations;
- “scheme administrator” means the person appointed pursuant to regulation 58(1);
- “secondary packaging” has the meaning given in regulation 6(1)(b);
- “seller” means a person who—
- (a) is not a service provider,
 - (b) supplies packaging to a user or a consumer of that packaging, whether or not the packaging has been filled at the time of the supply;
- “seller obligations” means the obligations imposed on a seller under regulation 18;
- “SEPA” means the Scottish Environment Protection Agency;
- “service provider” means a person who supplies reusable packaging to a user of that packaging where the supply is made by hiring out or lending the packaging;
- “shipment packaging” has the meaning given in regulation 6(1)(d);
- “SIC code” means a code included in “Indexes to the UK Standard Industrial Classification of Economic Activities 2007” published by the Office for National Statistics in 2009, as those indexes are amended from time to time(b);
- “small producer” means a producer who satisfies the criteria in regulation 12(2), but not those in regulation 12(1);
- “small producer obligations” means the obligations imposed on a small producer under regulation 17;
- “supply” has the meaning given in regulation 10;

(a) 1972 c. 9 (N.I.).

(b) For information on how to obtain a hard copy, contact the Office for National Statistics, Classifications and Harmonisation Unit, Government Buildings, Cardiff Road, Newport, South Wales NP10 8XG (tel: +44 (0)1329 444970; email: Classifications.helpdesk@ons.gsi.gov.uk. For an electronic copy, see: <https://www.ons.gov.uk/methodology/classificationsandstandards/ukstandardindustrialclassificationofeconomicactivities/uk-sic2007>.

“take back obligations” means obligations under regulations 28 and 29;

“take back scheme” means a scheme whose members are sellers of filled fibre-based composite cups, who by virtue of their membership of the scheme are (or if it were registered in accordance with these Regulations would be) exempt from the requirement to comply with certain of their obligations under regulation 28(1), and a “registered take back scheme” is a take back scheme which is registered in accordance with these Regulations;

“tertiary packaging” has the meaning given in regulation 6(1)(c);

“threshold calculation year” has the meaning given in regulation 12(5)(d);

“trade mark” has the same meaning as in the Trade Marks Act 1994(a) (see section 1 of that Act);

“turnover” means, in relation to a person, their turnover as defined in section 539 of the Companies Act 2006(b) but as if the references to a company were references to that person;

“waste” has the meaning given in Article 3(1) of the Waste Directive, read with Articles 5 and 6 of that Directive;

“waste collection authority” has the meaning given in section 30(3) of the 1990 Act(c);

“the Waste Directive” means Directive 2008/98/EC of the European Parliament and of the Council on waste(d), as last amended by Directive (EU) 2018/851(e), and as read in accordance with regulation 3;

“waste disposal authority” has the meaning given in section 30(2) of the 1990 Act;

“waste income” means the income earned by a relevant authority through the sale of household packaging waste, or binned packaging waste, for recycling, other recovery operations or disposal.

(2) For the purposes of the definition of “online marketplace operator”, an online marketplace facilitates the sale or other supply of goods if it allows a person to—

- (a) offer goods for sale or offer to supply goods otherwise than by sale, and
- (b) enter into a contract for the sale or other supply of those goods.

(3) In these Regulations, “relevant authorisation” means—

- (a) a waste management licence granted under section 36 of the 1990 Act;
- (b) a permit granted under—
 - (i) regulation 13(1) of the Environmental Permitting (England and Wales) Regulations 2016,
 - (ii) the Pollution Prevention and Control (Scotland) Regulations 2012(f), or
 - (iii) a permit granted under regulation 10 of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(g);
- (c) an authorisation granted under the Environmental Authorisations (Scotland) Regulations 2018(h);
- (d) an authorisation granted under Article 6 of the Industrial Pollution Control (Northern Ireland) Order 1997(i);
- (e) a licence granted under Article 8 of the Waste and Contaminated Land (Northern Ireland) Order 1997(j);

(a) 1994 c. 26.

(b) 2006 c. 46. There are amendments to section 539 which are not relevant to these Regulations.

(c) 1990 c. 43. There are amendments to section 30 which are not relevant to these Regulations.

(d) OJ L312, 22.11.2008, p. 3.

(e) OJ L150, 14.6.2018, p. 109.

(f) S.S.I. 2012/360.

(g) S.R. 2013 No 160.

(h) S.S.I. 2018/219.

(i) S.I. 1997/2777 (N.I. 18).

(j) S.I. 1997/2778 (N.I. 19).

- (f) registration as a carrier of waste, under—
 - (i) the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991(a),
 - (ii) the Control of Pollution (Amendment) Act 1989(b) and the Waste (England and Wales) Regulations 2011(c), or
 - (iii) the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999(d);
 - (g) registration as a broker or dealer of waste, under—
 - (i) the Control of Pollution (Amendment) Act 1989 and the Waste (England and Wales) Regulations 2011,
 - (ii) the Waste Management Licensing (Scotland) Regulations 2011(e), or
 - (iii) the Waste Management Licensing Regulations (Northern Ireland) 2003(f).
- (4) A requirement for a person to have a relevant authorisation for an activity is to be treated as met if the activity does not require an authorisation listed in paragraph (3) by virtue of—
- (a) an exemption registered under regulation 19 of the Waste Management Licensing (Scotland) Regulations 2011;
 - (b) an exempt waste operation under the Environmental Permitting (England and Wales) Regulations 2016;
 - (c) registration in connection with exempt activities under regulation 18 of the Waste Management Licensing Regulations (Northern Ireland) 2003.
- (5) In these Regulations, subject to paragraph (6), a person is established in the United Kingdom if—
- (a) that person is habitually resident in the United Kingdom,
 - (b) the registered office of that person, or if they do not have a registered office, their head office or principal place of business, is in the United Kingdom, or
 - (c) the person has a branch or postal address in the United Kingdom.
- (6) Paragraph (5)(c) does not apply—
- (a) in the case of online marketplace operators, or
 - (b) for the purposes of Part 7.
- (7) In these Regulations—
- (a) any document which is to be provided or given to any person may be provided or given to that person by electronic means if the document is capable of being reproduced by that person in legible form;
 - (b) any requirement to make, keep or retain a record or to maintain a register may be satisfied in electronic form if the text is capable of being produced by the person subject to the requirement in a legible documentary form;
 - (c) any requirement for a signature may be satisfied by an electronic signature incorporated into the document, and for these purposes, “electronic signature” means data in electronic form which is attached to or logically associated with other data in electronic form and which is used by the signatory to sign.
- (8) In these Regulations, a reference to any EU regulation or EU tertiary legislation is a reference to that regulation or legislation as it is amended by domestic law in any part of the United Kingdom from time to time.

(a) S.I. 1991/1624.
 (b) 1989 c. 14.
 (c) S.I. 2011/988.
 (d) S.R. 1999 No. 362.
 (e) S.S.I. 2011/228.
 (f) S.R. 2003 No 493.

(9) In these Regulations, references to a financial year in relation to the scheme administrator, a relevant authority or an appropriate agency are to the period from 1st April to 31st March.

Modifications to the Waste Directive

3.—(1) For the purposes of these Regulations, the Waste Directive is to be read in accordance with this regulation.

(2) A reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the authority, agency or local authority which, immediately before IP completion day, was responsible for the United Kingdom's compliance with that obligation or able to exercise that discretion.

(3) Article 5 is to be read as if—

(a) in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;

(b) after paragraph 1 there were inserted—

“1A. Any decision as to whether a substance or object is a by-product must be made—

(a) in accordance with any regulations setting out detailed criteria on the application of the conditions in paragraph 1 to specific substances or objects, and

(b) having regard to any guidance published by the appropriate authority or the appropriate agency for the purposes of this Article.”;

(c) paragraphs 2 and 3 were omitted.

(4) Article 6 is to be read as if—

(a) in paragraph 1, “Member States shall take appropriate measures to ensure that” were omitted;

(b) after paragraph 1 there were inserted—

“1A. Any decision as to whether a substance or object has ceased to be waste must be made—

(a) in accordance with any regulations or retained direct EU legislation setting out detailed criteria on the application of the conditions in paragraph 1 to specific types of waste, and

(b) having regard to any guidance published by the appropriate authority or the appropriate agency for the purposes of this Article.”;

(c) in paragraph 2—

(i) the first subparagraph were omitted;

(ii) in the second subparagraph, for “Those detailed criteria” there were substituted “Any detailed criteria set out in guidance as referred to in paragraph 1A”;

(iii) the third and fourth subparagraphs were omitted;

(d) paragraph 3 were omitted;

(e) in paragraph 4—

(i) in the first subparagraph—

(aa) in the first sentence, for the words from the beginning to “Member State”, there were substituted “Where criteria have not been set out as referred to in paragraph 1A(a), the appropriate agency”;

(bb) the second sentence were omitted;

(ii) in the second subparagraph—

(aa) for “Member States” there were substituted “The appropriate agency”;

(bb) “by competent authorities” were omitted.

Appropriate agency

- 4.—(1) In these Regulations, “appropriate agency” means—
- (a) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate agency in England, the Environment Agency;
 - (b) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate agency in Scotland, SEPA;
 - (c) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate agency in Wales, NRW;
 - (d) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate agency in Northern Ireland, DAERA.
- (2) Subject to regulation 28(1)(a), for the purposes of any provision of these Regulations relating to the obligations of any person, “appropriate agency” means—
- (a) the agency responsible for the nation where, on the registration date—
 - (i) that person’s registered office, or if that person is not a company registered in the United Kingdom, its head office or principal place of business in the United Kingdom, is located, or
 - (ii) in the case of a reprocessor, that person’s reprocessing site is located, or
 - (b) unless sub-paragraph (a)(ii) applies, at the election of the person, the Environment Agency, SEPA, NRW or DAERA, where on the registration date the person does not have a registered office, head office or principal place of business in the United Kingdom.
- (3) A person may make one election for the purposes of paragraph (2)(b) by giving notice in writing to the appropriate agency concerned, and that election may not be changed.
- (4) When an appropriate agency receives notice of an election under paragraph (3), that agency must notify each other appropriate agency in the United Kingdom.
- (5) For the purpose of this regulation—
- (a) the agency responsible for the nation of—
 - (i) England is the Environment Agency;
 - (ii) Scotland is SEPA;
 - (iii) Wales is NRW;
 - (iv) Northern Ireland is DAERA;
 - (b) the “registration date” is the date by which the person concerned is required to submit an application for registration under regulation 37(1), 42(1) or 86(2)(b) or (c), as applicable in relation to the person concerned.

Drink

- 5.—(1) For the purposes of these Regulations, “drink” means—
- (a) water suitable for human consumption,
 - (b) a beverage suitable for human consumption,
 - (c) a sports drink suitable for human consumption, or
 - (d) a liquid which constitutes a beverage or sports drink suitable for human consumption if it is—
 - (i) diluted,
 - (ii) combined with crushed ice, or processed so as to create crushed ice,
 - (iii) combined with carbon dioxide, or
 - (iv) prepared by way of a process that involves any combination of the processes mentioned in paragraphs (i) to (iii), andincludes, for example, fruit squash and fruit cordial.

(2) Paragraph (1)(d) does not include any liquid which is used only—

- (a) to add flavour to, or enhance the flavour of, a beverage or sports drink suitable for human consumption, or
- (b) to sweeten a beverage or sports drink suitable for human consumption, and

includes, for example, coffee flavouring syrup, sugar syrup and hot sauce.

(3) “Sports drink” means a liquid which is advertised or marketed as a product to enhance physical performance, accelerate recovery after exercise or build bulk, or other similar liquid.

(4) Consumption of a drink includes—

- (a) the preparation of a liquid as described in paragraph (1)(d), and
- (b) the consumption of the resulting beverage or sports drink.

Packaging and packaging categories

6.—(1) For the purposes of these Regulations, “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) primary packaging, which is packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;
- (b) secondary packaging, which is packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is supplied 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; it can be removed from the product without affecting the product’s characteristics;
- (c) tertiary packaging, which is packaging conceived so as to facilitate handling and transport of a number of sales units or secondary packaging in order to prevent damage from physical handling and transport damage, and for the purposes of these Regulations, tertiary packaging does not include road, rail, ship and air containers;
- (d) shipment packaging, which is packaging in addition to primary packaging on items which are sold online or by mail order which are either delivered direct to the purchaser or collected by the purchaser from a shop or other collection point after they have been purchased.

(2) The following items are also to be treated as packaging on the basis of the criteria set out below—

- (a) items that fulfil the definition in paragraph (1), without prejudice to other functions which the item may perform, unless the item is an integral part of a product and it is necessary to contain, support or preserve that product throughout its lifetime and all elements are intended to be used, consumed or disposed of together;
- (b) items designed and intended to be filled at the point of sale and disposable items sold, filled or designed and intended to be filled at the point of sale, provided they fulfil a packaging function described in paragraph (1);
- (c) packaging components and ancillary elements integrated into packaging are considered to be part of the packaging into which they are integrated, and ancillary elements hung directly on, or attached to, a product which performs a packaging function are considered to be packaging unless they are an integral part of the product and all elements are intended to be used, consumed or disposed of together.

(3) Schedule 5 to the Packaging (Essential Requirements) Regulations 2015(a) contains illustrative examples of the application of the criteria set out in paragraph (2).

(a) S.I. 2015/1640.

(4) For the purpose of these Regulations, packaging and packaging waste is to be treated, subject to paragraphs (5) and (6), as falling into one of the following packaging categories, depending on the material from which the packaging is made—

- (a) aluminium,
- (b) fibre-based composite materials,
- (c) glass,
- (d) paper or board,
- (e) plastic,
- (f) steel,
- (g) wood, or
- (h) other materials.

(5) Packaging materials composed of a combination of the materials referred to in paragraph (4) (“paragraph (4) materials”) are to be treated as made of the material which is predominant by weight, unless paragraph (6) applies.

(6) Where packaging materials are composed of a combination of different paragraph (4) materials in equal proportions by weight, each material of which the packaging materials are comprised is to be treated separately for the purpose of these Regulations.

(7) The scheme administrator may—

- (a) specify packaging sub-categories by sub-dividing the packaging categories listed in paragraph (4);
- (b) specify different packaging sub-categories for the purposes of different provisions in these Regulations.

(8) A specification made under paragraph (7) must—

- (a) subject to paragraph (9), be published at least 12 months before it applies, and
- (b) apply for one or more full calendar years.

(9) Paragraph (8) does not apply in relation to specifications applying to the [20XX] and [20XY] calendar years, which must be published as soon as possible after these Regulations come into force.

(10) The scheme administrator must publish each year a list of any packaging sub-categories specified under paragraph (7), including for each packaging sub-category—

- (a) the packaging category of which it is a sub-division;
- (b) the provisions to which that packaging sub-category is relevant;
- (c) the calendar years for which that packaging sub-category applies;

and any amendments to that list, in the way appearing to the scheme administrator to be most appropriate for the purpose of bringing it to the attention of producers and other persons appearing to the scheme administrator to have an interest.

(11) In these Regulations, a reference in a provision to a “relevant packaging sub-category” is to a packaging sub-category which has been specified by the scheme administrator for the purposes of that provision.

Household packaging

7.—(1) In these Regulations, “household packaging” is primary packaging or shipment packaging which is not—

- (a) supplied to a business which is the final user of that packaging, or
- (b) packaging imported by an importer and discarded in the United Kingdom.

(2) All primary packaging and shipment packaging is to be treated as household packaging unless the producer supplying that packaging can provide evidence that it has been supplied to a business which does not supply to any other person—

- (a) the packaging, or
- (b) the product which the packaging contains in its packaged form.

(3) For the purposes of paragraph (2), a product is to be treated as being supplied in its packaged form unless all packaging is removed from the product before it is sold to the final user of that product.

(4) The appropriate agencies must issue joint guidance on the evidence which may be used to demonstrate that primary packaging or shipment packaging is supplied to a business which is a final user of the packaging.

Household packaging waste

8.—(1) In these Regulations, “household packaging waste” means packaging waste which is household waste, but does not include—

- (a) including any waste for which a collection charge may be made by a relevant authority under section 45 of the 1990 Act or Article 20 of the Waste and Contaminated Land (Northern Ireland) Order 1997, any waste from a place of worship, any ground litter or any binned packaging waste, or
- (b) any packaging waste which is discarded together with food waste in a receptacle for food waste where the food waste in that receptacle is collected separately from other household waste by the relevant authority collecting that waste.

(2) In this regulation—

- (a) “food waste” means waste that—
 - (i) has at any time been food intended for human consumption, or
 - (ii) is biodegradable waste arising from the processing or preparation of food, but does not include drink;
- (b) “household waste” has the meaning given by—
 - (i) in Scotland, section 75 of the 1990 Act^(a), read with the Controlled Waste Regulations 1992^(b);
 - (ii) in England and Wales, section 75 of the 1990 Act^(c), read with the Controlled Waste (England and Wales) Regulations 2012^(d);
 - (iii) in Northern Ireland, Article 2(1) of the Waste and Contaminated Land (Northern Ireland) Order 1997^(e), read with the Controlled Waste and Duty of Care Regulations (Northern Ireland) 2013^(f).

Producers

9.—(1) A person is a producer in relation to the packaging specified in this regulation if they perform in any nation of the United Kingdom the functions of one or more of the following in relation to packaging, either on their own behalf, or through an agent acting on their behalf, and in the course of business—

- (a) a brand owner,
- (b) a packer/filler,
- (c) an importer,
- (d) a distributor,

(a) 1990 c. 43. Section 75 has been amended in relation to Scotland by paragraph 17 of Schedule 3 to the Regulation of Care (Scotland) Act 2001 (asp 8) and S.S.I. 2005/22. There are other amendments to section 75 which are not relevant.

(b) S.I. 1992/588.

(c) Section 75 has been amended in relation to England and Wales by S.I. 2006/937.

(d) S.I. 2012/811.

(e) S.I. 1997/2778 (N.I. 19).

(f) S.R. 2013 No 255, amended by S.R. 2014 No 117, S. R. 2018 No 200, S.I. 2019/289 and S.R. 2020 No 285.

- (e) an online marketplace operator,
- (f) a service provider, or
- (g) a seller.

(2) Unless paragraph (7) applies, and subject to paragraph (5), a brand owner is a producer in relation to—

- (a) filled packaging on which that person's brand appears; and
- (b) any part of the packaging contained within, or forming part of, branded packaging (whether or not that part of the packaging is branded).

(3) Subject to paragraph (5), when more than one brand appears on filled packaging, the owner of the brand who makes the first supply of the filled packaging is to be treated as the brand owner and producer in relation to that packaging.

(4) In this regulation—

“brand” means a brand name, trade mark or other distinctive mark;

“branded packaging” means packaging on which the brand owner's brand appears;

“brand owner” means, subject to paragraph (3), a person whose brand appears on an item of filled packaging.

(5) Where different individual branded products or unbranded products (or both) are grouped together to be sold as a single sales unit—

- (a) the brand owner for an individual branded product within the sales unit is a producer in relation to the packaging on that individual product;
- (b) the packer/filler is a producer in relation to any unbranded packaging within the sales unit which is filled by the packer/filler.

(6) A packer/filler is a producer in relation to any filled packaging—

- (a) which is filled by the packer/filler, and
- (b) for which—
 - (i) there is no brand owner,
 - (ii) the brand owner is not a large producer, or
 - (iii) the only brand on the packaging relates to the packaging and not to the product contained in that packaging.

(7) A packer/filler is also a producer in relation to any packaging—

- (a) where—
 - (i) the packer/filler has filled the packaging;
 - (ii) the packer/filler has put a brand on the packaging to assist with distribution, and not at the request of the brand owner; and
 - (iii) there is no other brand on the packaging;
- (b) which the packer/filler adds to branded packaging otherwise than at the request of the brand owner.

(8) An importer is a producer in relation to any filled packaging imported into the United Kingdom by the importer which is—

- (a) secondary packaging or tertiary packaging, or
- (b) any other packaging—
 - (i) for which there is no brand owner,
 - (ii) where the brand owner is not responsible for the import of the packaging,
 - (iii) where the brand owner is responsible for the import of the packaging, but is not a large producer under these Regulations, or
 - (iv) where the brand owner is not established in the United Kingdom.

(9) An importer is also a producer in relation to any filled or unfilled packaging imported by the importer into, and discarded by that producer in, the United Kingdom.

(10) An importer is also a producer in relation to any branded packaging on any product where—

- (a) the packaging and the goods in the packaging have been manufactured and assembled by the importer in the United Kingdom to the specification of the brand owner, and
- (b) the brand owner is not established in the United Kingdom.

(11) A distributor is a producer in relation to any unfilled packaging which is—

- (a) manufactured or imported by the distributor, and
- (b) supplied to any person, other than a large producer who fills or packs the packaging before supplying it to any other person,

except where a brand owner or a packer/filler is the producer of that packaging under paragraph (2) or (6) respectively once the packaging is filled.

(12) An online marketplace operator is a producer in relation to—

- (a) any packaging on items which are sold or otherwise supplied on their online marketplace by a person, acting in the course of business, who is not established in the United Kingdom, and
- (b) any unfilled packaging supplied on their online marketplace—
 - (i) by a person, acting in the course of business, who is not established in the United Kingdom,
 - (ii) to any person, other than a large producer who fills or packs the packaging before supplying it to any other person,

provided that the packaging is received in the United Kingdom.

(13) A service provider is a producer in relation to any reusable packaging, the first time the packaging is supplied, but not otherwise.

(14) A seller of filled packaging to the final user of that packaging is a producer in relation to that packaging, and for these purposes, the final user is the person who last uses the packaging in question before discarding it.

(15) For the purposes of this regulation—

- (a) a person acts “in the course of business” if they act in the ordinary course of conduct of a trade, occupation or profession;
- (b) for the purposes of paragraphs (8)(b)(iii), (10)(b) and (11)(b)(ii), a person is not to be treated as being a large producer unless that person was registered in the year preceding the relevant year in relation to the importer, distributor or online marketplace operator concerned—
 - (i) as a producer under the 2007 Regulations or the 2007 (NI) Regulations, or
 - (ii) as a large producer under these Regulations.

Supply

10.—(1) In these Regulations, a person “supplies” packaging or packaging materials if that person does any of the following, either themselves or through an agent acting on their behalf, in relation to that packaging or packaging materials owned by that person—

- (a) selling, hiring out or lending,
- (b) providing in exchange for any consideration other than money,
- (c) providing in, or in connection with, the performance of any statutory function, or
- (d) giving as a prize or otherwise making a gift.

(2) Where the packaging or packaging materials are owned by a person who does not have a registered office, head office or principal place of business in the United Kingdom, a supply takes

place when a person who is established in the United Kingdom does any of the actions in paragraph (1)(a) to (d) on behalf of the owner in relation to that packaging or packaging materials.

(3) Where the packaging is branded packaging, within the meaning of regulation 9(4), the brand owner is to be treated for the purposes of these Regulations as supplying that packaging even if the person who does any of the actions in paragraph (1)(a) to (d) in relation to the packaging is not the brand owner.

(4) Paragraph (3) does not apply in relation to—

- (a) any packaging which is imported into the United Kingdom by—
 - (i) an importer, unless the importer is acting as an agent for the brand owner, or
 - (ii) an online marketplace operator, and
- (b) any reusable packaging supplied by a service provider.

Assessment of recyclability

11. A producer who is required to assess the recyclability of packaging they supply—

- (a) may assess the recyclability of their packaging themselves, or arrange for an assessment of recyclability to be carried out by a third party, and
- (b) must ensure that the assessment of recyclability is carried out in accordance with guidance published by the scheme administrator.

Threshold criteria for large and small producers

12.—(1) A person satisfies the criteria in this paragraph if—

- (a) that person's turnover in the last financial year before the relevant date—
 - (i) in respect of which audited accounts are available, or
 - (ii) where audited accounts are not required for that person, in respect of which accounts are available,was more than £2,000,000, and
- (b) in the threshold calculation year the person handled in aggregate more than 50 tonnes of packaging or packaging materials.

(2) A person satisfies the criteria in this paragraph if—

- (a) that person's turnover in the last financial year before the relevant date—
 - (i) in respect of which audited accounts are available, or
 - (ii) where audited accounts are not required for that person, in respect of which accounts are available,was more than £1,000,000, and
- (b) in the threshold calculation year the person handled in aggregate more than 25 tonnes of packaging or packaging materials.

(3) Where the person ("CB") is a body corporate which has been formed by the merger of two or more bodies corporate—

- (a) CB's turnover in the year of the merger is to be calculated for the purposes of this regulation as the sum of the turnovers in the last financial year of each company which has been merged;
- (b) CB is to be treated as having handled in the year of the merger the sum of the amount of packaging or packaging materials handled by each of those companies in the threshold calculation year.

(4) Where the assets and liabilities of a body corporate ("CB") have been divided between two or more bodies corporate ("new bodies"), and no audited accounts are yet available for the new bodies—

- (a) each new body is to be treated as having a turnover equal to—

$$\frac{A}{XA} \times XT$$

where—

- (i) “A” is the value of the assets of the new body following the division;
 - (ii) “XA” is the value of the assets of CB before the division; and
 - (iii) “XT” is the turnover of CB in the year preceding the division year;
- (b) each new body is to be treated as having handled an amount of packaging or packaging materials equal to—

$$\frac{A}{XA} \times XP$$

where “A” and “XA” have the meaning given in sub-paragraph (a), and “XP” means the amount of packaging or packaging materials handled by CB in the year preceding the division year.

- (5) In this regulation—

- (a) audited accounts are to be treated as being available, where the person is a company, where annual accounts have been delivered to the registrar under section 441 of the Companies Act 2006(a);
- (b) “the division year” is the year in which the assets and liabilities of CB were divided between two or more companies;
- (c) subject to paragraph (6), the “relevant date” is 7th April in a requirement year;
- (d) subject to paragraph (6), the “threshold calculation year” is the calendar year preceding a requirement year.

(6) For the purposes of determining whether a person is required by regulation 37(1)(a)(i) to submit an application for producer registration to the appropriate agency on or before 1st April [2025]—

- (a) the “relevant date” is 7th April [20**];
- (b) the “threshold calculation year” is [20**].

(7) For the purposes of this regulation, the amount of packaging or packaging materials handled by a person (“P”) is the amount supplied in, or in the case of an importer, imported into or discarded in, the United Kingdom in respect of which P is a producer under regulation 9, calculated in tonnes to the nearest tonne—

- (a) including packaging or packaging materials which were imported into the United Kingdom by P or by an agent acting on P’s behalf (and for these purposes, packaging includes reusable packaging only on the first occasion that packaging is used);
- (b) excluding exempt packaging.

(8) If P performs two or more functions as producer under regulation 9 in relation to the packaging—

- (a) all packaging in relation to which P performs a function is to be taken into account for the purposes of paragraph (1)(b), (2)(b), (3)(b) and (4)(b), unless sub-paragraph (b) applies;
- (b) if the functions P performs are performed in relation to the same packaging, that packaging is only to be taken into account once for the purposes of paragraphs (1)(b), (2)(b), (3)(b) and (4)(b).

(a) 2006 c. 46.

Exempt packaging

13.—(1) A producer is not subject to producer responsibility obligations nor required to pay disposal fees under regulation 61 in relation to any packaging which is exempt packaging in relation to that producer.

(2) Packaging is exempt packaging in relation to a producer (“P”) for the purposes of these Regulations, where the packaging or packaging materials are—

- (a) reused packaging which is primary packaging,
- (b) production residues from the production of packaging or packaging materials or from any other production process occurring before, during or after P handled the packaging or packaging materials,
- (c) any packaging or packaging materials exported from the United Kingdom by P, including packaging or packaging materials exported through an agent acting on P’s behalf or which to P’s reasonable knowledge were otherwise exported from the United Kingdom (with the exception of any packaging or packaging materials exported from the United Kingdom to a marine installation),
- (d) reused secondary or tertiary packaging, with the exception of reused secondary or tertiary packaging imported into the United Kingdom, or
- (e) packaging which is a deposit item for the purposes of a relevant deposit scheme.

(3) In paragraph (2)(c), “marine installation” means any artificial island, installation or structure at sea, other than a vessel.

(4) In paragraph (2)(e), a relevant deposit scheme is a deposit scheme which—

- (a) has been established in—
 - (i) the Deposit and Return Scheme for Scotland Regulations 2020(a), or
 - (ii) regulations made under Schedule 8 to the Environment Act 2021(b), or under section 84 of the Climate Change (Scotland) Act 2009(c), and
- (b) is in operation in any part of the United Kingdom.

Exclusion of charities

14. These Regulations do not apply to a charity, and for these purposes, “charity” means—

- (a) anything which is a charity—
 - (i) within the meaning of section 1(1) of the Charities Act 2011(d) or section 1(1) of the Charities Act (Northern Ireland) 2008(e), or
 - (ii) for the purposes of section 202 of the Corporation Tax Act 2010(f), and
- (b) any body entered in the Scottish Charity Register under the Charities and Trustee Investment (Scotland) Act 2005(g).

Incapacity etc

15.—(1) Where in a relevant year a producer dies or becomes bankrupt or incapacitated (“the first producer”), that person—

- (a) ceases to be subject to any producer responsibility obligations or take back obligations for that year, and

(a) S.S.I. 2020/154, amended by S.S.I. 2022/76 and 2023/201.

(b) 2021 c. 30.

(c) 2009 asp 12.

(d) 2011 c. 25.

(e) 2008 c. 12 (N.I.).

(f) 2010 c. 4. Section 202 has been amended by paragraph 27(2) of Schedule 6 of the Finance Act 2010 (c. 13), section 35(5) of the Finance Act 2014 (c. 26) and S.I. 2012/964.

(g) 2005 asp 10.

- (b) ceases to be liable to pay disposal fees under regulation 61.
- (2) Any person who carries on the activities of the first producer following that event is to be treated as a producer and—
 - (a) to have the large producer obligations, small producer obligations, seller obligations and take back obligations of the first producer for that year, and
 - (b) to be liable to pay any disposal fees that were due from the first producer under regulation 61.
- (3) Any person carrying on the activities of the first producer must within 28 days of commencing to do so—
 - (a) inform the appropriate agency in writing of that fact and the date of the death, the date of bankruptcy or the nature of the incapacity and the date on which it began, and
 - (b) apply to be registered as required by regulation 37(1).
- (4) In relation to a producer which is a company, the references to a person becoming bankrupt or incapacitated in paragraph (1) are to be construed as references to it going into liquidation or receivership or entering administration, and paragraph (3)(a) is to be construed accordingly.

PART 2

Producers and obligations

CHAPTER 1

Producer obligations: overview

Large producer obligations

16.—(1) Subject to paragraph (6), a producer (“P”) is subject to obligations under this regulation (“large producer obligations”) in relation to the packaging in respect of which P is a producer in accordance with regulation 9 if P—

- (a) is established in the United Kingdom, and
- (b) is a large producer.

(2) A producer subject to large producer obligations (“LP”) must be registered in accordance with regulation 37 in respect of a relevant year, or, where the producer is not subject to those obligations for a whole calendar year, for part of a relevant year (“registration obligation”).

(3) LP must, in relation to all packaging in respect of which LP is a producer in accordance with regulation 9, except for packaging in respect of which LP only performs the function of a seller—

- (a) keep the records specified in regulation 48(1) or (3), as applicable (“record keeping obligations”),
- (b) make the reports required by regulation 50 and 52, as applicable (“reporting obligations”),
- (c) recycle packaging waste in each packaging category of packaging supplied by the producer, or in the case of an importer, packaging supplied or discarded by the importer, as calculated under Schedule 1 (“recycling obligations”), and
- (d) furnish a certificate of compliance in respect of LP’s recycling obligations in accordance with regulation 53 (“certification obligation”).

(4) LP may only demonstrate compliance with LP’s recycling obligations through the acquisition of PRNs or PERNs or both.

(5) A PRN or PERN which is issued in respect of packaging waste received for recycling at a reprocessing site or received for recycling at an overseas reprocessing site in December in a year may be relied on by a producer to demonstrate compliance with P’s recycling obligations either in that year or the following year.

- (6) If LP is liable to pay an annual disposal fee under regulation 61(1) LP must also—
- (a) assess the recyclability of the packaging supplies in accordance with regulation 11,
 - (b) keep records of the assessments as required by regulation 48(2), and
 - (c) make the reports required by regulation 50(2) or 52(3).

(7) This regulation does not apply to a producer who is a seller, and does not perform any other function in relation to packaging.

Small producer obligations

17.—(1) Subject to paragraph (4), a producer (“P”) is subject to obligations under this regulation (“small producer obligations”) in relation to the packaging in respect of which P is a producer in accordance with regulation 9 if P—

- (a) is established in the United Kingdom, and
- (b) is a small producer.

(2) A person subject to small producer obligations (“SP”) must be registered in accordance with regulation 37 in respect of a relevant year, or, where the producer is not subject to those obligations for a whole calendar year, for part of a relevant year (“registration obligation”).

(3) SP must, in relation to all packaging in respect of which SP is a producer in accordance with regulation 9, except for packaging in respect of which SP only performs the function of a seller—

- (a) keep the records specified in regulation 48(3) or (4), as applicable (“record keeping obligations”), and
- (b) make the reports specified in regulation 51 and 52, as applicable (“reporting obligations”).

(4) This regulation does not apply to a producer who is a seller, and does not perform any other function in relation to packaging.

Seller obligations

18.—(1) A small or large producer (“P”) is subject to obligations under this regulation (“seller obligations”) if P—

- (a) is established in the United Kingdom, and
- (b) is a seller, whether or not P performs any other function in relation to packaging.

(2) A producer subject to obligations under this regulation must be registered in accordance with regulation 37 in respect of a relevant year, or, where the producer is not subject to those obligations for a whole calendar year, for the part of the relevant year in which P is subject to obligations (“registration obligation”).

(3) If P is subject to obligations under this regulation, P must, in relation to all packaging in respect of which P is a seller—

- (a) keep the records specified in regulation 48(5) (“record keeping obligations”), and
- (b) make the reports specified in regulation 52(1)h (“reporting obligations”).

Licensors and pub operating businesses

19. A licensor or pub operating business which is not a small or large producer, must, if regulation 103 applies—

- (a) keep the records specified in regulation 48(6) (“record keeping obligations”), and
- (b) make the reports specified in regulation 52(1) (“report obligations”).

CHAPTER 2

Provision of recycling information

Recycling information: interpretation

20. In this Chapter—

“recycling information” means the information required by this Chapter to be displayed on or in relation to packaging, namely—

- (a) a statement as to whether the packaging is or is not recyclable,
- (b) the symbol prescribed in regulation 23(1)(b) or (2)(b) as appropriate, and
- (c) any recycling instructions included for the packaging;

“recycling instructions” means instructions as to how packaging may be collected for recycling, other than collection by a relevant authority.

Recycling information obligations: application

21.—(1) The Chapter applies to a producer who is—

- (a) a brand owner,
- (b) a packer/filler, or
- (c) an importer.

(2) Regulation 22(1) and 26(4) apply to a producer who is a distributor.

(3) But—

- (a) regulation 22(1) and (3), do not apply in relation to packaging supplied with items sold on an online marketplace by businesses who are not established in the United Kingdom; and
- (b) this Chapter applies to primary or shipment packaging, but does not apply in relation to—
 - (i) any packaging where the surface area of the largest surface of packaging is less than 25 square centimetres,
 - (ii) any drink container, or
 - (iii) any packaging which is exempt packaging.

Recycling information obligations: general

22.—(1) A producer to whom this paragraph applies must—

- (a) determine the recyclability of any primary packaging and shipment packaging they supply in accordance with regulation 11;
- (b) keep records of assessments of recyclability for at least 7 years after the record is made, and make those records available to the labelling authority on demand.

(2) A producer (“P”) to whom this paragraph applies must ensure by the date specified in paragraph (3) that—

- (a) any primary packaging and shipment packaging they supply is labelled, or
- (b) information on the recyclability of that packaging is otherwise provided,

in accordance with this Chapter.

(3) The specified date is—

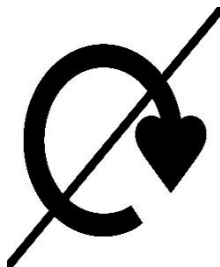
- (a) 31st March 20** for packaging other than flexible plastic packaging, and
- (b) 31st March 20** for flexible plastic packaging,

and for the purposes of this paragraph, “flexible plastic packaging” means plastic film and plastic packaging which is not rigid.

General labelling requirements

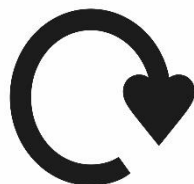
23.—(1) If packaging is determined under regulation 22(1)(a) as not being recyclable the packaging must be labelled—

- (a) with the phrase “Do Not Recycle”, and
- (b) with the following symbol—



(2) If the packaging is determined under regulation 22(1)(a) as being recyclable, the packaging must be labelled—

- (a) with the phrase “Recycle”, and
- (b) with the following symbol—



(3) Where there are methods to collect packaging for recycling other than collection by a relevant authority, the producer must include recycling instructions in English on the label.

(4) Where packaging consists of fibre-based composite cups for the supply of drinks by filling at the point of supply, the recycling instructions must include the information that the used cups may be left in a receptacle for the collection of such cups on the premises of a producer who is subject to the obligation in regulation 28.

(5) The phrase, symbol and any recycling instructions provided must appear together on the packaging, and be so placed on the packaging that—

- (a) the phrase and the recycling instructions are legible, and
- (b) the phrase, symbol and recycling instructions are easily visible, and not hidden or obscured by—
 - (i) any other written or pictorial matter, or
 - (ii) any other intervening material.

Recycling information for medicinal products

24.—(1) Paragraph (2) applies if—

- (a) the packaging concerned is immediate packaging or outer packaging on a medicinal product or a veterinary medicinal product, and
- (b) that packaging is required to display information related to the safety of the medicinal product.

(2) If this paragraph applies, the producer may satisfy the requirement in regulation 22(2) by—

- (a) including the recycling information on a leaflet accompanying the product inside the packaging, or

- (b) providing recycling information by electronic communication direct to the patient for whom the medicinal product is being provided.
- (3) In this regulation—
- (a) “immediate packaging”, “outer packaging” and “medicinal product” have the meanings given in regulations 2 and 8 of the Human Medicines Regulations 2012(a), and
 - (b) “veterinary medicinal product” has the meaning given—
 - (i) in England, Wales and Scotland, in regulation 2(1) of the Veterinary Medicines Regulations 2013(b), and
 - (ii) in Northern Ireland, in Article 4(1) of Regulation (EU) 2019/6 of the European Union and of the Council on veterinary medicinal products(c).

Recycling information for filled, unbranded packaging

25. A producer supplying filled packaging which is not branded packaging may fulfil the obligation in regulation 22(2) by—

- (a) displaying recycling information for the packaging directly on the packaging or on a label attached to the packaging,
- (b) where a product is offered for sale on a website or through a mobile application, displaying the recycling information for any packaging supplied with that product as part of the description of the product on the page of the website or mobile application where the purchaser chooses the product they wish to order,
- (c) where a product is sold directly to the purchaser otherwise than on a website or through a mobile application, by displaying recycling information for packaging supplied with the product in the place where the product is sold in a prominent position where the information will be seen by everyone purchasing the product from the producer, or
- (d) including recycling information with other written material provided to the purchaser, provided that the recycling information is easily visible on that material, and not obscured by—
 - (i) any other written or pictorial matter, or
 - (ii) any intervening material.

Recycling information: additional requirements

26.—(1) For the purposes of regulations 22(2)(a) and 23(1) and (2)—

- (a) if the surface area of the largest surface of the packaging is 80 square centimetres or more—
 - (i) words must be in a font in which letters have an x-height of at least 1.2mm, and
 - (ii) the symbol must be at least 9.5mm in height where the symbol is displayed in portrait orientation, or 3.5mm in height where it is displayed in landscape orientation;
- (b) if the surface area of the largest surface of the packaging is less than 80 square centimetres—
 - (i) words must be in a font in which letters have an x-height of at least 0.9mm, and
 - (ii) the symbol must be at least 7mm in height where the symbol is displayed in portrait orientation and 3.5mm in height where it is displayed in landscape orientation.

(2) In paragraph (1), “x-height” refers to the height of a lower-case letter which does not extend above or below the line, such as “x”.

(a) S.I. 2012/1916. There are amendments to regulation 2 which are not relevant to these Regulations.
 (b) S.I. 2013/2033.
 (c) OJ L 4, 7.1.2019, p. 43.

(3) Where the primary packaging of a product consists of a number of components or ancillary elements the producer may—

- (a) place the label required by regulation 23 on an outer component, or the main packaging component, indicating if each component is or is not recyclable, or
- (b) place the label required by regulation 23 on each component indicating whether that component is or is not recyclable.

(4) A distributor who supplies packaging to a producer who is not a large producer must provide information in writing on the recyclability of the packaging supplied to that producer.

(5) A producer must—

- (a) assess the packaging it fills and sells for recyclability where the packaging has been altered in any way after the producer's purchase of that packaging,
- (b) keep records of that assessment for at least 7 years after the record is made, and
- (c) make those records available to the labelling authority on demand.

(6) Where a producer ("P") becomes aware that any packaging supplied by P has not been correctly labelled in accordance with this Chapter, P must take reasonable steps to correct the error, including notifying anyone to whom it has supplied that packaging of the error, and making the correct information available to them.

Recycling information obligations: charges and monitoring

27.—(1) The labelling authority must monitor and enforce the requirements in this Chapter.

(2) The labelling authority may require a producer to pay to it such charges in connection with, or incidental to, any activities carried out by the authority in relation to that producer for the purpose of its functions under this Chapter as it may determine, provided that such charges do not exceed the costs incurred, or to be incurred, by the labelling authority in connection with the activity in question.

(3) For the purpose of these Regulations, the "labelling authority" is the Secretary of State, or a person appointed by the Secretary of State to act on behalf of the Secretary of State in monitoring and enforcing compliance with the requirements in this Chapter.

CHAPTER 3

Take back obligations

Take back obligation: disposable cups

28.—(1) A producer who supplies drinks filled at the point of supply in fibre-based composite cups, and who satisfies the condition in paragraph (2), must—

- (a) register under regulation 37 with the appropriate agency for each part of the United Kingdom where it has premises;
- (b) have at least one receptacle available in a part of each of its premises to which members of the public have access, which is used for the collection of waste fibre-based composite cups, including both cups supplied by that producer to a purchaser, and cups supplied by any other producer;
- (c) ensure that the receptacle provided under sub-paragraph (b) is clearly visible and can be identified as such by any person within the premises;
- (d) make arrangements for the recycling of waste fibre-based composite cups which are discarded in its premises.

(2) A producer ("P") satisfies the condition in this paragraph if P employs an average of 10 or more people in full-time equivalent employment for the purposes of P's business during a relevant year.

(3) For the purposes of paragraph (2)—

- (a) the number of persons in full-time equivalent employment for the purposes of a business is to be determined by taking the number of full-time employees and adding, for each employee who is not a full-time employee, a fraction determined by dividing the number of hours worked by that employee in a week by the number of hours worked by a full-time employee in a week;
 - (b) a business that is carried on pursuant to a franchise agreement is to be treated as part of the business of the franchisor and not as a separate business carried on by the franchisee.
- (4) For the purposes of paragraph (3), a “franchise agreement” exists where—
- (a) one undertaking (“the franchisee”) and another undertaking (“the franchisor”) agree that the franchisee carries on a business activity which includes the sale or distribution of drink (“the franchise business”), and
 - (b) paragraph (5) applies to the franchise business.
- (5) This paragraph applies to a franchise business if—
- (a) the drink provided in the franchise business,
 - (b) the internal or external appearance of the premises where the franchise business is carried on, and
 - (c) the business model used for the operation of the franchise business,
- are determined by the franchisor, and are similar to those of other undertakings in respect of which the franchisor has entered into comparable contractual arrangements.
- (6) Paragraph (5) does not apply to a franchise business if the franchise agreement is limited to the alcohol provided in the franchise business.
- (7) For the purposes of paragraph (2), persons employed for the purposes of a business include persons who are members of staff of an associated company of the business who also work for the purposes of the business, and for these purposes—
- (a) “associated company” means a company which is a parent undertaking or a subsidiary undertaking of the company which owns the business, and
 - (b) “parent undertaking” and “subsidiary undertaking” have the same meaning as in section 1162 of the Companies Act 2006^(a).
- (8) The obligations in paragraph (1)(b) and (d) and in regulation 29 apply in relation to any fibre-based composite cup, whether it was supplied containing a drink or a containing a food product.
- (9) In this regulation, “premises” includes any place, and in particular includes any land, vehicle, vessel, or stall.

Obligations related to the take back obligation

29.—(1) A producer referred to in regulation 28(1) must keep a record of the weight in kilograms of fibre-based composite cups—

- (a) supplied by the producer in a reporting period;
- (b) collected and sent for recycling by the producer in that reporting period.

(2) The producer must supply a copy of the information recorded under this regulation to the appropriate agency in an electronic or other format required by the appropriate agency.

(3) Where the producer is a member of a registered take back scheme, the report required by paragraph (2) must be made by the registered take back scheme.

(4) The report required under paragraph (2) for the first reporting period must be submitted to the appropriate agency on or before 1st October 20**.

(a) 2006 c. 46.

(5) Subsequent reports must be submitted to the appropriate agency every six months on or before the following submission dates—

- (a) for reports for the period from 1st January to 30th June in a year, 1st October in the same year;
- (b) for reports for the period from 1st July to 31st December in a year, 1st April in the following year.

(6) The producer and, where a registered take back scheme supplies information to the appropriate agency under paragraph (2), that registered take back scheme, must retain the records kept under paragraph (1) for a period of seven years after the end of the reporting period to which the record relates.

(7) In this regulation, “reporting period” means—

- (a) the period starting on 1st October 20**, and ending on 30th June 20** (the “first reporting period”), and
- (b) in all other cases, a period of 6 months beginning with 1st January or 1st July.

PART 3

Producers and schemes

Producers and scheme membership

30.—(1) Where a large producer is a member of a registered compliance scheme throughout a relevant year, the producer is exempt from complying with its registration obligations, its reporting obligations, its recycling obligations and its certification obligations under regulation 16(2) and (3)(b), (c) and (d) respectively for the relevant year.

(2) Where a small producer is a member of a registered compliance scheme throughout a relevant year, the producer is exempt from complying with its registration obligations under regulation 17(2) and its reporting obligations under regulation 17(3)(b) for the relevant year.

(3) Where a seller is a member of a registered compliance scheme throughout a relevant year, the seller is exempt from complying with its registration obligations under regulation 18(2) and its reporting obligations under regulation 18(3)(b) for the relevant year.

(4) Where a producer is a member of a registered take back scheme throughout a relevant year the producer is exempt from complying with its obligations under regulation 28(1)(a) and (d) for the relevant year.

(5) This regulation does not apply unless the producer—

- (a) provides any information the operator of the scheme (“OS”) requests for the purposes of meeting its obligations under regulation 31(3) or (4) in relation to that producer, as applicable, within a reasonable period of receiving such a request, and
- (b) pays any fee required for membership of the scheme.

Schemes: general obligations

31.—(1) A scheme must be—

- (a) approved in accordance with regulation 33, and
- (b) registered in accordance with regulation 42, for each year that the scheme operates.

(2) A scheme must have a single operator.

(3) The operator of a registered compliance scheme (“OCS”) must carry out such of the following obligations that every producer who is a member of the compliance scheme that OCS operates would have had, but for their membership of that scheme—

- (a) the registration obligations under regulation 16(2), 17(2), 18(2) and 37, as applicable,

- (b) the reporting obligations under regulations 16(3)(b), 17(3)(b), 18(3)(b) and 50 to 52,
 - (c) the recycling obligations under regulation 16(3)(c) and Schedule 1, and
 - (d) the certification obligation under regulations 16(3)(d) and 53.
- (4) The operator of a registered take back scheme must—
- (a) carry out the registration obligations of each producer who is a member of the take back scheme under regulation 28(1)(a) and regulation 37;
 - (b) check that each of its members has a dedicated receptacle to be used for the collection of used fibre-based composite cups for the purpose of the member’s obligation under regulation 28(1)(b), and provide such a dedicated receptacle for members who do not;
 - (c) arrange for the collection of waste fibre-based composite cups from each of its members and for their recycling under regulation 28(1)(d);
 - (d) report to the appropriate agency, in such form as the appropriate agency directs, on or before the relevant date—
 - (i) the weight of fibre-based composite cups supplied by each of its members in the reporting period, and
 - (ii) the weight of fibre-based composite cups collected and sent for recycling by each of its members in the reporting period;
 - (e) retain a copy of the reports made to the appropriate agency for a period of seven years after the end of the reporting period to which the report relates.
- (5) For the purposes of paragraph (4)(d), the “relevant date”—
- (a) for the reporting period starting on 1st October 20** and ending on 30th June 20**, is 1st October 20**;
 - (b) for subsequent reporting periods—
 - (i) for reports for the period from 1st January to 30th June in a year, 1st October in the same year;
 - (ii) for reports for the period from 1st July to 31st December in a year, 1st April in the following year.
- (6) The operator of a scheme (“scheme operator”) must ensure that the reports it submits under paragraphs (3)(b) and (4)(d) are verified by the signature of the approved person of the scheme operator.
- (7) The scheme operator must inform the scheme’s members in writing immediately if—
- (a) it receives a notice of withdrawal of the scheme’s approval under regulation 35(3),
 - (b) it receives a notice of cancellation of the registration of the scheme under regulation 45(3), or
 - (c) the scheme is approved pursuant to regulation 33.
- (8) The scheme operator must provide a copy of the notice of withdrawal of the scheme’s approval, or of the cancellation of the registration of the scheme together with the written notice provided pursuant to paragraph (7).
- (9) OCS may only demonstrate compliance with its recycling obligations through the acquisition of PRNs or PERNs or both.
- (10) A PRN or PERN that is issued in respect of packaging waste received for recycling at a reprocessing site or received for recycling at an overseas reprocessing site in December in a year may be relied on by OCS to demonstrate compliance with OCS’ recycling obligations either in that year or the following year.

Schemes: mid-year changes

32.—(1) Where a person who is a producer in respect of a year (“P”) becomes a member of a registered scheme during that year, the recycling obligations of the producer for that year must be performed through the scheme.

(2) Where P ceases to be a member of a registered scheme during that year, P must comply with P's recycling obligations for that year.

(3) Where P ceases to be a member of one registered scheme ("the first scheme") and becomes a member of another registered scheme ("the second scheme") during that year, the first scheme is not required to perform any of P's recycling obligations for that year and all such obligations must be performed through the second scheme.

Application for approval of a scheme

33.—(1) An application for approval of a scheme must be made in writing to the appropriate agency by the operator of the scheme and must—

- (a) contain—
 - (i) the name and address of the operator of the scheme, and
 - (ii) such other information as may be required by the appropriate agency;
- (b) be accompanied by a copy of—
 - (i) the constitution of the scheme,
 - (ii) the rules with which a member of the scheme is obliged to comply,
 - (iii) the procedures under which the operator of the scheme enforces the rules against a member of the scheme, and
 - (iv) an operational plan for the next five years which complies with paragraph 26 of Schedule 3, for approval by the appropriate agency.

(2) The charge referred to in paragraph 2 of Schedule 2 or provided for in a charging scheme for a compliance scheme must be paid when an application for approval is made by the operator of a compliance scheme ("OCS").

(3) An application for approval of a scheme must be determined by the appropriate agency within 12 weeks after the day on which—

- (a) the appropriate agency has received the application and all the accompanying documentation referred to in paragraph (1), and
- (b) in the case of a compliance scheme, the charge referred to in paragraph (2) has been paid.

(4) An application for approval of a scheme must be granted where the appropriate agency is satisfied that—

- (a) the application satisfies the requirements in paragraph (1) and the appropriate agency approves the operational plan referred to in paragraph (1)(b)(iv);
- (b) in the case of an application for approval of a compliance scheme, OCS has paid the charge referred to in paragraph (2);
- (c) the scheme is likely to subsist for a period of at least 5 years;
- (d) the operator of the scheme will be able to meet the conditions imposed by regulation 34;
- (e) the operator of the scheme is a fit and proper person to be an operator of an approved scheme;

and must otherwise be refused.

(5) Where an application for approval is determined—

- (a) the appropriate agency must notify the operator of the scheme in writing of its decision within 28 days after the day on which that decision is made, and
- (b) if the application has been refused, the notice must include—
 - (i) the reasons for the refusal, and
 - (ii) the right of appeal under regulation 97(2)(a).

(6) Approval of a scheme under this regulation, or treatment of a scheme as being approved under regulation 126, ceases to be valid on the occurrence of any of the following events—

- (a) a conviction of the operator of the scheme for an offence under—
 - (i) these Regulations,
 - (ii) the 2007 Regulations^(a),
 - (iii) the 2007 (NI) Regulations^(b),
 - (iv) the 2023 Data Regulations;
- (b) the operator of the scheme notifying the appropriate agency under regulation 54(6) that it did not comply with the requirements of regulation 31 for the previous year of registration;
- (c) OCS failing to comply, where applicable, with the additional conditions set out in regulation 34(2);
- (d) a change in the person who is the operator of the scheme.

(7) Where any of the events in paragraph (6)(a), (b) or (c) occurs, and the operator of the scheme wishes to continue operating a scheme, a further application for approval in accordance with paragraph (1) must be made—

- (a) within 28 days after the day on which an event mentioned in paragraph (6)(a) or (c) above occurred, or
- (b) within 14 days after the day on which an event mentioned in paragraph (6)(b) occurred.

(8) Where OCS has notified the appropriate agency under regulation 54(6) that OCS did not comply with the requirements of regulation 31, and makes a further application for approval in accordance with paragraph (7), the appropriate agency may only grant approval subject to the additional conditions set out in regulation 34(2).

Conditions of approval of a scheme

34.—(1) Approval of a scheme under regulation 33 is subject to the following conditions—

- (a) the operator of the compliance scheme (“OCS”) or operator of the take back scheme complies with the obligations set out in regulation 31;
- (b) the operator of the scheme monitors the accuracy of information to which regulation 46 applies, so that the operator may reasonably discover when a scheme member has not complied with regulation 46(2)(c);
- (c) in the case of a compliance scheme, OCS acquires PRNs or PERNs in a manner which least hinders the ability of any large producer or any other operator to acquire PRNs or PERNs pursuant to regulation 16(4) or regulation 31(9), as applicable;
- (d) the operator of the scheme provides any information reasonably requested by the appropriate agency for the purposes of monitoring compliance pursuant to regulation 104(1)(b);
- (e) in relation to any year in which the scheme is registered under regulation 42, the operator of the scheme, informs the appropriate agency in writing of—
 - (i) any material change in the information provided in accordance with regulation 42(3)(b),
 - (ii) any material change in the further information provided in accordance with regulation 42(3)(c), and
 - (iii) any change in the membership of the scheme under regulation 43(c), within 28 days of the occurrence of any such change;
- (f) where any material change is made to the operational plan submitted under regulation 42(3)(d), the operator—

(a) S.I. 2007/871.

(b) S.I. 2007/198.

- (i) must submit a revised operational plan to the appropriate agency for approval, and
 - (ii) may not implement that plan before it has been approved;
 - (g) where the operator of the scheme is a partnership, the operator of the scheme notifies the appropriate agency in writing of any change proposed to the partners at least 12 weeks before the day on which the change will take effect;
 - (h) OCS provides records and returns to the appropriate agency as required by regulation 54.
- (2) Approval of a compliance scheme pursuant to regulation 33(8) is subject to the following additional conditions in relation to any year in which the scheme is registered under regulation 42—
- (a) OCS complies with 50% of its total recycling obligations before 30th June,
 - (b) OCS complies with 75% of its total recycling obligations before 30th September,
 - (c) OCS makes returns to the appropriate agency of information demonstrating compliance with the conditions set out at sub-paragraphs (a) and (b) on or before 15th July and 15th October respectively, and
 - (d) OCS does not accept any new members into the scheme.
- (3) The additional conditions set out in paragraph (2) cease to apply at the beginning of the year following the approval year if the appropriate agency is satisfied that in the approval year OCS complied with—
- (a) the obligations under regulation 31(3), and
 - (b) the additional conditions set out in paragraph (2).
- (4) If the additional conditions set out in paragraph (2) cease to apply by virtue of paragraph (3), the appropriate agency must serve written notice of the cessation on OCS within 28 days of the date on which the appropriate agency is satisfied in accordance with paragraph (3).
- (5) In paragraph (3), “approval year” means the year for which approval was granted pursuant to regulation 33(8).

Withdrawal of approval of a scheme

- 35.—**(1) The appropriate agency may withdraw approval of a scheme—
- (a) where it appears to it that—
 - (i) the operator of the scheme is in breach of any of the conditions set out in regulation 34(1) or (2),
 - (ii) the operator knowingly or recklessly supplied information which is false or misleading, in either case in a material particular, in connection with the application for approval or registration of a scheme, or in connection with compliance with the conditions set out in regulation 34(1) or (2), or
 - (iii) the operator of the scheme is not a fit and proper person, or has at any time ceased to be a fit and proper person, as required by regulation 33(4)(e), or
 - (b) at the request of the operator of the scheme.
- (2) The appropriate agency must cancel any registration of a scheme granted under regulation 42 if it withdraws approval of the scheme and such cancellation shall take effect on the date on which the withdrawal of approval takes effect.
- (3) Before the withdrawal of approval, the appropriate agency must serve on the operator of the scheme written notice of—
- (a) its decision under paragraph (1) to withdraw approval,
 - (b) if approval is being withdrawn under paragraph (1)(a)—
 - (i) the reasons for the decision,
 - (ii) the right of appeal under regulation 97(2)(b), and

(c) the date on which the withdrawal takes effect, which may be no earlier than the date of the notice.

(4) Where approval has ceased to be valid under regulation 33(6), and no further application has been made in accordance with regulation 33(7), the approval is to be treated as withdrawn, and the appropriate agency must serve written notice on the operator of the withdrawal of approval of the scheme.

(5) The notice served under paragraph (4) must include—

- (a) the reasons why the approval has ceased to be valid, and
- (b) a statement that the approval is to be treated as withdrawn, with effect from the date of the notice.

(6) An operator of a scheme in relation to which approval is withdrawn under this regulation must, within 14 days after the date on which the operator received notice of the withdrawal, serve on each scheme member written notice containing the following information—

- (a) a statement that approval of the scheme has been withdrawn and the date when the withdrawal took effect, or will take effect, as the case may be,
- (b) the reasons for the withdrawal, and
- (c) if the scheme is a take back scheme, the obligations of a producer under regulations 28(1)(a) and (d) and 29,
- (d) if the scheme is a compliance scheme, the obligations of a producer—
 - (i) under regulations 16(2) and (3)(b), (c) and (d) in the case of large producers,
 - (ii) under regulation 17(2) and (3)(b), in the case of small producers, and
 - (iii) under regulation 18(2) and (3)(b) in the case of sellers.

Voluntary withdrawal of approval

36.—(1) A request for the withdrawal of approval made under regulation 35(1)(b) must—

- (a) be made in writing to the appropriate agency on or before 9th July in a year;
- (b) be accompanied by evidence that the operator of the scheme—
 - (i) will cease operating the scheme at the end of the year in which the request is made;
 - (ii) will submit a statement under regulation 54(6) confirming that the operator has complied with the requirements of regulation 31;
 - (iii) has notified its members before 9th July in that year that it no longer intends to operate a scheme in the following year.

(2) When the appropriate agency receives a request under regulation 35(1)(b), if the appropriate agency is satisfied by the evidence provided pursuant to paragraph (1), the appropriate agency must withdraw the scheme's approval with effect from 1st February in the year following the year in which the request is received.

PART 4

Registration: Producers and Schemes

CHAPTER 1

Registration: producers

Application for producer registration

37.—(1) A producer who is required—

- (a) by regulation 16(2) to register must, subject to paragraph (2)—

- (i) submit an application for producer registration to the appropriate agency on or before 1st April 20**, for the period from 1st April 20** to 31st December 20**, and
 - (ii) submit an annual application for producer registration for each calendar year in which they are subject to that obligation, on or before 1st October before the start of that year, starting on 1st October 20**;
- (b) by regulation 17(2) or 18(2) to register must, subject to paragraph (2)—
- (i) submit an application for producer registration to the appropriate agency on or before 1st April 20**, for the period from 1st April 20** to 31st December 20**, and
 - (ii) submit an annual application for producer registration for each calendar year in which they are subject to that obligation, on or before 1st April before the start of that year, starting on 1st April 20**;
- (c) by regulation 28(1)(a) to register must, subject to paragraph (3)—
- (i) submit an application for producer registration to the appropriate agency on or before 30th September 20**, for the period from 1st October 20** to 31st December 20**, and
 - (ii) submit an annual application for producer registration for each calendar year in which they are subject to that obligation, on or before 30th November before the start of that year, starting on 30th November 20**;
- (d) by regulation 15(3)(b) to register must submit an application for producer registration to the appropriate agency on or before the date on which the first producer referred to in regulation 15(3) would have been required to register under sub-paragraph (a), (b) or (c).
- (2) Where a producer is a member of a registered compliance scheme the producer need not submit—
- (a) an application for producer registration if the producer is a member of the scheme on or before 1st April 20** for the period from 1st April 20** to 31st December 20**, or
 - (b) an annual application for producer registration for 20** or any later year if the producer is a member of the scheme on or before the date specified in paragraph (1)(a)(ii) or (1)(b)(ii).
- (3) Where a producer is a member of a registered take back scheme, the producer need not submit—
- (a) an application for producer registration under paragraph (1)(c) if the producer is a member of the scheme on or before 30th September 20**, for the period from 1st October 20** to 31st December 20**, and
 - (b) an annual application for producer regulations for 2026 or any later year if the producer is a member of the scheme on or before 30th November before the start of the year.
- (4) Where—
- (a) a producer is a member of a registered compliance scheme or a registered take back scheme, and
 - (b) the producer would, but for paragraph (2) or (3), have been required to make an application for producer registration under paragraph (1),
- the registered scheme must make an application for producer registration in relation to its member on or before the date specified for that application in paragraph (1).
- (5) Where any of the following occurs after the date specified in paragraph (1) by which an application for producer registration must be made for a relevant year—
- (a) a person becomes a producer in respect of that year, but is not a member of a registered scheme,
 - (b) an application to register made within the time limit in paragraph (1) is refused, or
 - (c) a producer is a member of a scheme and—
 - (i) the application for registration of the scheme of which the producer is a member is refused,

- (ii) the registration of the scheme of which the producer is a member is cancelled,
- (iii) the approval of the scheme of which the producer is a member is withdrawn, or
- (iv) the producer's membership of the scheme is discontinued,

an application for producer registration must be made by the producer within 28 days of the occurrence of the event in question.

(6) Paragraph (5) applies whether or not an application for producer registration had previously been made for the relevant year in relation to the producer by the scheme referred to in subparagraph (c).

Making an application for producer registration

38.—(1) An application for producer registration must—

- (a) be made in such manner as the appropriate agency directs;
- (b) contain the information set out in Part 1 of Schedule 3;
- (c) be accompanied by such other information as the appropriate agency reasonably requires to determine the application.

(2) The application must be signed by the approved person of—

- (a) the producer, unless the producer is subject to obligations under regulations 28 and 29, but not subject to producer responsibility obligations, or
- (b) the scheme, where the application is being made by the operator of a scheme.

(3) The charge referred to in paragraph 4(1) of Schedule 2 or provided for in a charging scheme must be paid at the time the application is made.

(4) Where an application for producer registration is submitted after the deadline applying to that producer under regulation 37 an additional charge for late registration in accordance with paragraph 4(3) of Schedule 2 or provided for in a charging scheme must also be paid by the applicant.

Determination of applications for producer registration

39.—(1) An application for producer registration must be granted where—

- (a) the producer is subject to—
 - (i) large producer obligations,
 - (ii) small producer obligations,
 - (iii) seller obligations, or
 - (iv) take back obligations,
- (b) the application complies with the requirements in regulation 38, and
- (c) the appropriate agency is satisfied that—
 - (i) all information provided in accordance with regulation 38(1) is as accurate as reasonably possible;
 - (ii) the charge has been paid in accordance with regulation 38(3) and, if applicable, regulation 38(4);

and must otherwise be refused.

(2) Where an application for producer registration, made by a producer or by a registered scheme, is granted—

- (a) the appropriate agency must, subject to paragraph (4), within 28 days of the application being granted, confirm to the producer, in writing that the producer is registered, and inform the producer of the registration number they have been assigned,

- (b) the appropriate agency must inform the scheme administrator where the application states that the producer is liable to pay disposal fees under regulation 61 and provide the scheme administrator with the information provided with the application for that producer, and
- (c) the producer is to be treated as having been registered—
 - (i) where the application was made within the time limit specified in regulation 37(1), from the beginning of the relevant year;
 - (ii) where the application was made within the time limit specified in regulation 37(5), 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 41 or the expiry of the registration.

(3) Where an application for producer registration is refused, the appropriate agency must, subject to paragraph (4), within 28 days of the decision to refuse the application, give the producer notice in writing that the application has been refused, setting out—

- (a) the reasons for refusing the application, and
- (b) the right to appeal against the refusal under regulation 97(1).

(4) Where an application for registration has been made by the operator of a registered scheme on behalf of one of its members, the notice required by paragraphs (2)(a) and (3) must be given by the appropriate agency to the scheme operator.

Conditions of registration of a producer

40.—(1) Registration of a producer (“P”) is subject to the following conditions—

- (a) that P complies with the obligations set out in regulation 16(3), regulation 17(3) or regulation 18(3), or in regulation 28(1)(b) to (d) and 29, as applicable,
- (b) that P pays any disposal fees P is liable to pay under Part 6 of these Regulations,
- (c) that P provides any information reasonably requested by the appropriate agency with regard to the obligations referred to in paragraph (a) above, or in relation to P’s registration, before the end of the period of 28 days beginning with the day after the day on which the request was made,
- (d) that P informs the appropriate agency of—
 - (i) any change in P’s circumstances which relate to P’s registration, and, where P is a partnership, any change of partners, and
 - (ii) any material change in the information provided in accordance with regulation 38(1)(b) or (c), within 28 days of the occurrence of any such change, and
- (e) that P notifies the appropriate agency that P wishes to cancel P’s registration where P has ceased to be a producer in respect of a year.

(2) Where P is a member of a registered scheme, references to P in paragraphs (1)(a), (c), (d) and (e) include a reference to the operator of the scheme.

Cancellation of registration of producers

41.—(1) The appropriate agency may cancel the registration of a producer where it appears to the appropriate agency that—

- (a) the producer is in breach of any of the conditions set out in regulation 40,
- (b) the producer knowingly or recklessly supplied information which is false or misleading, in either case in a material particular, to the operator of a scheme to be used in connection with an application for producer registration, or

- (c) the applicant for producer registration knowingly or recklessly supplied information which is false or misleading, in either case in a material particular, in connection with its application for registration, or with compliance with any of the conditions set out in regulation 40.
- (2) The appropriate agency must cancel the registration of a producer where—
- (a) it appears to the appropriate agency that any of the circumstances referred to in regulation 15(1) or (4) apply in relation to a producer, or
 - (b) it is notified that the producer—
 - (i) has become a member of a registered scheme and been registered by the scheme pursuant to regulation 31(3)(a) or 31(4)(a), or
 - (ii) has otherwise ceased to be subject to producer responsibility obligations or take back obligations in respect of a year.
- (3) Before cancellation of a registration under paragraphs (1) or (2) above, the appropriate agency must serve on the producer concerned written notice of—
- (a) its decision to cancel,
 - (b) the reasons for the decision,
 - (c) the date when cancellation will take effect, not being earlier than—
 - (i) in the case of cancellation under paragraph (1) or (2)(a) above, the expiration of the time limit for an appeal against the notice provided for in paragraph 2 or 4 of Schedule 7, as applicable, or
 - (ii) in the case of cancellation under paragraph (2)(b) above, 5 working days after the date of the notice,
 - (d) the right of appeal under regulation 97(1)(b), where applicable, and
 - (e) if the cancellation is under paragraph (1), and the grounds for cancellation constitute an offence, a statement identifying which offence in regulation 118 it appears to the appropriate agency is being committed by the producer.
- (4) Paragraph (3) does not apply where a registration is being cancelled because the producer is dead.
- (5) When the appropriate agency cancels the registration of a producer under this regulation, the agency must inform the scheme administrator where the producer is liable to pay disposal fees under regulation 61.

CHAPTER 2

Registration: schemes

Application for registration of a scheme

42.—(1) An application for registration of a scheme for a year (“the registration year”) must be made to the appropriate agency by the operator of the scheme—

- (a) in relation to a compliance scheme—
 - (i) on or before 1st April 20**, in relation to 20**, and
 - (ii) on or before 1st October in the year preceding the registration year in relation to subsequent years;
- (b) in relation to a take back scheme—
 - (i) on or before 30th September 20**, in relation to 20** and 20**, and
 - (ii) on or before 30th November in the year preceding the registration year in relation to subsequent years.

(2) Where the operator of the scheme is a partnership formed under the law of England and Wales or Northern Ireland, the application for registration must be made by any partner acting on behalf of the partnership.

- (3) An application for registration of a scheme must—
- (a) be made in such manner as the appropriate agency directs,
 - (b) contain the information set out—
 - (i) in the case of the operator of a compliance scheme, in Part 2 of Schedule 3,
 - (ii) in the case of the operator of a take back scheme, in paragraphs 16 to 20 of Part 2 of Schedule 3 in relation to the scheme, and paragraphs 1 to 6, 9 and 15 of Part 1 of Schedule 3 in relation to each member of the scheme,
 - (c) be accompanied by such other information as the appropriate agency reasonably requires in order to determine the application,
 - (d) be accompanied by an operational plan containing the information required by paragraph 26 of Schedule 3, which has been approved by the appropriate agency under regulation 33(1)(b)(iv) or 34(1)(f), updated to the date on which the application for registration of the scheme is submitted, and
 - (e) except where a scheme is registered in respect of the year preceding the registration year, be accompanied by evidence that the scheme is approved by the appropriate agency.
- (4) Where a scheme is approved after the date specified in paragraph (1) for applying for registration, it must apply for registration as soon as practicable after receiving notice of the approval.
- (5) The following charge must be paid when the application is made—
- (a) the charge calculated under paragraph 3(1)(a) of Schedule 2 for a take back scheme, and
 - (b) the charge calculated under paragraph 3(1)(b) of Schedule 2 for a compliance scheme,
- or in either case the applicable charge provided for in a charging scheme.
- (6) Where an operator of a scheme submits an application for registration after the deadline applying to the operator under paragraph (1), the operator must also pay an additional charge for late registration in accordance with paragraph 3(4) of Schedule 2.
- (7) An application for the registration of a scheme must be signed by—
- (a) the approved person in relation to the operator of the scheme, or
 - (b) in the case of a scheme that has not already been registered, a person who is eligible to be an approved person under regulation 110.
- (8) Any information provided under this regulation must be as accurate as reasonably possible.

Conditions of registration of a scheme

- 43.** Registration of a scheme is subject to the following conditions—
- (a) that the operator of the scheme (“OS”) complies with the obligations set out in regulation 31 and the conditions set out in regulation 34;
 - (b) that OS provides any information reasonably requested by the appropriate agency with regard to the condition in paragraph (a) above;
 - (c) that OS notifies the appropriate agency in writing within 28 days of any change in the membership of the scheme and that any such notification is accompanied by the additional charge specified in paragraph 3(3)(f) of Schedule 2, or provided for in a charging scheme;
 - (d) that OS informs the appropriate agency in writing of any material change in the information provided in accordance with regulation 42(3)(b) or (c) within 28 days of the occurrence of any such change;
 - (e) that OS provides records and returns to the appropriate agency as required by regulation 54;
 - (f) that OS complies with the most recent version of the operational plan submitted to and approved by the appropriate agency under regulation 33(1)(b)(iv) or, if a revised plan has

been submitted, with the most recent version so submitted and approved under regulation 34(1)(f).

Determination of application for scheme registration

- 44.**—(1) An application for registration must be granted where—
- (a) the operator has complied with regulation 42(3) and (7),
 - (b) the operator has paid the charge referred to in regulation 42(4), and if applicable regulation 42(6),
 - (c) the appropriate agency is satisfied that the information provided in accordance with regulation 42(3) satisfies regulation 42(8), and
 - (d) the scheme has been approved by the appropriate agency,
- and must otherwise be refused.
- (2) Where an application for registration of a scheme is granted—
- (a) the appropriate agency must, within 28 days of its decision, notify the operator of the scheme in writing of its decision, and
 - (b) the scheme is to be treated as registered from the date of the notice given under subparagraph (a) until any cancellation of the scheme's registration in accordance with regulation 45.
- (3) Any decision of the appropriate agency to refuse to register a scheme must be notified, within 28 days of the decision, to the operator of the scheme in writing together with—
- (a) the reasons for the decision,
 - (b) a statement as to the right of appeal under regulation 97(2)(c), and
 - (c) a statement that failure to comply with the requirement to register the scheme under regulations 31(1)(b) and 42 constitutes an offence under regulation 118(7)(b).
- (4) Where an application for registration is refused on the grounds of failure to meet the requirements of 42(3)(e), the operator must make an application for approval of the scheme in accordance with regulation 33 before making a further application for registration of the scheme under this regulation.

Cancellation of registration of a scheme

- 45.**—(1) The appropriate agency may cancel the registration of a scheme where it appears to the appropriate agency that—
- (a) the operator of the scheme is in breach of any of the conditions set out in regulation 43, or
 - (b) the operator has knowingly or recklessly supplied information which is false or misleading, in either case in a material particular, in connection with the application for registration, or with compliance with the conditions set out in regulation 43.
- (2) The appropriate agency must cancel the registration of a scheme if it withdraws approval of the scheme.
- (3) Before the cancellation of a registration the appropriate agency must serve on the operator of the scheme written notice of—
- (a) its decision under paragraph (1) or (2) above to cancel the registration,
 - (b) the reasons for the decision,
 - (c) the right of appeal under regulation 97(2)(d), and
 - (d) the date when cancellation will take effect, which may be no earlier than the date of the notice.

Information provided to scheme operators

- 46.**—(1) This regulation applies to information which—
- (a) is provided to the operator of a scheme by a producer who is a member of that scheme or who is applying for membership of the scheme at the time the information is provided, and
 - (b) is information which the operator of the scheme will need to rely upon for the purposes of—
 - (i) its application for registration of a scheme under regulation 42, or
 - (ii) performing the obligations referred to in regulation 31(3) or (4).
- (2) A producer who provides to the operator of the scheme information to which this regulation applies must—
- (a) provide that information in such form as the appropriate agency directs,
 - (b) except where the scheme is a take back scheme, ensure that the information provided to the scheme is verified by the signature of the approved person of the producer, and
 - (c) ensure that the information is as accurate as reasonably possible.

PART 5

Records, reports and certificates

Interpretation

- 47.** In this Part—
- (a) a reference in any regulation to the commencement date is to the date on which that regulation came into force;
 - (b) “P” means a person who is a producer.

Record keeping obligations

Large producers, other than sellers and online marketplace operators

- 48.**—(1) If P is a large producer other than a producer which does not perform any function in relation to packaging except that of a seller or an online marketplace operator, P must maintain, and retain for at least 7 years after the date on which the record is made, or the evidence is created—
- (a) records of the information in paragraphs 4 to 9, 13 and 14 of Schedule 4;
 - (b) evidence—
 - (i) of the amount of packaging waste which P has collected and sent for recycling, as referred to in regulation 63(4)(b) and reported on under paragraph 14 of Schedule 4;
 - (ii) that any relevant packaging waste included in the packaging waste referred to paragraph (i) has been recycled, and for these purposes “relevant packaging waste” has the same meaning as in paragraph 14(5) of Schedule 4.

(2) If P is a large producer who is liable to pay an annual disposal fee under regulation 61 must also retain records of assessments of recyclability carried out in accordance with regulation 16(6) for at least 7 years after the record is made.

Small producers, other than sellers and online marketplace operators

(3) If P is a small producer other than a producer which does not perform any function in relation to packaging except that of a seller or an online marketplace operator, P must maintain, and retain for at least 7 years after the record is made, records of the information in paragraphs 3 and 13 of Schedule 4.

Online marketplace operators

(4) If P is an online marketplace operator, P must maintain, and retain for at least 7 years after the record is made, records of the information in Part 3 and paragraph 13 and, if P is a large producer, paragraph 14 of Schedule 4.

Sellers

(5) If P is a seller, P must maintain, and retain for at least 7 years after the record is made, records of the information listed—

- (a) in paragraph 13 and, if P is a large producer, paragraph 14 of Schedule 4, and
- (b) if P supplies plastic or paper bags in England, in paragraph 15 of Schedule 4.

Licensors and pub operating businesses

(6) If P is a licensor or a pub operating business which is not a large or small producer or a seller, P must maintain, and retain for at least 7 years after the record is made, records of the information—

- (a) in paragraph 13 of Schedule 4, and
- (b) if P supplies plastic or paper bags in England, in paragraph 15 of Schedule 4.

(7) Where P is a small or large producer and P performs more than one function in relation to packaging, P is subject to the obligations imposed in paragraphs (1) to (5), so far as relevant, in relation to each function P performs.

Reporting obligations: general

49.—(1) P must submit reports to the appropriate agency in accordance with regulations 50 to 52.

(2) Where P is a member of a registered scheme, the reports required by regulations 50 to 52 must be submitted by the operator of the scheme in relation to the producer.

(3) All reports submitted under regulations 50 to 52, must be—

- (a) as accurate as reasonably possible,
- (b) verified by the signature of the approved person of—
 - (i) the producer, where the producer submits the report, or
 - (ii) the operator of the scheme, where the operator submits the report, and
- (c) submitted in such form as the appropriate agency directs.

(4) The scheme administrator may require producers, or a category of producers specified by the scheme administrator, to submit additional reports for the purpose of regulations 50 to 52, and for this purpose the scheme administrator may, after having consulted the affected producers, direct that the reporting period is to be a shorter period than six months, or twelve months, as applicable.

Reporting obligations: large producers other than sellers or online marketplace operators

50.—(1) If P is a large producer other than a producer which does not perform any function in relation to packaging except that of a seller or an online marketplace operator—

- (a) if P was a large producer in 2023, P must—
 - (i) report the information P was required to report by regulation 17(1) of each of the 2023 Data Regulations as those regulations had effect immediately before the commencement date, for the six months ending on 31st December 20**;
 - (ii) submit that report on or before 1st April 20**;
- (b) P must report—
 - (i) the information specified in paragraphs 4 to 9 and paragraph 14 of Schedule 4, so far as those provisions apply to P, every six months, and
 - (ii) the information specified in paragraph 13 of Schedule 4, every 12 months.

(2) If P is a large producer who is required to pay annual disposal fees under regulation 61, P must also report P's assessments of recyclability of the household packaging supplied by P.

(3) The first report required by paragraphs (1)(b)(i) and (2) must be made—

- (a) for the six months ending on 30th June 20**, or
- (b) if P does not have sufficient data to report on the period from 1st January 20** to commencement date, for the period starting on the commencement date and ending on 30th June 20**;

and must be submitted on or before 1st October 202**

(4) Subsequent reports under paragraph (1)(b)(i) and (2) must be submitted—

- (a) for the six months ending on 31st December, on or before 1st April in the following year;
- (b) for the six months ending on 30th June, on or before 1st October in the same year.

(5) The first report required under paragraph (1)(b)(ii) must be made—

- (a) for the twelve months ending on 31st December 20**, or
- (b) if P does not have sufficient data to report on the period from 1st January 20** to the commencement date, for the period starting on the commencement date and ending on 31st December 20**,

and must be submitted on or before 1st April 20**.

(6) Subsequent reports under paragraph (1)(b)(ii) must be made on or before 1st April in the year after the year to which the report relates.

Reporting obligations: small producers other than sellers and online marketplace operators

51.—(1) If P is a small producer other than a producer which does not perform any function in relation to packaging except that of a seller or an online marketplace operator—

- (a) if P was a producer in 2023, P must report the information P was required to collect and retain under regulation 16(2) of each of the 2023 Data Regulations as those regulations had effect immediately before this regulation came into force;
- (b) P must report the information specified in paragraphs 3 and 13 of Schedule 4 every twelve months.

(2) The report required by paragraph (1)(a) must be made—

- (a) for the twelve months ending on 31st December 20**, or
- (b) if P does not have sufficient data to report on the period from 1st January to the commencement date of the 2023 Data Regulations, for the period starting on the commencement date of the relevant 2023 Regulations and ending on 31st December 20**,

and must be submitted on or before 1st April 20**.

(3) The first report required by paragraph (1)(b) must be made for the twelve months ending on 31st December 20** and must be submitted on or before 1st April 20**.

(4) Subsequent reports under paragraph (1) must be submitted on or before 1st April in the year following the year to which the report relates.

Reporting obligations: licensors, pub operating businesses, sellers and online marketplace operators

52.—(1) A licensor or pub operating business or a small or large producer who is a seller ("LPS") must report—

- (a) where LPS was subject to one of the 2023 Data Regulations, the information specified in paragraphs 22 and 23 of Schedule 1 of each of those Regulations, as each of those paragraphs had effect immediately before this regulation came into force, for the 12 months ended 31st December 20**,

- (b) the information specified in paragraph 13 and, where LPS is a seller who is a large producer, paragraph 14, of Schedule 4 to the appropriate agency every 12 months, and
- (c) if LPS supplies plastic or paper bags in England, the information specified in paragraph 15 of Schedule 4 to the Environment Agency every 12 months.

(2) An online marketplace operator (“OMP”) must report—

- (a) where OMP was subject to one of the 2023 Data Regulations, the information specified in paragraphs 18 to 20, 22 and 23 of Schedule 1 of each of the 2023 Data Regulations, as each of those paragraphs had effect immediately before this regulation came into force, for the 6 months ended 31st December 20**,
- (b) the information specified in Part 3 of Schedule 4 every 6 months, and
- (c) the information specified in paragraph 13 and, where OMP is a large producer, paragraph 14 of Schedule 4 every 6 months,

to the appropriate agency every 6 months.

(3) If OMP is a producer who is liable to pay annual disposal fees under regulation 61, OMP must also report OMP’s assessments of recyclability of the household packaging supplied by OMP.

(4) The report required by paragraph (1)(a) or (2)(a) must be made for the twelve months ending on 31st December 20** and must be submitted on or before 1st ***** 20**.

(5) The first report required by paragraphs (1)(b), (1)(c), (2)(b), (2)(c) and (3) must be made—

- (a) for the 12 months ending on 31st December 20**, or
- (b) if P does not have sufficient data to report on the period from 1st January to the commencement date, for the period starting on the commencement date and ending on 31st December 20**,

and must be submitted on or before 1st April 20**.

(6) Subsequent reports under paragraphs (1)(b), (1)(c), (2)(b), (2)(c) and (3) must be submitted on or before 1st April in the year following the year to which the report relates.

Certification obligation

53.—(1) Subject to Schedule 8 a large producer must submit, in accordance with this regulation, a certificate of compliance to the appropriate agency as evidence of whether the producer (“P”) has complied with P’s recycling obligations for a relevant year.

(2) Where P is a member of a registered scheme, the certificate of compliance must be submitted by the operator of the scheme on behalf of P.

(3) A certificate of compliance must be submitted on or before 31st January in the year immediately following the relevant year.

(4) A certificate of compliance must contain the following information—

- (a) the name and address of the approved person who is issuing the certificate;
- (b) the date of the certificate;
- (c) the producer in respect of whom the approved person is issuing the certificate (“the relevant producer”);
- (d) certification by the approved person as to whether the relevant producer has complied with their recycling obligations.

Schemes—records and returns

54.—(1) The operator of a compliance scheme must maintain, and retain for at least seven years after they are made, records of the information referred to in paragraph (2) below, and report that information to the appropriate agency.

(2) For each year the information is—

- (a) the total number of tonnes of each recyclable material which is the subject of an obligation to recycle for which the operator of the compliance scheme is responsible under regulation 31(3)(c);
 - (b) the amount in tonnes, to the nearest tonne, of packaging waste received for recycling at a reprocessing site, or at an overseas reprocessing site as set out in the PRNs or PERNs acquired by the scheme operator.
- (3) The first report required by paragraph (1) must be made—
- (a) for the twelve months ending on 31st December 20**, or
 - (b) if the operator of the scheme does not have sufficient data to report on the period from 1st January to the commencement date, for the period starting on the commencement date and ending on 31st December 20**,

and must be submitted on or before 31st January 20**.

(4) Subsequent reports under paragraph (1) must be submitted on or before 31st January in the year following the year to which the information relates.

(5) The records maintained under paragraph (1) above must be made available, on demand, to the appropriate agency.

(6) The operator of a scheme must send a statement signed by the approved person to the appropriate agency confirming whether or not the operator has complied with the requirements which apply to the scheme under regulation 31 for the previous year of registration.

(7) The statement required by paragraph (6) must be sent to the appropriate agency by 31st January in each year following the year to which the statement relates.

Notification of winding-up, receivership, administration, etc

55.—(1) This regulation applies to—

- (a) the operator of a scheme,
- (b) a producer, or
- (c) a reprocessor or an exporter registered or accredited in accordance with Part 7 (reprocessors and exporters).

(2) A company or limited liability partnership to which this regulation applies must inform the appropriate agency as soon as is practicable upon becoming aware that one or more relevant circumstances apply or are about to apply to them.

(3) The operator of a scheme (“the operator”) must inform the appropriate agency and its members as soon as is practicable upon becoming aware that one or more relevant circumstances apply or are about to apply to the operator.

(4) For the purposes of this regulation “relevant circumstances” are—

- (a) in the case of a corporate body in the United Kingdom or a partnership in England, Wales or Northern Ireland, that—
 - (i) a winding-up order has been made or a resolution for voluntary winding-up has been passed;
 - (ii) a determination for a voluntary winding-up has been made;
 - (iii) a receiver or a manager of the company, partnership or limited liability partnership’s undertaking has been duly appointed;
 - (iv) its undertaking has entered administration;
 - (v) a voluntary arrangement proposed for the purposes of—
 - (aa) Part 1 of the Insolvency Act 1986(a) has been approved, or

(a) 1986 c. 45.

- (bb) Part 2 of the Insolvency (Northern Ireland) Order 1989(a), has been entered into;
- (b) in the case of an individual in England, Wales or Northern Ireland that—
 - (i) a moratorium has been granted in a debt relief order, within the meaning of section 251A of the Insolvency Act 1986(b), or Article 208A of the Insolvency (Northern Ireland) Order 1989(c);
 - (ii) a composition or arrangement has been made with creditors;
 - (iii) a receiver or trustee in bankruptcy has been duly appointed;
 - (iv) a bankruptcy order has been made;
- (c) in the case of an individual, a partnership or a limited partnership in Scotland—
 - (i) an interim or permanent trustee has been duly appointed;
 - (ii) an award of sequestration has been made.

Information sharing: appropriate agency, scheme administrator and labelling authority

56.—(1) Any information provided to an appropriate agency, the scheme administrator or the labelling authority under these Regulations may be shared with any other of those bodies.

(2) Each appropriate agency, the scheme administrator and the labelling authority must enter into appropriate arrangements with each other to ensure that they each have access to information they require in order to exercise their functions under these Regulations.

PART 6

Disposal and scheme administrator costs

CHAPTER 1

General

Interpretation

57.—(1) In this Part—

- “[2025] assessment year” means the assessment year commencing on 1st April [2025];
- “[2026] assessment year” means the assessment year commencing on 1st April [2026];
- “[2027] assessment year” means the assessment year commencing on 1st April [2027];
- “adjusted disposal costs” means the net efficient disposal costs of a relevant authority after any reduction made to those costs by the scheme administrator under regulation 74;
- “annual disposal fee” is the fee payable by LP each year under regulation 61 to cover the disposal costs incurred by relevant authorities and the scheme administrator;
- “assessment year” means a period commencing on 1st April in one year and ending on 31st March in the following year in respect of which—
 - (a) the disposal costs of a relevant authority are to be assessed, and
 - (b) an annual disposal fee is payable by LP;
- “efficient disposal costs” has the meaning given in regulation 72(4);
- “LP” means a producer who is liable to pay an annual disposal fee under regulation 61;

(a) S.I. 1989/2405 (N.I. 19).

(b) Section 251A was inserted by Schedule 17 to the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(c) S.I. 1989/2405 (N.I. 19). Articles 208A to 208X were inserted by S.R. 2011/12.

“net efficient disposal costs” means the efficient disposal costs in an assessment year, less waste income for that year, as determined under regulation 73(2);

“public information disposal costs” means costs incurred by the scheme administrator in providing a public information service about—

- (a) the management of packaging waste,
- (b) the prevention of packaging litter, and
- (c) the use of sustainable packaging.

(2) In this Part—

- (a) reference in any provision to a packaging category is to be read as a reference to the relevant packaging sub-categories, if any, which have been specified for the purposes of that provision;
- (b) references to packaging or packaging waste, or to any description of packaging or packaging waste, do not include packaging or packaging waste which consists of—
 - (i) drink containers, or
 - (ii) exempt packaging.

Scheme administrator

58.—(1) The Secretary of State for Environment, Food and Rural Affairs, the Welsh Ministers, the Scottish Ministers and DAERA acting jointly—

- (a) must appoint the scheme administrator for the purposes of these Regulations, when this regulation comes into force, and whenever the office of scheme administrator becomes vacant;
- (b) may revoke the appointment of the scheme administrator.

(2) The scheme administrator is to have the functions conferred on it by these Regulations.

(3) Schedule 5 makes further provision in relation to the scheme administrator.

Power to direct the scheme administrator

59.—(1) Where paragraph (3) applies, the appropriate authorities may, acting jointly, direct the scheme administrator—

- (a) to take the action specified in the direction, or
- (b) to refrain from taking the action specified in the direction.

(2) Where paragraphs (3) and (4) apply, a single appropriate authority may direct the scheme administrator—

- (a) to take the action specified in the direction, or
- (b) to refrain from taking the action specified in the direction.

(3) This paragraph applies if—

- (a) the scheme administrator is acting, proposing to act, or failing to act, and
- (b) in the opinion of each of the appropriate authorities who are issuing the direction, that action or failure to act is likely to have an adverse impact on the environmental effects which the extended producer responsibility for packaging policy is intended to achieve.

(4) This paragraph applies if—

- (a) the direction concerns a function performed by the scheme administrator in the part of the United Kingdom for which that authority is the appropriate authority, and
- (b) the direction does not concern any matter outside the competence of the appropriate authority in question.

(5) The appropriate authorities may not issue a direction to the scheme administrator under paragraph (1) or (2) unless—

- (a) the statement required under regulation 60 has been published, and
 - (b) the appropriate authorities issuing the direction have consulted the scheme administrator on the terms of the proposed direction.
- (6) A direction given under paragraph (1) or (2) must—
- (a) explain why the appropriate authorities consider that the conditions in paragraph (3) and, where applicable, paragraph (4) are satisfied;
 - (b) specify what action the scheme administrator is to take, or to refrain from taking;
 - (c) give the reasons for requiring the scheme administrator to take, or refrain from taking, the action specified in the direction.
- (7) The scheme administrator must comply with any direction given under this regulation.
- (8) A copy of a direction given under paragraph (1) or (2) must be published by the appropriate authorities.

Policy statement

- 60.**—(1) The appropriate authorities must jointly publish a statement setting out—
- (a) the intended environmental effects of the extended producer responsibility for packaging policy;
 - (b) how that policy is intended to achieve those effects.
- (2) In this regulation, “the extended producer responsibility for packaging policy” means the policy of imposing extended responsibility on producers in relation to packaging, including the imposition of liability on producers to pay disposal fees.

CHAPTER 2

Producer responsibility for disposal costs

Producers liable to pay annual disposal fee

- 61.**—(1) A producer is liable to pay an annual disposal fee under this regulation if the producer—
- (a) is a brand owner, an importer, a distributor, a service provider, an online marketplace operator, or a packer/filler,
 - (b) is a large producer, and
 - (c) supplies household packaging.
- (2) A producer who satisfies the conditions in paragraph (1) (“LP”) must pay to the scheme administrator an annual disposal fee calculated in accordance with this Chapter and Chapter 6 of this Part towards the disposal costs incurred by relevant authorities and the scheme administrator.
- (3) LP must pay any instalment of the annual disposal fee due before the end of fifty days after the due day and for these purposes “due day” in relation to an instalment means the day on which LP is notified that the instalment is due under regulation 67(2)(e).

Amount payable by producers for disposal costs

- 62.**—(1) The scheme administrator must for each assessment year—
- (a) calculate the amount of the annual disposal fee payable by LP to cover the disposal costs of relevant authorities and the scheme administrator, under regulation 61 each assessment year, and
 - (b) specify the dates by which the annual disposal fee is to be paid.
- (2) The scheme administrator must calculate the annual disposal fee payable by LP for an assessment year in accordance with—
- (a) paragraph (3) if—

- (i) the calculation is done in relation to the [2025] assessment year,
 - (ii) the household packaging supplied by LP does not include commonly binned items, or
 - (iii) the scheme administrator does not have sufficient information to assess the weight of household packaging supplied by LP which consists of commonly binned items;
- (b) paragraph (4) in any other case.
- (3) The annual disposal fee payable by LP under this paragraph is the sum of—

$$A + B$$

where—

- (a) “A” is the sum of the fee for each packaging category of household packaging waste for which LP is responsible, calculated under regulation 63;
 - (b) “B” is LP’s share of the public information disposal costs incurred by the scheme administrator, calculated under regulation 65.
- (4) The annual disposal fee payable by LP under this paragraph is the sum of—

$$A + B + C$$

where—

- (a) “A” and “B” have the meanings given in paragraph (3), and
- (b) “C” is the sum of the fee for each packaging category of binned packaging for which LP is responsible, calculated under regulation 64.

Disposal costs: household packaging waste

63.—(1) The scheme administrator must calculate the fee for each packaging category of household packaging waste for which the LP is responsible in accordance with the following formula—

$$\frac{D}{E} \times CW$$

where—

“CW” is the weight in tonnes of household packaging in that packaging category declared by LP as having been supplied in the calendar year ending before the start of the assessment year, after subtraction of—

- (a) the weight in tonnes of waste in that packaging category which is off-set under paragraphs (2) to (4) (“the off-set”), and
- (b) where CW is being calculated in relation to the [2026] assessment year or a later assessment year, the weight in tonnes of that proportion of packaging in that packaging category which consists of commonly binned items supplied by LP which is included by the scheme administrator in the calculation of “CW” for the purposes of regulation 64(1).

“D” is the sum of the efficient disposal costs for that packaging category of all relevant authorities in relation to household packaging waste in that packaging category, as assessed in accordance with regulation 72 for the assessment year, after subtraction of—

- (a) the sum of waste income received by all relevant authorities derived from household packaging waste in that packaging category assessed under regulation 73, and

- (b) the sum of the amounts deducted under regulation 74(7) from the disposal costs of all relevant authorities attributable to household packaging waste in that packaging category on the grounds that a relevant authority is not providing an effective waste management service in relation to household packaging waste;

“E” is the total weight in tonnes of household packaging in that packaging category which the scheme administrator calculates has been supplied in the calendar year ending before the start of the assessment year by all producers who are liable to pay disposal fees for the assessment year under regulation 61, after the deduction, except where E is being calculated in relation to the [2025] assessment year, of the amount calculated as TLW for the purposes of regulation 64(1).

(2) In calculating CW for a packaging category for the purposes of paragraph (1), the scheme administrator must off-set the weight in tonnes of relevant packaging waste in that packaging category—

- (a) which LP has collected and sent for recycling at LP’s cost (“recycled material”); and
(b) which satisfies the conditions in paragraph (4),

and for these purposes “relevant packaging waste” has the meaning given in paragraph 14(5) of Schedule 4.

(3) For the purpose of paragraph (2), recycled material may be included in the relevant packaging waste off-set under that paragraph whether or not that material would be assessed as recyclable in accordance with the methodology and guidance published by the scheme administrator on recyclability under paragraph 7 of Schedule 5.

(4) The conditions referred to in paragraph (2)(b) are that—

- (a) the recycled material does not consist of—
(i) drink containers,
(ii) exempt packaging, or
(iii) items which are collected from households for recycling by more than 75% of relevant authorities, unless the item concerned is reusable packaging which has become waste;
(b) LP has evidence that the recycled material has been recycled.

(5) The scheme administrator may apply part of the off-set assessed under paragraph (1) in reducing the value of CW for the purpose of regulation 64(1) instead of paragraph (1).

(6) In calculating “E” for the purposes of paragraph (1), the scheme administrator—

- (a) must take into account all household packaging declared by all producers liable to pay disposal fees in the assessment year, and
(b) may estimate how much, if any, packaging has been supplied by producers who are liable to pay disposal fees in that year whom it appears to the scheme administrator have not fully complied with their registration and reporting obligations in relation to the packaging they have supplied.

Disposal costs: binned packaging waste

64.—(1) Where the household packaging supplied by LP includes commonly binned items, the scheme administrator must calculate the disposal fee LP is liable to pay to cover LP’s share of the disposal costs associated with binned packaging waste for each packaging category, in accordance with the formula—

$$TLC \times \frac{CW}{TLW}$$

where—

“TLC” is the sum of the efficient disposal costs for that packaging category of all relevant authorities in relation to binned packaging waste in that packaging category, assessed in accordance with regulation 72 for the assessment year, after subtraction of—

- (a) the sum of waste income received or expected to be received by all relevant authorities which is derived from binned packaging waste in that packaging category, assessed under regulation 73, and
- (b) the sum of the amounts deducted under regulation 74(7) from the disposal costs of all relevant authorities attributable to binned packaging waste in that packaging category on the grounds that a relevant authority is not providing an effective waste management service in relation to binned packaging waste;

“TLW” is the weight in tonnes of the relevant proportion of the total weight of commonly binned items in that packaging category supplied in the calendar year ending before the start of the assessment year by all producers who are liable to pay disposal fees for that year under regulation 61, as calculated by the scheme administrator under paragraph (3);

“CW” is the weight in tonnes of the relevant proportion of—

$$(CBI - OFF)$$

where—

- (a) “CBI” is the weight of commonly binned items declared by LP as having been supplied in that packaging category in the calendar year ending before the start of the assessment year;
- (b) “OFF” is the weight of that part of the off-set assessed for LP under regulation 63(2) for that packaging category which the scheme administrator applies for the purpose of this regulation under regulation 63(5).

(2) For the purpose of the definitions of “TLW” and “CW”, the “relevant proportion” means that percentage of the weight of commonly binned items supplied by LP which the scheme administrator assesses as being likely to be discarded in public bins.

(3) In calculating “TLW” for the purposes of paragraph (1), the scheme administrator—

- (a) must take into account all commonly binned items declared by all producers liable to pay disposal fees in the assessment year, and
- (b) may estimate the weight, if any, of commonly binned items which have been supplied by any producer who is liable to pay disposal fees in that year where it appears to the scheme administrator that the producer has not fully complied with its registration and reporting obligations in relation to the packaging the producer has supplied.

Disposal costs: scheme administrator public information service

65.—(1) Subject to paragraphs (3) and (4), where the scheme administrator is liable to pay public information disposal costs, and LP is liable to pay a disposal fee to cover those costs, the scheme administrator must calculate LP’s share of public information disposal costs in accordance with the formula—

$$PIC \times \frac{CW}{TW}$$

where—

“PIC” is the total amount of disposal costs which the scheme administrator assesses are likely to be incurred in the assessment year in relation to the provision of public information about—

- (a) the management of packaging waste,
- (b) if LP is liable to pay a disposal fee calculated under regulation 64, the prevention of packaging litter, and

(c) the use of sustainable packaging,
as calculated under regulation 77;

“TW” is the total weight in tonnes of packaging calculated by the scheme administrator as having been supplied in the calendar year ending before the start of the assessment year by all producers who are liable to pay disposal fees in the assessment year under regulation 61 in relation to household packaging waste or binned packaging waste;

“CW” is the weight in tonnes of packaging declared by LP as having been supplied in the calendar year ending before the start of the assessment year.

(2) In assessing the costs likely to be incurred in the provision of public information in an assessment year for the purposes of calculating PIC, the scheme administrator may take into account any available data, including data relating to the year preceding the assessment year.

(3) In calculating “TW” for the purposes of paragraph (1), the scheme administrator—

- (a) must take into account all packaging declared by all producers liable to pay disposal fees in the assessment year, and
- (b) may estimate how much, if any, packaging has been supplied by any producer who is liable to pay disposal fees in that year where it appears to the scheme administrator that the producer has not fully complied with its registration and reporting obligations in relation to the packaging the producer has supplied.

(4) Where a public information campaign relates only to packaging and packaging waste in certain packaging categories, the scheme administrator may, subject to paragraph (3), choose to divide the costs of that campaign only among producers supplying packaging in those packaging categories, and accordingly, in the definition of “TW” and “CW”, references to the total weight in tonnes of packaging is to be understood as the total weight in tonnes of the packaging categories to which the campaign relates.

(5) Where a public information campaign relates only to the prevention of packaging litter, only those producers who supply commonly binned items may be required to make payments towards the costs of that campaign, and accordingly, in the definition of “TW” and “CW”, references to the total weight in tonnes of packaging is to be understood as the total weight in tonnes of commonly binned items supplied by all those producers (in the definition of “TW”), or by LP (in the definition of “CW”).

Disposal fees: adjustments

66.—(1) Subject to paragraphs (4) to (6), the scheme administrator must adjust, by reducing or increasing, the disposal fee for each packaging category payable by LP—

- (a) under regulation 63 or 64—
 - (i) to reflect the extent to which household packaging supplied by LP is environmentally sustainable, and
 - (ii) to incentivize LP to use packaging which has a smaller impact on the environment, such as reusable packaging;
- (b) under regulation 65, to reflect the extent to which—
 - (i) household packaging supplied by LP in the packaging category in question is environmentally sustainable;
 - (ii) the public information campaigns for which costs are being imposed are relevant to the household packaging supplied by LP.

(2) In assessing the environmental sustainability of household packaging, the scheme administrator must take into account one or more of the following factors—

- (a) whether the packaging is reusable;
- (b) the extent to which the packaging is reused;
- (c) the recyclability of the packaging;
- (d) the environmental impact of creating the packaging;

- (e) the environmental impact of the packaging when it becomes waste;
- (f) the environmental implications of any adjustment proposed to the disposal fee for a packaging category under paragraph (1).

(3) Where LP has not provided sufficient information to enable the scheme administrator to determine for the purposes of paragraph (1) the degree of environmental sustainability of all the packaging supplied by LP in a packaging category, the scheme administrator is to treat that packaging as having the same degree of environmental sustainability as the least environmentally sustainable packaging in that packaging category supplied by any producer, and increase the fee for that packaging category for that producer accordingly.

(4) Paragraph (1) does not apply—

- (a) where LP is an online marketplace operator, or
- (b) in relation to any fee charged to LP in relation to the [2025] assessment year.

(5) The scheme administrator may not make adjustments under this regulation for an assessment year which, taken together for all producers, have the effect of increasing the total amount of fees charged to producers—

- (a) under regulation 63 to an amount which is greater than the total amount of net efficient disposal costs likely to be incurred by relevant authorities in that assessment year in relation to household packaging waste;
- (b) under regulation 64 to an amount which is greater than the total amount of net efficient disposal costs incurred or likely to be incurred by relevant authorities in that assessment year in relation to binned packaging waste;
- (c) under regulation 65, to an amount which is greater than the total amount of public information disposal costs likely to be incurred by the scheme administrator in that assessment year.

(6) No adjustments may be made by the scheme administrator unless the scheme administrator has published the statement of policy required by regulation 69.

Notice of liability

67.—(1) The scheme administrator must give each producer notice in writing of the annual disposal fee, setting out how the amount due has been calculated.

(2) That notice must state—

- (a) the amount of the annual disposal fee due;
- (b) the amount of packaging declared by LP which has been off-set (“the off-set”) against the total amount of packaging supplied by LP for the purposes of regulation 63(1) or 64(1), and how that off-set has been applied;
- (c) whether any adjustment has been made to the annual disposal fee under regulation 66;
- (d) if an adjustment has been made, the reasons for the adjustment;
- (e) the dates on which instalments of the annual disposal fee are due, and the amount of each instalment;
- (f) a statement that the amount payable by the producer is subject to change following a recalculation under Chapter 6.

(3) The notice must also—

- (a) provide information on the complaints procedure established by the scheme administrator under paragraph 8 of Schedule 5;
- (b) state the rights of appeal available under regulation 98.

Payments and interest

68.—(1) A producer who has received a notice of liability under regulation 67 must pay the annual disposal fee for the assessment year to the scheme administrator in quarterly instalments, or as otherwise directed by the scheme administrator.

(2) The scheme administrator may charge a producer interest on the amount of any annual disposal fees which are not paid by the producer by the date specified on the notice of liability.

(3) Any annual disposal fee or interest which is owed to the scheme administrator under this regulation may be recovered as a debt due to the scheme administrator.

Scheme administrator: statement of policy

69.—(1) The scheme administrator must prepare and issue a statement of its policy with respect to adjusting the fee to be charged to producers for disposal costs under regulation 66 in which it explains the circumstances in which the fee will be increased or reduced.

(2) Subject to paragraph (6), before issuing a statement of policy under paragraph (1), the scheme administrator must—

- (a) send a draft of the proposed statement to each of the appropriate authorities, and
- (b) publish a draft of the proposed statement in the way appearing to the scheme administrator to be most appropriate for the purpose of bringing it to the attention of producers and other parties appearing to the scheme administrator to have an interest in the policy.

(3) The draft must be accompanied by notice that representations about the proposal may be made by an appropriate authority, by producers who are liable to pay disposal fees or by any other person having an interest in the proposal, to the scheme administrator within a specified time, which may not be less than 28 days after the day on which that notice is given.

(4) Before issuing the statement, the scheme administrator must have regard to any written representations made to it in accordance with paragraph (3).

(5) If the statement is issued, the scheme administrator must publish with it an account, in general terms, of the written representations made to it in accordance with paragraph (3), and the scheme administrator's response to them.

(6) Paragraphs (2) to (5) apply in relation to all statements of policy (including revised statements of policy), except for the first statement of policy published by the scheme administrator under paragraph (1).

(7) The scheme administrator must—

- (a) publish the first statement of policy issued under paragraph (1) as soon as practicable after the day on which the scheme administrator is appointed under regulation 58(1);
- (b) review its statement of policy at least once every three years, and if necessary issue a revised statement of policy.

Commonly binned items

70.—(1) The scheme administrator must—

- (a) compile a list of items of packaging which are commonly disposed of in public bins (“commonly binned items”), from the best evidence available to the scheme administrator, and
- (b) update that list at least once every two years after the list is first published, and if the scheme administrator considers it necessary, more often.

(2) The scheme administrator must publish the list of commonly binned items, and any updated versions of that list, in the way which appears to the scheme administrator to be most likely to draw it to the attention of producers.

CHAPTER 3

Assessment of disposal costs

Disposal costs

71.—(1) For the purposes of this Chapter, the disposal costs incurred by a relevant authority in relation to the management of household packaging waste and binned packaging waste include—

- (a) the costs of recovery operations (including recycling) and disposal operations in relation to that waste, including—
 - (i) collection,
 - (ii) sampling, sorting and other operations preliminary to the treatment of waste,
 - (iii) treatment operations,
 - (iv) storage,
 - (v) transfer, and
 - (vi) export;
- (b) the costs of managing waste through household waste recycling centres, including the costs referred to in sub-paragraph (a) in relation to such waste;
- (c) the costs to the authority of providing public information about the management of household packaging waste and binned packaging waste, including the costs associated with both the planning and the execution of any information campaigns;
- (d) the costs of marketing recycled or recovered materials.

(2) For the purposes of paragraph (1)—

- (a) disposal costs include the costs of maintaining, operating and renewing vehicles, waste containers and receptacles, and other equipment, buildings and premises required for the recovery and disposal operations referred to in paragraph (1)(a) and (b);
- (b) a “household waste recycling centre” is a place provided by a relevant authority in its area for the disposal of household waste by residents in its area and the recovery of such waste.

(3) Where any of the processes referred to in paragraph (1) are undertaken—

- (a) by the relevant authority using its own staff, the costs of the process concerned are to be treated as including the costs of staff and other administrative or managerial costs associated with that process;
- (b) by a third party on behalf of the authority, the costs of the process concerned are to be treated as the sum of—
 - (i) the amount charged to the authority by the third party for providing services to the authority in connection with that process, and
 - (ii) the administrative and managerial costs to the authority arising from the arrangements with the third party.

Assessment by the scheme administrator: relevant authority disposal costs

72.—(1) The scheme administrator must, before the start of each assessment year, assess for each relevant authority for the forthcoming assessment year—

- (a) the efficient disposal costs of the relevant authority in providing a waste management service for—
 - (i) household packaging waste, and
 - (ii) except in the [2025] assessment year, binned packaging waste,for each packaging category likely to be managed by the authority in that year;

- (b) the weight, in tonnes, that relevant authority is likely to manage in the assessment year, of—
 - (i) household packaging waste, and
 - (ii) except in the [2025] assessment year, all binned packaging waste,for each packaging category likely to be managed by the authority in that assessment year.

(2) In assessing the efficient disposal costs referred to in paragraph (1)(a), the scheme administrator must, for the [2027] assessment year and any subsequent assessment year, take into account the factors referred to in regulation 75(1)(c).

(3) The scheme administrator must assess—

- (a) the total weight, in tonnes, of—
 - (i) household packaging waste, and
 - (ii) except in the [2025] assessment year, binned packaging waste, likely to be managed, by all relevant authorities in the assessment year,
- (b) the proportion of the weight referred to in sub-paragraph (a), consisting of—
 - (i) household packaging waste, and
 - (ii) except in the [2025] assessment year, binned packaging waste, in each packaging category which is likely to be sent for recycling in the United Kingdom or exported for recycling in the assessment year,
- (c) the proportion of the weight referred to in sub-paragraph (a), consisting of—
 - (i) household packaging waste, and
 - (ii) except in the [2025] assessment year, binned packaging waste, in each packaging category which is likely to be subject to recovery operations other than recycling or to disposal operations in the United Kingdom in the assessment year,
- (d) the sum of the efficient disposal costs of all relevant authorities in the assessment year in providing a waste management service for—
 - (i) household packaging waste, and
 - (ii) except in the [2025] assessment year, binned packaging waste, and
- (e) the sum of the efficient disposal costs of all relevant authorities in the assessment year in providing a waste management service for—
 - (i) household packaging waste, and
 - (ii) except in the [2025] assessment year, binned packaging waste,for each packaging category in the assessment year.

(4) In this regulation, the “efficient disposal costs” of a relevant authority are the disposal costs the relevant authority would have occurred if it had provided an efficient waste management service.

(5) For the purpose of paragraph (4)(b), a relevant authority provides an efficient waste management service if the disposal costs of the authority are as low as reasonably possible, taking into account—

- (a) the waste management service provided by the authority, and
- (b) any other factors specific to—
 - (i) that authority, or
 - (ii) to the area in relation to which it exercises its waste management functions, which in the opinion of the scheme administrator are likely to affect its disposal costs.

Adjustments to disposal costs: income and determination of net efficient disposal costs

73.—(1) The scheme administrator must assess in relation to each relevant authority the waste income the authority is expected to receive in the assessment year through the sale of—

- (a) household packaging waste, and
- (b) except in the [2025] assessment year, binned packaging waste,

for recycling, other recovery operations or disposal in each packaging category likely to be managed in that assessment year.

(2) Once the scheme administrator has determined the efficient disposal costs of a relevant authority in an assessment year for a packaging category in accordance with regulation 72, the scheme administrator must subtract from that figure the waste income expected to be earned by the authority in that packaging category in that assessment year, as calculated under paragraph (1), to determine the net efficient disposal costs for that authority.

Adjustments to disposal costs: effective service

74.—(1) Subject to paragraph (2), the scheme administrator must assess for each relevant authority in relation to each assessment year the extent to which a relevant authority is providing an effective waste management service in relation to—

- (a) household packaging waste and,
- (b) except in the [2025] assessment year, binned packaging waste.

(2) The scheme administrator may only make the assessment required by paragraph (1) where the scheme administrator has sufficient data to make that assessment in relation to all relevant authorities.

(3) In making the assessment referred to in paragraph (1), the scheme administrator may consider the following factors, where relevant to the relevant authority, together with any other factors the scheme administrator considers relevant—

- (a) the total weight, in tonnes, of—
 - (i) household packaging waste, and
 - (ii) except in the [2025] assessment year, binned packaging waste, managed, or likely to be managed, by the relevant authority in the assessment year;
- (b) the proportion of that packaging waste which is being recycled by or on behalf of the relevant authority;
- (c) any factors specific to the relevant authority or to the area in relation to which the relevant authority exercises its waste management functions, which in the opinion of the scheme administrator are likely to affect the performance of that relevant authority, including, but not limited to the factors referred to in regulation 75(1)(c);
- (d) government policies on waste management in any part of the United Kingdom, and regulatory requirements affecting waste management, so far as they are relevant to the relevant authority;
- (e) the waste management service provided by other relevant authorities in a comparable position to the first relevant authority;
- (f) how much household packaging waste and, for the [2026] assessment year or a later assessment year, binned packaging waste, a relevant authority in a comparable position to the first relevant authority would be able to manage in a year through recycling, other recovery operations and disposal operations if it was following good practice in waste management.

(4) The scheme administrator must take into account any factors referred to in paragraph (3)(c)—

- (a) in assessing whether that relevant authority is in a comparable position to other relevant authorities for the purposes of paragraph (2)(e), and

(b) in making the assessment referred to in paragraph (1) in relation to that relevant authority for the [2027] assessment year, or to a later assessment year.

(5) In assessing what amounts to good practice for the purposes of paragraph (2)(f), the scheme administrator may consider local, national or international examples of good practice.

(6) If the scheme administrator considers that a relevant authority is not providing an effective waste management service it must—

- (a) give notice in writing to the relevant authority, setting out the reasons why the scheme administrator considers that the authority is not providing an effective waste management service;
- (b) provide the relevant authority with a reasonable opportunity to discuss with the scheme administrator—
 - (i) the scheme administrator’s assessment,
 - (ii) the waste management service being delivered by the relevant authority in relation to packaging waste, and
 - (iii) how that service can be improved to make it more effective;
- (c) after complying with sub-paragraphs (a) and (b), propose a plan for the relevant authority to improve its waste management service in relation to packaging waste so that it is providing an effective waste management service in relation to packaging waste (“an improvement plan”).

(7) If, at the expiry of a period specified by the scheme administrator in the improvement plan proposed to the relevant authority, the scheme administrator considers that—

- (a) the relevant authority is still not providing an effective waste management service in relation to packaging waste, and
- (b) the relevant authority is not doing everything the authority can be reasonably expected to do to improve its waste management service in order to deliver an effective waste management service in relation to packaging waste,

the scheme administrator may, subject to paragraph (8), reduce the amount of the payments it makes to that authority in respect of its efficient disposal costs in the following assessment year to the extent that the waste management service provided by the authority is not an effective one, and for these purposes, “following assessment year” means the assessment year after the assessment year in which the scheme administrator makes that determination.

(8) The scheme administrator may not under this regulation reduce the amount of the payments it makes to that authority in respect of its disposal costs to an amount which is less than 80% of the net efficient disposal costs of the relevant authority, as determined under regulation 73(2).

(9) The scheme administrator must calculate the amount it will pay to a relevant authority in respect of its disposal costs after any reduction made by the scheme administrator under this regulation (the relevant authority’s “adjusted disposal costs”).

Procedure for assessments

75.—(1) In making any of the assessments required under regulations 72, 73 and 74, the scheme administrator may—

- (a) use data available in relation to a relevant authority relating to the years before the assessment year or data relating to the assessment year, to the extent that such data can be verified by the scheme administrator,
- (b) supplement that data with any comparative data which the scheme administrator considers relevant, and
- (c) use a standard model adjusted to reflect the factors specific to the relevant authority, including any or all of the following factors—
 - (i) the frequency, pattern and type of collections of household packaging waste and binned packaging waste in the area of that authority (“the relevant area”);

- (ii) the population density in the relevant area;
 - (iii) the type and accessibility of dwellings in the relevant area;
 - (iv) the levels of deprivation in the relevant area;
 - (v) government policies and the regulatory requirements affecting waste management to which the authority is subject;
 - (vi) any other factor the scheme administrator considers relevant to the assessment.
- (2) The scheme administrator—
- (a) subject to paragraph (3), must consult with the relevant authority concerned in making any of the assessments referred to in regulation 72(1), and
 - (b) may request from the relevant authority any information needed to enable the scheme administrator to make the assessments and adjustments referred to in sub-paragraph (a).
- (3) Paragraph (2)(a) does not apply in relation to any assessment made in relation to the assessment year starting on 1st April 20**.
- (4) The relevant authority may charge the scheme administrator the reasonable costs of providing the information referred to in paragraph (2)(b), provided that the relevant authority invoices the scheme administrator for the costs it incurs in an assessment year.
- (5) A relevant authority—
- (a) may only issue an invoice under paragraph (4) after the data has been provided to the scheme administrator;
 - (b) must issue an invoice in the assessment year in which the data was sent to the scheme administrator, and
 - (c) may not issue more than one invoice in each assessment year.
- (6) An amount charged by a relevant authority under paragraph (3) may be recovered as a debt due to the relevant authority, or set off by the relevant authority against any amount the authority owes to the scheme administrator.

Notice of assessment

- 76.**—(1) The scheme administrator must give the relevant authority notice in writing of—
- (a) the relevant authority's efficient disposal costs for each packaging category under regulation 72;
 - (b) the relevant authority's waste income for each packaging category, assessed under regulation 73(1);
 - (c) the net efficient disposal costs of the relevant authority calculated in relation to a packaging category under regulation 73(2);
 - (d) any reduction in efficient disposal costs applied under regulation 74(7);
 - (e) the amount of the relevant authority's adjusted disposal costs.
- (2) The notice given under paragraph (1) must set out in each case—
- (a) how the assessment was made,
 - (b) the reasons for the conclusions drawn,
 - (c) information on the complaints procedure established by the scheme administrator under paragraph 8 of Schedule 5, and
 - (d) the right of appeal under regulation 98(3).
- (3) If the scheme administrator has reduced the total disposal costs of a relevant authority under regulation 74(7), the notice given to the authority must include—
- (a) the reasons why the administrator concluded that the relevant authority is still not providing an effective waste management service,

- (b) the proposed improvement plan referred to in regulation 74(6)(c), if that plan has not previously been provided to the authority.

Assessment of disposal costs: scheme administrator public information services

77.—(1) The scheme administrator must determine the costs it has incurred in providing a public information service about—

- (a) the management of packaging waste, including the management of packaging waste by businesses;
 - (b) the prevention of packaging litter;
 - (c) the use of sustainable packaging.
- (2) The costs to be taken into account in that assessment include costs associated with—
- (a) the provision of advice to the public on any of the matters in paragraph (1);
 - (b) both the planning and the execution of national and local information campaigns.
- (3) Where the scheme administrator provides a public information service—
- (a) using its own staff, the cost of providing that service is to be treated as including the costs of staff and other associated administrative or managerial costs;
 - (b) by a third party on behalf of the scheme administrator, the cost of providing that service is to be treated as the sum of—
 - (i) the amount charged to the scheme administrator by the third party for providing that service to the scheme administrator in connection with that process, and
 - (ii) the associated administrative and managerial costs of the scheme administrator.

CHAPTER 4

Producer responsibility for scheme administrator costs

Administrator costs

78.—(1) A producer is liable to pay an annual administration fee under this regulation if the producer—

- (a) is a brand owner, an importer, a distributor, a service provider, an online marketplace operator, or a packer/filler,
 - (b) is a large producer, and
 - (c) supplies household packaging.
- (2) The scheme administrator must set the annual administration fees charged to producers under this regulation in an assessment year at an amount which the scheme administrator considers will enable it—
- (a) to meet expenses incurred in that assessment year in carrying out its functions or for any incidental purposes,
 - (b) to repay the principal of, and pay any interest on, any relevant borrowing, and
 - (c) to meet relevant commencement expenses.
- (3) The fees may not be charged under paragraph (2) in relation to any public information disposal costs incurred by the scheme administrator.
- (4) The scheme administrator must divide the fees charged under paragraph (1) between producers in the same proportion as annual disposal fees are divided between producers for that year.
- (5) A producer liable to pay a fee under this regulation must pay that fee—
- (a) in quarterly instalments, or as directed by the scheme administrator,
 - (b) before the expiry of 50 days after the day on which the payment became due.

(6) The scheme administrator may charge a producer interest on the amount of any annual administration fees which are not paid by the producer by the date specified on the notice of liability.

(7) Any annual administration fee or interest which is owed to the scheme administrator under this regulation may be recovered as a debt due to the scheme administrator.

(8) In this regulation—

“relevant borrowing” means any money borrowed by the scheme administrator which has been used for the purpose of meeting expenses incurred in relation to its assumption or exercise of functions under these Regulations;

“relevant commencement expenses” means expenses incurred by the scheme administrator in preparation for the exercise of functions by the scheme administrator under these Regulations.

Notice of liability

79.—(1) The scheme administrator must give each producer notice in writing of the total annual administration fee imposed under regulation 78 which is payable by the producer for each assessment year, setting out—

- (a) the amount of the annual administration fee due;
- (b) how that amount has been calculated;
- (c) the dates on which instalments of the annual administration fee are to be paid, and the amounts of each instalment.

(2) That notice must—

- (a) provide information on the complaints procedure established by the scheme administrator under paragraph 8 of Schedule 5;
- (b) state the rights of appeal available under regulation 98(1).

CHAPTER 5

Payments to relevant authorities

Distribution to relevant authorities

80.—(1) The scheme administrator must apply the monies received, or due to be received, from producers under Chapter 2 in—

- (a) making payments to a relevant authority towards the disposal costs of that relevant authority, and
- (b) in meeting the scheme administrator’s public information disposal costs.

(2) The scheme administrator must ensure that, so far as possible, where sufficient monies have been received, or are due to be received, from producers under these Regulations—

- (a) the amount paid to a relevant authority in a financial year is equal to the adjusted disposal costs of the relevant authority, and
- (b) its public information disposal costs are met.

(3) Where the monies received, or expected to be received, from producers under these Regulations are not sufficient to cover the total adjusted disposal costs of all relevant authorities and the public information disposal costs of the scheme administrator, the scheme administrator may determine—

- (a) what proportion of those monies is to be—
 - (i) distributed to relevant authorities, and
 - (ii) applied in meeting its public information disposal costs, and
- (b) how the monies distributed to relevant authorities are to be divided between those authorities.

(4) A scheme administrator is not required to distribute to relevant authorities any more money than has been received, or is due to be received, from producers, after taking account of its public information disposal costs.

(5) Payments must be made to relevant authorities in quarterly instalments during the financial year, at the end of each quarter, or following such other period as may be determined by the scheme administrator.

(6) The scheme administrator must—

- (a) as soon as reasonably possible after the date on which this regulation comes into force, give notice to each relevant authority of the total payments which it anticipates making to that relevant authority in the financial year beginning on 1st April 20**;
- (b) before 1st November in 20** and succeeding years give notice to each relevant authority of the total payments which it anticipates making to that relevant authority in the following financial year.

(7) The notice given under paragraph (5) must include the following information—

- (a) the total amount which the scheme administrator expects to pay to the relevant authority in the following financial year;
- (b) how that amount was calculated, setting out the reasons for any deductions or other adjustments which are to be made to the disposal costs payable to the relevant authority;
- (c) the date on which payments are expected to be made to the relevant authority, and the method of payment which will be used;
- (d) the right of the relevant authority to appeal against the scheme administrator's decision on the payments to be made to the relevant authority under regulation 98(3);
- (e) a statement that the amount to be paid to the relevant authority is subject to change following a recalculation under Chapter 6.

CHAPTER 6

Recalculations

Interim recalculation

81.—(1) The scheme administrator may at any time during an assessment year—

- (a) if paragraph (2) applies, recalculate the amount of the annual disposal fee LP is liable to pay under regulation 61 in relation to that assessment year,
- (b) if paragraph (3) applies, recalculate the adjusted disposal costs of a relevant authority in that assessment year.

(2) This paragraph applies where the scheme administrator considers that there is likely to be a material difference between the amount of the annual disposal fee was first assessed as being liable to pay under regulation 61 for the assessment year and that amount as recalculated (“a material difference”) because the scheme administrator—

- (a) receives further information relating to—
 - (i) the amount of packaging in each packaging category supplied by one or more producers in the assessment year, or
 - (ii) the number of producers who are liable to pay an annual disposal fee under regulation 61,
- (b) discovers an error in the calculation of the liability of one or more LPs,
- (c) determines that there is likely to be a shortfall between—
 - (i) the adjusted disposal costs of relevant authorities, and
 - (ii) the amount of the annual disposal fees received or recoverable from all LPs,in relation to that assessment year for one or more packaging categories of household packaging waste or binned packaging waste, or

- (d) reasonably considers on any other ground that there is likely to be such a material difference.

(3) This paragraph applies if the scheme administrator considers that there is likely to be a material difference between the adjusted disposal costs and the revised adjusted disposal costs of one or more relevant authorities for the assessment year (“material difference”) because the scheme administrator—

- (a) receives further information relating to—
 - (i) the efficient disposal costs of one or more relevant authorities during the assessment year,
 - (ii) the waste income being earned by one or more relevant authorities in the assessment year, or
 - (iii) the scheme administrator’s assessment of the effectiveness of the waste management service provided by one or more relevant authorities for the purposes of regulation 74,

and that information suggests that there is a material difference between the adjusted disposal costs of the relevant authorities and those costs as they would be calculated taking account of the further information (the “revised adjusted disposal costs”);

- (b) discovers an error in the calculation of any element of the adjusted disposal costs in relation to one or more relevant authorities, or
- (c) reasonably considers on any other ground that there is likely to be such a material difference.

(4) The scheme administrator—

- (a) may determine that no recalculation will be commenced under this regulation after a date in the assessment year specified by the scheme administrator, and
- (b) must notify producers and relevant authorities of that determination.

Year-end recalculation

82.—(1) The scheme administrator may after the end of an assessment year recalculate—

- (a) the annual disposal fee owed by one or more producers in relation to the assessment year if paragraph (2)(a) applies, or
- (b) the chargeable disposal costs of one or more relevant authority for that year if paragraph (2)(b) applies.
- (c) the amount owed by all producers if paragraph (3) applies.

(2) This paragraph applies if the scheme administrator has information giving it reasonable grounds to believe there is a material difference between—

- (a) the amounts charged to one or more producers under Chapter 2, or recalculated under regulation 81, in relation to an assessment year, and the amounts those producers were liable to pay in relation to that year, taking into account the circumstances listed in regulation 79(2), or
- (b) the adjusted disposal costs of one or more relevant authorities assessed under Chapter 3, or as recalculated under regulation 81, in relation to the assessment year, and the chargeable disposal costs of those relevant authorities.

(3) This paragraph applies if the total annual disposal fees collected from producers in relation to an assessment year is not sufficient to cover the sum of the chargeable disposal costs for all relevant authorities and the public information disposal costs for that year.

(4) The scheme administrator may make more than one recalculation under paragraph (1) if the scheme administrator receives new information which is relevant to the determination of the liability of an LP, or of the chargeable disposal costs of a relevant authority after the scheme administrator has completed a recalculation under paragraph (1).

(5) The scheme administrator may not make a recalculation under paragraph (1)—

- (a) unless sub-paragraph (b) applies, more than 4 years after the end of the assessment year to which the recalculation relates (“the four-year period”), or
- (b) more than 10 years after the end of the assessment year to which the recalculation relates, where—
 - (i) the scheme administrator obtains information giving it reasonable grounds to believe that there is a material difference referred to in paragraph (2) after the end of the four-year period, and
 - (ii) the scheme administrator did not obtain the information earlier because of—
 - (aa) deliberate action or omission by a producer, or a relevant authority or a person acting on their behalf, or
 - (bb) the failure by a producer to comply with its obligations under these Regulations.

(6) Where paragraph (5)(b) applies, the scheme administrator must complete any additional recalculation made under paragraph (1) as soon as reasonably practicable after the scheme administrator has obtained the new information.

(7) For the purposes of this regulation and regulation 83, a relevant authority’s “chargeable disposal costs” are the adjusted disposal costs assessed after the end of the assessment year, taking into account—

- (a) any further information received in relation to the costs of one or more authorities in that assessment year, including any information referred to in regulation 79(2)(a);
- (b) the result of any appeal by the relevant authority against the assessment of their disposal costs incurred by one or more relevant authorities in relation to that assessment year.

Adjustments to payments

83.—(1) If the scheme administrator determines following a recalculation under regulation 81(1)(a) that—

- (a) LP has been charged less than the amount LP is liable to pay under Chapter 2, the scheme administrator must require LP to pay a revised fee under regulation 61, or
- (b) LP has been charged more than the amount LP is liable to pay under Chapter 2, the scheme administrator must issue a revised notice of liability or credit note for the amount which LP is not liable to pay, or, where LP has paid more than the amount LP is now due to pay, refund the excess amount to LP.

(2) If the scheme administrator determines following a recalculation under regulation 81(1)(b) that the revised adjusted disposal costs of a relevant authority in that assessment year will be materially different to its adjusted disposal costs, the scheme administrator must if the revised adjusted disposal costs—

- (a) are greater than the adjusted disposal costs, increase the amount to be paid to the relevant authority in relation to that assessment year, or
- (b) are less than the adjusted disposal costs, reduce the amount paid to the relevant authority in relation to that assessment year.

(3) If the amounts received or assessed by the scheme administrator as being recoverable from LPs under regulation 61(1) (together “the received amounts”) in relation to an assessment year are found following a recalculation under regulation 82 to exceed the sum of the chargeable disposal costs of all relevant authorities in that assessment year, the scheme administrator must credit or refund the excess amount as soon as reasonably practicable to producers, so as to ensure so far as possible that no LP has been charged a greater amount than that LP is liable to pay in relation to that assessment year.

(4) If the received amounts are insufficient to meet the sum of chargeable disposal costs incurred by relevant authorities in an assessment year and the total public information disposal costs incurred by the scheme administrator in an assessment year, the scheme administrator—

- (a) must calculate the amount of the shortfall in relation to each packaging category of household packaging waste and binned packaging waste;
- (b) must impose an additional fee on those producers liable to pay disposal fees for the disposal costs of relevant authorities and public information disposal costs of the scheme administrator under regulation 61(1) in relation to that assessment year;
- (c) must make a further payment to each relevant authority in relation to that assessment year.

(5) Any additional fee imposed on producers under paragraph (1)(a) must be calculated by dividing the amount of the shortfall between LPs in the same proportion as their annual disposal fee, as recalculations under regulation 82 bears to the received amounts.

(6) If the monies paid to a relevant authority in respect of an assessment year under regulation 80 are found following a recalculation under regulation 82—

- (a) to exceed its chargeable disposal costs for that assessment year, the scheme administrator must deduct the amount of the excess from the amount to be paid to that relevant authority under regulation 80 in the assessment year in which the recalculation is made, or a subsequent assessment year;
- (b) to be less than its chargeable disposal costs for that assessment year, the scheme administrator must increase the amount to be paid to that relevant authority under regulation 80 in the assessment year in which the recalculation is made, or a subsequent assessment year to cover the difference.

Procedure for reconciliation assessments: interim recalculation

84.—(1) Following a recalculation under regulation 81(1), the scheme administrator must—

- (a) give each affected relevant authority notice in writing of—
 - (i) the revised adjusted disposal costs of that authority in respect of that assessment year, as calculated under regulation 81(1)(b), and
 - (ii) any amount which will be distributed to the relevant authority or deducted from the monies to be distributed to it in that assessment year or in the following financial year;
- (b) give each affected producer notice in writing of—
 - (i) any revised fee which is being imposed under regulation 83(1)(a), or
 - (ii) any amount which is to be credited or refunded to the producer under regulation 83(1)(b).

(2) A relevant authority or producer is an affected relevant authority or producer if following the recalculation there is a change to an amount previously notified to—

- (a) that relevant authority under regulation 76, or
- (b) that producer under regulation 67.

(3) The notice given to a relevant authority under paragraph (1)(a) must—

- (a) set out how the relevant authority's revised adjusted disposal costs have been calculated;
- (b) include a statement of the difference between—
 - (i) each of the costs for the assessment year notified to the relevant authority under regulation 76(1), and—
 - (ii) the relevant authority's revised adjusted disposal costs for the assessment year, as calculated under regulation 81(1)(b);
- (c) state the amount, if any, which—
 - (i) will be paid to the relevant authority, or
 - (ii) will be deducted from the monies to be distributed to the relevant authority,
- (d) state the date—

- (i) when any additional distribution will be made to the relevant authority, or
 - (ii) when the deduction referred to in sub-paragraph (c)(ii) will be made;
 - (e) provide information on the complaints procedure established under paragraph 8 of Schedule 5;
 - (f) set out the right of appeal under regulation 98(3)(c).
- (4) The notice given to LP under paragraph (1)(b) must—
- (a) set out how the revised fee referred to in paragraph (1)(b)(i) or the amount referred to in paragraph (1)(b)(ii) has been calculated;
 - (b) state whether a credit will be granted, or a refund paid, to LP;
 - (c) state the amount to be credited or refunded to LP, or the revised fee to be paid by LP;
 - (d) state the date on which the credit or refund will be made, or by which the revised fee must be paid;
 - (e) where notice is being given under paragraph (1)(b)(ii)—
 - (i) state the amount, if any, which has already been paid by LP towards LP's annual disposal fee under regulation 61 for that assessment year;
 - (ii) state the amount LP owes under regulation 61 for that assessment year following the recalculation;
 - (iii) include any additional information which would be required by regulation 67(2) in a notice of liability being issued under that regulation;
 - (iv) provide information on the complaints procedure established under paragraph 8 of Schedule 5;
 - (v) set out the right of appeal under regulation 98(1)(b).
- (5) A notice issued under—
- (a) paragraph (1)(a) replaces any notice previously issued under regulation 76, or 80(6),
 - (b) paragraph (1)(b)(ii) replaces any notice previously issued under regulation 67.

Procedure for reconciliation assessments: year-end recalculation

- 85.**—(1) Following a recalculation under regulation 82(1), the scheme administrator must—
- (a) give each affected relevant authority notice in writing of—
 - (i) the chargeable disposal costs of that authority as calculated under regulation 82(1)(b), and
 - (ii) any amount which will be distributed to the relevant authority or deducted from monies to be distributed to it;
 - (b) give each producer notice in writing of—
 - (i) any amount which is to be credited or refunded to the producer under regulation 82(1)(a), or
 - (ii) any revised fee which is being imposed under regulation 83(1)(a)
- (2) The notice given to a relevant authority under paragraph (1)(a) must—
- (a) set out how the relevant authority's chargeable disposal costs have been calculated;
 - (b) include a statement of the difference between—
 - (i) each of the costs notified to the relevant authority under regulation 76(1), and
 - (ii) the relevant authority's chargeable disposal costs for the assessment year, as calculated under regulation 82(1)(b);
 - (c) state the amount, if any, which—
 - (i) will be paid to the relevant authority, or
 - (ii) will be deducted from the monies to be distributed to the relevant authority,

- (d) state the date—
 - (i) when any additional distribution will be made to the relevant authority, or
 - (ii) when the deduction referred to in sub-paragraph (c)(ii) will be made;
 - (e) provide information on the complaints procedure established under paragraph 8 of Schedule 5;
 - (f) set out the right of appeal under regulation 98(3)(c).
- (3) The notice given to producers under paragraph (1)(b) must—
- (a) set out how the amount referred to in paragraph (1)(b)(i), or the revised fee referred to in paragraph (1)(b)(ii) has been calculated;
 - (b) state whether a credit will be granted, or a refund paid, to LP;
 - (c) state the amount to be credited or refunded to the producer, or the revised fee to be paid by LP;
 - (d) state the date on which the credit or refund will be made, or by which the revised fee must be paid;
 - (e) where notice is being given under paragraph (1)(b)(ii)—
 - (i) state the amount, if any, which has already been paid by LP towards LP’s annual disposal fee under regulation 61 for that assessment year;
 - (ii) state the amount LP owes under regulation 61 for that assessment year following the recalculation;
 - (iii) include any additional information which would be required by regulation 67(2) in a notice of liability being issued under that regulation;
 - (iv) provide information on the complaints procedure established under paragraph 8 of Schedule 5;
 - (v) set out the right of appeal under regulation 98(1)(b).
- (4) A notice issued under—
- (a) paragraph (1)(a) replaces any notice previously issued under regulation 76, 80(6) or 84, or
 - (b) paragraph (1)(b)(ii) replaces any notice previously issued under regulation 67 or 84.

PART 7

Reprocessors and Exporters

CHAPTER 1

Registration

Requirement for registration

86.—(1) A person must be registered in respect of a year, or any part of a year in which that person is a reprocessor or exporter of packaging waste—

- (a) in the case of a reprocessor, with the appropriate agency in each nation in the United Kingdom in which that person operates a reprocessing site, and
 - (b) in the case of an exporter, in relation to each packaging waste material exported by that person, with the appropriate agency in the nation in the United Kingdom in which that person is established.
- (2) A person who is required by paragraph (1) to register (“RE”) must—
- (a) hold all relevant authorisations required for RE to operate as a reprocessor or exporter, as the case may be;
 - (b) in the case of a reprocessor, submit to the appropriate agency a separate application for registration as a reprocessor for each packaging waste material reprocessed at each

reprocessing site for which RE wishes to be registered, stating in each case which recycling operations RE wishes that registration to cover;

- (c) in the case of an exporter, submit to the appropriate agency an application for registration as an exporter for each packaging waste material RE wishes to be registered to export for reprocessing outside the United Kingdom.

(3) An application for registration as a reprocessor or an exporter paragraph (2)(b) or (c) must be submitted—

- (a) on or before 1st October 20***, or
- (b) if later, before the end of a period of 28 days starting on the day on which RE first acted as a reprocessor or an exporter.

(4) Where RE is a partnership formed under the law of England and Wales or Northern Ireland, the application must be made by any partner acting on behalf of the partnership.

(5) An application for registration as a reprocessor or exporter must—

- (a) be made in such manner as the appropriate agency directs;
- (b) for an application for registration as a reprocessor, contain the information set out in paragraphs 1 to 7 of Schedule 6;
- (c) for an application for registration as an exporter, contain the information set out in paragraphs 8 to 15 of Schedule 6;
- (d) be accompanied by—
 - (i) a plan (“a sampling and inspection plan”) for approval by the appropriate agency setting out—
 - (aa) in an application for registration as a reprocessor, for each packaging waste material handled at the reprocessing site for which RE wishes to be registered, RE’s arrangements for undertaking sampling and inspection of the packaging waste received by RE for reprocessing at RE’s reprocessing site,
 - (bb) in an application for registration as an exporter, RE’s arrangements for undertaking sampling and inspection of the packaging waste RE exports, and
 - (ii) such other information as the appropriate agency reasonably requires to determine the application.

(6) The charge referred to in paragraph 5(1) of Schedule 2 must be paid when an application for registration is submitted.

(7) The appropriate agency may require RE to amend the arrangements referred to in paragraph (5)(d)(i) as a condition of granting registration.

(8) Subject to paragraph (9), an application for registration must be granted where—

- (a) the applicant has complied with paragraphs (5) and (6), and
- (b) the appropriate agency approves the arrangements proposed in the sampling and inspection plan,

and must otherwise be refused.

(9) The appropriate agency may refuse an application for registration under this regulation if the agency considers, on reasonable grounds, that RE has supplied information which is false or misleading, in either case in a material particular, in relation to the application.

(10) The appropriate agency—

- (a) may also charge RE the amount set out in paragraph 5(2) of Schedule 2, if the arrangements described in the sampling and inspection plan are changed before or after registration, whether at the request of the appropriate agency or otherwise;
- (b) must charge RE an annual amount to cover the costs of maintaining RE’s registration, as set out in paragraph 5(3) of Schedule 2, which must be paid no later than 30th September in each year in which RE is registered as a reprocessor or exporter.

(11) Any information provided by RE to the appropriate agency must be as accurate as reasonably possible.

(12) An application for registration as a reprocessor or an exporter under this regulation must be determined by the appropriate agency before the end of a period of twelve weeks starting with the day—

- (a) on which a complete application was submitted to the appropriate agency, and
- (b) the charge payable for the application under paragraph (6) has been paid,

whichever is later.

(13) An application is not complete, for the purposes of paragraph (12), unless it contains all the information required by paragraph (5).

(14) When RE's application has been determined—

- (a) the appropriate agency must notify RE in writing of its decision within 28 days after the day on which it is made, and
- (b) if the application has been refused, the notice must include—
 - (i) the reasons for the refusal, and
 - (ii) the right of appeal under regulation 97(3)(a).

Conditions of registration of reprocessors and exporters

87. Registration of a reprocessor or an exporter is subject to the conditions that the reprocessor or exporter ("RE") must—

- (a) operate in accordance with the sampling and inspection plan approved by the appropriate agency under regulation 86(8)(b),
- (b) provide any information reasonably requested by the appropriate agency with regard to the obligation referred to in paragraph (a),
- (c) inform the appropriate agency in writing of—
 - (i) any change in RE's circumstances which relates to RE's registration and, where RE is a partnership, any change of partners, and
 - (ii) any material change in the information provided in accordance with regulation 86(5), at least 28 days before the occurrence of any such change, or, if later, as soon as reasonably practicable after RE becomes aware that the change is going to occur or has occurred,
- (d) provide records and reports to the appropriate agency as required by regulation 89,
- (e) pay any fees or charges due to the appropriate agency under these Regulations,
- (f) notify the appropriate agency in writing that RE wishes to cancel RE's registration where RE has ceased to be a reprocessor or an exporter in respect of a year,
- (g) continue to hold, and comply with, all relevant authorisations required for RE to operate as a reprocessor or an exporter held by RE at registration,
- (h) comply, where applicable, with—
 - (i) the Transfrontier Shipment of Waste Regulations 2007(a),
 - (ii) Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste(b), and
 - (iii) Commission Regulation (EC) No 1418/2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the

(a) S.I. 2007/1711.

(b) EUR 2006/1013, amended by S.I. 2019/473, 590, 2020/1455, 2021/785.

European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply(a).

Cancellation of registration of reprocessors and exporters

88.—(1) The appropriate agency may cancel the registration with it of a reprocessor or an exporter where it appears to the appropriate agency that—

- (a) the reprocessor or exporter (“RE”) is in breach of any of the conditions specified in regulation 87, or
- (b) RE knowingly or recklessly supplied information which is false or misleading, in either case in a material particular, in connection with RE’s application for registration, or with compliance with any of the conditions specified in regulation 87.

(2) The appropriate agency must cancel the registration with it of RE where it appears to the appropriate agency that—

- (a) RE has died, become incapacitated, or one of the relevant circumstances referred to in regulation 55(4)(b) or (c) apply to RE, or
- (b) if RE is a corporate body or a partnership one of the relevant circumstances referred to in regulation 55(4)(a) or (c) apply to RE, or
- (c) if RE is a partnership, RE has been wound up.

(3) Before cancellation of a registration under paragraphs (1) or (2) above, the appropriate agency must serve on RE written notice of—

- (a) its decision to cancel,
- (b) the reasons for the decision,
- (c) the date when cancellation will take effect, not being earlier than the date of receipt of the notice,
- (d) the right of appeal under regulation 97(3)(b), and
- (e) a statement advising RE that failure to comply with the requirement for registration in regulation 86(1) constitutes an offence under regulation 118(9).

(4) Paragraph (3) does not apply where a registration is being cancelled because RE is dead.

Records and reporting requirements for registered reprocessors and exporters

89.—(1) Registered reprocessors and exporters must—

- (a) maintain, and retain for at least 7 years after the record is made, records of the information set out in paragraph 17 or 18 of Schedule 6, as applicable;
- (b) report that information to the appropriate agency—
 - (i) in quarterly reports, before the 21st day of the month following the end of the quarter, and
 - (ii) in annual reports, before 21st March in the year following the year to which the report relates;
- (c) make the records available to the appropriate agency on demand.

(2) The quarterly and annual reports required under paragraph (1)(b) are to be—

- (a) made in such form as the appropriate agency directs;
- (b) verified by the signature of an approved person of the reprocessor or exporter.

(3) This regulation does not apply to reprocessors and exporters who are required to maintain records paragraph 20(i) and (j) of Schedule 6 and make reports under paragraph 20(k) and (m) of Schedule 6.

(a) EUR 1418/2007, amended by S.I. 2019/590 and 2021/785.

Notification of winding-up, receivership, administration, etc

90. A company or limited liability partnership which is a registered reprocessor or exporter must inform the appropriate agency as soon as is practicable upon becoming aware that one or more relevant circumstances specified in regulation 55(4) apply or are about to apply to them.

CHAPTER 2

Accreditation

Requirement for accreditation

- 91.**—(1) A person (“RE”) must not issue a PRN or a PERN unless—
- (a) RE is established in the United Kingdom,
 - (b) RE is registered as a reprocessor or an exporter with the appropriate agency under regulation 86, and
 - (c) RE satisfies the condition in paragraph (2) if RE is issuing PRNs, and paragraph (3) if RE is issuing PERNs.
- (2) RE satisfies this condition if—
- (a) RE is, at the time of the issue of the PRN, accredited as a reprocessor by the appropriate agency in relation to each packaging waste material recycled at each of RE’s reprocessing sites, and
 - (b) RE was so accredited at the time the packaging waste material was received, and the PRN relates to packaging waste material received for recycling by RE at a reprocessing site for which RE is accredited.
- (3) RE satisfies this condition if—
- (a) RE is, at the time of the issue of the PERN, accredited as an exporter by the appropriate agency in relation to each packaging waste material which RE is exporting for recycling, and
 - (b) RE was so accredited at the time the packaging waste material was exported to and received by an overseas reprocessing site for recycling, and the PERN relates to an export of packaging waste material to one of the overseas reprocessing sites for which RE is accredited.

Application for accreditation

- 92.**—(1) A separate application for accreditation must be made to the appropriate agency by a person wishing to be accredited (“RE”)—
- (a) as a reprocessor, for each packaging waste material reprocessed at each reprocessing site for which RE wishes to be accredited, stating in each case which recycling operations RE wishes that accreditation to cover, or
 - (b) as an exporter for each packaging waste material which RE wishes to export for reprocessing outside the United Kingdom.
- (2) Each application must be—
- (a) made on the form specified by the appropriate agency, and include—
 - (i) in an application for accreditation in relation to a packaging waste material, the amount, in tonnes, of packaging waste in that material which the applicant intends to reprocess, or export for reprocessing,
 - (ii) all information specified on the application form, and
 - (iii) any other information the appropriate agency reasonably requires in order to determine the application;
 - (b) accompanied by RE’s sampling and inspection plan to be approved again by the appropriate agency setting out—

- (i) in an application for accreditation as a reprocessor, for each packaging waste material handled at the reprocessing site for which RE is seeking accreditation, RE's arrangements for undertaking sampling and inspection of packaging waste received by RE for reprocessing at RE's reprocessing site,
 - (ii) in an application for accreditation as an exporter, RE's arrangements for undertaking sampling and inspection of the packaging waste RE exports;
- (c) accompanied by a business plan containing information on how the funds acquired from the issue of PRNs or PERNs are to be applied, including information in respect of the following matters—
- (i) investment in infrastructure for reprocessing and exporting, including both the development of new infrastructure, and support and maintenance of existing infrastructure;
 - (ii) price support provided for buying packaging waste or selling recycled packaging waste;
 - (iii) support for business collections;
 - (iv) communications, including national and local information campaigns, and direct contacts with suppliers;
 - (v) the development of new markets for materials or goods made from recycled packaging waste in the United Kingdom and overseas;
 - (vi) how this revenue is used to develop new uses for recycled packaging waste material;
- (d) verified by the signature of an approved person of the reprocessor or exporter.

(3) An application for accreditation as an exporter may also identify, where known, each overseas reprocessing site to which RE wishes to export for processing outside the United Kingdom.

(4) Any information provided by RE must be as accurate as reasonably possible.

(5) The following charges must be paid at the time the application is made—

- (a) the charge provided for in paragraph 6(1)(a) of Schedule 2, and
- (b) in the case of an exporter, the charge provided for in paragraph 6(1)(b) of Schedule 2 for each overseas reprocessing site identified in the application.

(6) The appropriate agency may request RE to amend the sampling and inspection plan referred to in paragraph (2)(b) or the business plan referred to in paragraph (2)(c) as a condition of granting accreditation.

(7) If the amount of material referred to in paragraph (2)(a)(i) changes, the appropriate agency may charge RE the fee referred to in paragraph 6(3) of Schedule 2.

(8) If the sampling and inspection plan referred to in paragraph (2)(b) or the business plan referred to in paragraph (2)(c) is amended before accreditation or after accreditation, whether at the request of the appropriate agency or otherwise, the appropriate agency may also charge RE the fee set out in paragraph 6(2) of Schedule 2.

(9) An application for accreditation as—

- (a) a reprocessor to issue PRNs for the receipt and recycling of a packaging waste material at a specified reprocessing site, or
- (b) an exporter, to issue PERNs for the export of a packaging waste material for reprocessing to an overseas reprocessing site,

must be granted where the appropriate agency approves the sampling and inspection plan referred to in paragraph (2)(b) and is satisfied as to the matters set out in paragraph (10), and in any other case, must be refused.

(10) The matters referred to in paragraph (9) are—

- (a) the contents of the business plan referred to in paragraph (2)(c);

- (b) where the application is made for accreditation as an exporter and relates to one or more overseas reprocessing sites, that any recycling operations taking place on each such site take place under conditions that are broadly equivalent to requirements applicable to reprocessing sites in the United Kingdom;
- (c) that the application has been made in accordance with paragraph (2) above;
- (d) that the charges required by paragraph (5) has been paid;
- (e) that RE is a fit and proper person to be granted accreditation in accordance with these Regulations.

(11) Subject to paragraph (12) and regulation 94, where accreditation is granted under paragraph (9), it is to take effect—

- (a) where the application is made in the preceding year to that in which the person wishes to be accredited—
 - (i) from 1st January where the decision to accredit was made before that date, and
 - (ii) in all other cases, from the date of the decision,
 and it remains in force until 31st December in the year for which the person has applied to be accredited;
- (b) where the application is made during the year in which the person wishes to be accredited, from the date of the decision, and it remains in force until 31st December in that year.

(12) Where an exporter has not identified the overseas reprocessing sites to which RE wishes to export packaging waste for reprocessing in their application for accreditation, their accreditation does not take effect until one or more overseas reprocessing sites have been added to their accreditation under paragraph (13).

(13) An exporter may, after being granted accreditation, apply to the appropriate agency for an overseas reprocessing site or a further overseas reprocessing site to which they want to export packaging waste for reprocessing to be added to their accreditation.

(14) The charge provided for in paragraph 6(1)(c) of Schedule 2 must be paid at the time an application under paragraph (13) is made.

(15) An application under paragraph (13) must be granted by the appropriate agency where the appropriate agency is satisfied that—

- (a) the recycling operations taking place on the site take place under conditions that are broadly equivalent to requirements applicable to reprocessing sites in the United Kingdom,
- (b) the charge required by paragraph (14) has been paid, and
- (c) RE has complied with, and will continue to comply with, the conditions of accreditation referred to in regulation 93,

and in any other case must be refused.

(16) The appropriate agency must notify the applicant in writing of its decision under paragraph (9) or paragraph (15) no later than twelve weeks after the date on which the agency has received a complete application, and for these purposes, an application is only complete if—

- (a) the applicant has provided the agency with any information required by the agency to determine the application, including, in the case of an application under paragraph (1), the information required in paragraph (2), and
- (b) the charge referred to in paragraph (5) or paragraph (14) has been paid.

(17) If the decision is to refuse accreditation, to grant accreditation subject to additional conditions, or to refuse to add an overseas reprocessing site to an accreditation, the notification given under paragraph (16) must include the reasons for the decision and, where applicable, a statement of the right of appeal under regulation 97(3)(c).

Conditions of accreditation

93. An accredited reprocessor or exporter must—

- (a) inform the appropriate agency in writing of—
 - (i) any change in RE’s circumstances which relates to RE’s accreditation and, where RE is a partnership, any change of partners, and
 - (ii) any material change in the information provided in accordance with regulation 92(2), at least 28 days before the occurrence of any such change, or, if later, as soon as reasonably practicable after RE becomes aware that the change is going to occur or has occurred,
- (b) comply with—
 - (i) the conditions of registration specified in regulation 87,
 - (ii) the conditions in regulation 91(1)(a) and (b);
 - (iii) the condition in regulation 91(2), in the case of a reprocessor, and 91(3) in the case of an exporter;
 - (iv) the conditions specified in Part 3 of Schedule 6;
 - (v) any other conditions specified by the appropriate agency in the grant of accreditation.

Suspension and cancellation of accreditation

94.—(1) The appropriate agency may suspend or cancel the accreditation of a reprocessor or exporter (“RE”) where it appears to it that—

- (a) RE has failed to comply, or there are reasonable grounds for considering that P is likely to fail to comply, with any of the conditions specified in regulation 93,
- (b) RE has knowingly or recklessly supplied information which is false or misleading, in either case in a material particular, to the appropriate agency in, or in connection with—
 - (i) their application for registration under regulation 86,
 - (ii) their application for accreditation under regulation 92(1),
 - (iii) their application to add an overseas reprocessing site to their accreditation under regulation 92(12),
 - (iv) any other requirement of these Regulations, or
- (c) RE is not, or has at any time ceased to be, a fit and proper person, as required by regulation 92(10)(e).

(2) Where the appropriate agency has granted an accreditation to an exporter, and is no longer satisfied that the requirements in regulation 92(10)(b) or (15)(a), as applicable, are met in relation to an overseas reprocessing site covered by that accreditation, the appropriate agency must suspend or cancel the accreditation of an exporter to the extent that it relates to exports to that site.

(3) The appropriate agency must cancel the accreditation of RE where RE’s registration is cancelled under regulation 88.

(4) Where the appropriate agency suspends or cancels an accreditation under paragraph (1), (2) or (3), it must serve on RE written notice of—

- (a) its decision to suspend or cancel (as the case may be) the accreditation,
- (b) the reasons for the decision,
- (c) the right of appeal under regulation 97(3)(e),
- (d) the date when the suspension or cancellation will take effect, not being earlier than the date of receipt of the notice, and
- (e) in the case of a suspension, the period of the suspension or any steps which are required to be taken in order to bring the suspension to an end.

(5) The accreditation of RE is deemed to be cancelled—

- (a) on the date on which either of the following occurs—
 - (i) the person who is accredited ceases to be the holder of a relevant authorisation for—
 - (aa) the operation of the site for which the person is accredited in the case of a reprocessor, or
 - (bb) the export of packaging waste material for which the person is accredited in the case of an exporter, or
 - (ii) the person who is accredited ceases to be a reprocessor or exporter, or
- (b) in a case where the person who is accredited requests that the accreditation should be cancelled, with effect from the date for cancellation specified by that person.

Notification of winding-up, receivership, administration, etc

95. A company or limited liability partnership which is an accredited reprocessor or exporter must inform the appropriate agency as soon as is practicable upon becoming aware that one or more relevant circumstances specified in regulation 55(4) apply or are about to apply to them.

PART 8

Appeals

Interpretation

96. In this Part, “appeal body” means—

- (a) in relation to England and Wales, the First-tier Tribunal;
- (b) in relation to Northern Ireland, the Planning Appeals Commission of Northern Ireland;
- (c) in relation to Scotland, for an appeal under—
 - (i) regulation 97, the Scottish Ministers;
 - (ii) regulation 98, the sheriff.

Right of appeal

97.—(1) A producer may appeal to the appeal body against a decision of the appropriate agency—

- (a) to refuse to grant an application for registration under regulation 39(1), or
- (b) to cancel registration under regulation 41(1).

(2) The operator of a scheme may appeal to the appeal body against a decision of the appropriate agency—

- (a) to refuse to grant an application for approval under regulation 33(4);
- (b) to withdraw approval under regulation 35(1)(a) or (4);
- (c) to refuse to grant an application for registration of a scheme under regulation 44(1);
- (d) to cancel the registration of a scheme under regulation 45(1) or (2).

(3) A reprocessor or exporter may appeal to the appeal body against a decision of the appropriate agency—

- (a) to refuse to grant an application for registration under regulation 86(8) or (9),
- (b) to cancel registration under regulation 88(1),
- (c) to refuse accreditation under regulation 92(9) or (15),
- (d) to specify a condition pursuant to regulation 93(b)(v), or
- (e) to suspend or cancel accreditation under regulation 94(1), (2) or (3).

(4) An approved person may appeal to the appeal body against a refusal to approve a delegation of their functions under regulation 111(2)(b) or the withdrawal of such an approval under regulation 111(7).

(5) A person on whom a civil sanction has been imposed under Part 11 may appeal to the appeal body against the imposition of that sanction.

Right of appeal: disposal costs and scheme administrator costs

98.—(1) A producer may appeal to the appeal body against a decision of the scheme administrator—

- (a) to issue a notice of liability to pay an annual disposal fee under regulation 67 or an annual administration fee under regulation 79;
- (b) to issue a notice of a revised fee under regulation 84(1)(b)(i).

(2) The grounds for an appeal under paragraph (1) include that—

- (a) the producer is not liable to pay disposal fees under regulation 61(2), or to pay a fee towards scheme administrator costs under regulation 78(1);
- (b) the amount which the producer has been assessed as being liable to pay has been miscalculated.

(3) A relevant authority may appeal to the appeal body against a decision of the scheme administrator—

- (a) assessing its disposal costs under Chapter 3 of Part 6,
- (b) as to the amount to be distributed to the relevant authority under Chapter 5 of Part 6, or
- (c) recalculating its disposal costs under Chapter 6 of Part 6.

(4) The grounds for an appeal under paragraph (3) include that—

- (a) the disposal costs of the relevant authority have been miscalculated;
- (b) the scheme administrator has reduced the disposal costs of the relevant authority when it was not entitled to do so under regulation 73(2) or 74(7);
- (c) that the scheme administrator has failed to comply with the procedural requirements set out in regulation 74 or 75;
- (d) that the scheme administrator has failed to pay the correct amount to the relevant authority under regulation 80.

(5) No appeal may be brought under this regulation unless the appellant has first brought a complaint against the scheme administrator under the complaints procedure established by the scheme administrator under paragraph 8 of Schedule 5.

Procedure on appeals

99.—(1) The appeal body may, in relation to a decision, or the imposition of a requirement or service of a notice —

- (a) quash the decision, or withdraw the requirement or notice, in whole or in part;
- (b) confirm the decision, requirement or notice, in whole or in part;
- (c) vary the decision, requirement or notice in whole or in part;
- (d) take any steps the appropriate agency, the labelling authority or the scheme administrator could take in relation to the matters giving rise to the decision, or the act or omission giving rise to the requirement or notice;
- (e) remit the decision, including a decision whether to confirm the requirement or notice, or any matter relating to that decision, to the appropriate agency, the labelling authority or the scheme administrator.

(2) Where an appeal is made to the Scottish Ministers or the Planning Appeals Commission of Northern Ireland, they may—

- (a) appoint any person to exercise on their behalf, with or without payment, the function of determining the appeal, or
- (b) refer any matter involved in the appeal to such person as the Scottish Ministers or the Planning Appeals Commission of Northern Ireland may appoint for the purpose, with or without payment.

(3) When an appeal is made to the Scottish Ministers or the Planning Appeals Commission of Northern Ireland, if the appellant so requests, or the Scottish Ministers or Planning Appeals Commission of Northern Ireland so decide, the appeal must be or continue in the form of a hearing.

(4) Schedule 7 makes further provision about the procedure on an appeal.

Status pending appeal

100.—(1) Where an appeal is made to the appeal body under regulation 97 or 98—

- (a) subject to sub-paragraph (b) and paragraph (2), the decision which is the subject of the appeal has effect until the appeal is determined or withdrawn, unless the appeal body decides otherwise;
- (b) any—
 - (i) civil sanction imposed under regulation 119 notice, other than a compliance notice, or
 - (ii) enforcement cost recovery notice issued under regulation 120,which is the subject of the appeal is suspended until the appeal is determined or withdrawn.

(2) In a case of an appeal under regulation 97(1)(b), the decision appealed against is ineffective until the appeal is granted, dismissed or withdrawn; and if the appeal is dismissed or withdrawn the decision becomes effective from the end of the day on which the appeal is dismissed or withdrawn.

Determination of appeals

101. Where, following an appeal under this Part, the relevant appeal body determines that the decision of the scheme administrator, the labelling authority or the appropriate agency is to be varied or remitted to that body for reconsideration, the scheme administrator or appropriate agency, as the case may be, must—

- (a) comply with any directions given to it by the appeal body, and
- (b) take any steps necessary to give effect to the appeal body's determination.

PART 9

Groups of companies, Pub Operating Businesses and Licensors

Packaging handled by groups of companies

102. The provisions of Schedule 8 apply with regard to groups of companies as defined in that Schedule.

Packaging handled by licensors and pub operating businesses

103.—(1) Where in the relevant year and in the preceding year a person is a licensor which is not a small or large producer, the provisions of Parts 1 and 2 of Schedule 9 apply to determine whether that person has obligations as a licensor.

(2) Where in the relevant year and in the preceding year a person is a pub operating business which is not a small or large producer, the provisions of Parts 1 and 3 of Schedule 9 apply to determine whether that person has obligations as a pub-operating business.

(3) This regulation does not affect any obligations which a licensor or a pub operating business which is a large or small producer has under these Regulations.

(4) For the purposes of this regulation and Schedule 9 a person (“L”) is a licensor where L is a party to a licence agreement in or under which L grants a licence to use a trade mark to another.

(5) For the purposes of this regulation and Schedule 9, a person (“P”) is a pub operating business where—

- (a) P is a party to a pub operating agreement in or under which P grants a lease or tenancy of premises to another, and
- (b) the premises to which the pub operating agreement relates—
 - (i) in England or Wales, are used by the tenant in order to carry on the activity of—
 - (aa) the sale by retail of alcohol for consumption on the premises or both on and off the premises, or
 - (bb) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club, for consumption on the premises or both on and off the premises, and a premises licence is in force in respect of the premises;
 - (ii) in Scotland, are used by the tenant for the sale by retail or supply of alcohol for consumption on the premises or both on and off the premises, and a premises licence is in force in respect of the premises;
 - (iii) in Northern Ireland, are used by the tenant for the sale of intoxicating liquor by retail for consumption either in or off the premises, or for consumption off the premises, and a premises licence is in force in respect of the premises.

(6) In the definition of pub operating business in paragraph (5)—

- (a) in relation to England and Wales—
 - (i) “alcohol” has the same meaning as in section 191 of the Licensing Act 2003^(a) and “alcoholic” is to be construed accordingly,
 - (ii) “premises licence” has the same meaning as in section 11 of the Licensing Act 2003,
 - (iii) “supply of alcohol” has the same meaning as in section 14 of the Licensing Act 2003, and
 - (iv) “sale by retail” in relation to any alcohol has the same meaning as in section 192 of the Licensing Act 2003;
- (b) in relation to Scotland—
 - (i) “alcohol” has the meaning given in section 2 of the Licensing (Scotland) Act 2005^(b);
 - (ii) “premises licence” has the meaning given in section 17 of that Act;
- (c) In relation to Northern Ireland—
 - (i) “intoxicating liquor” has the meaning given in Article 2 of the Licensing (Northern Ireland) Order 1996^(c);
 - (ii) “premises licence” means a licence for premises granted under Article 7 or 11 of the Licensing (Northern Ireland) Order 1996;
 - (iii) “selling by retail” has the meaning given in section 4(4) of the Alcoholic Liquor Duties Act 1979^(d).

(a) 2003 c. 17.

(b) 2005 asp 16. Section 2 was amended by section 54 of the Air Weapons and Licensing (Scotland) Act 2015 (asp 10).

(c) S.I. 1996/3158 (N.I. 22).

(d) 1979 c. 4.

(7) For the purposes of this regulation and Schedule 9—

“licence agreement” means an agreement or number of related agreements in or under which the licensor grants the licensee a licence that—

- (a) allows the licensee to use a trade mark as the name under which the licensee sells or otherwise supplies from premises goods that are associated with that trade mark, and
- (b) includes an obligation (whether expressed as a positive or as a negative obligation) on the licensee that relates to the presentation of those premises;

“licensee” means the party to a licence agreement to whom a licence to use a trade mark is granted;

“premises” means any sales outlet on which packaging is handled and includes any land, vehicle, vessel, mobile plant and stall;

“pub operating agreement” means an agreement or number of related agreements in or under which P grants a tenancy or lease of premises to another person (the tenant) that includes an obligation (whether expressed as a positive or as a negative obligation) on the tenant to purchase some or all of the alcohol or intoxicating liquor (as the case may be), to be sold or otherwise supplied on or from the premises, from P or from a person or persons nominated or authorised by or on behalf of P;

“tenant” means the party to a pub operating agreement to whom the lease or tenancy of premises is granted.

PART 10

Powers and duties of the Agencies and Labelling Authority

Monitoring

104.—(1) The appropriate agency shall monitor in accordance with this regulation—

- (a) compliance by producers with—
 - (i) their producer responsibility obligations;
 - (ii) their take back obligations;
- (b) compliance by operators of schemes with—
 - (i) the obligations referred to in regulation 31;
 - (ii) the conditions referred to in regulation 34(1) and (2);
- (c) compliance by reprocessors and exporters with the requirement to register in regulation 86(1);
- (d) compliance by registered reprocessors or exporters with the conditions in regulation 87;
- (e) compliance by reprocessors and exporters with the requirement to obtain accreditation as a reprocessor or exporter in regulation 91(1);
- (f) compliance by accredited reprocessors or exporters with the conditions referred to in regulation 93(b) to (d).

(2) The duty in paragraph (1) above includes a duty to monitor—

- (a) the registration of producers as required by regulation 16(2), 17(2), 18(2) and 28(1)(a),
- (b) the accuracy of the information provided by producers under regulations 29, 37 and 40,
- (c) the accuracy of the returns provided to the appropriate agency by producers under regulation 22(1), 50, 51 and 52,
- (d) the accuracy of the information contained in certificates of compliance provided by large producers to the appropriate agency under regulation 53,
- (e) the accuracy of the information provided by operators of schemes under regulations 42 and 43,

- (f) the accuracy of the returns provided to the appropriate agency by operators of compliance schemes under regulations 34(2)(c) and 54, and
- (g) the accuracy of the information provided by reprocessors and exporters under regulations 86, 87, 89 and 92, and Part 3 of Schedule 6.

(3) The labelling authority must monitor compliance by producers with the requirements in Chapter 2 of Part 2, including reviewing the accuracy of recyclability assessments made by producers under regulation 22(1)(a), and of other information provided by producers under that Chapter.

(4) Each appropriate agency and the labelling authority must, as part of the monitoring undertaken under this regulation, monitor a sample of producers each year.

Powers to obtain information

105.—(1) The appropriate agency may, by notice in writing served on a person specified in paragraph (2), require that person to—

- (a) maintain records of, and
- (b) supply to the appropriate agency in such form, and within such period following service of the notice, or at such time, as is specified in the notice,

any information specified in the notice which the appropriate agency reasonably considers it needs for the purposes of the discharge of its functions under these Regulations.

(2) The persons referred to in paragraph (1) are—

- (a) any person who has, or who the appropriate agency has reason to believe has producer responsibility obligations or take back obligations,
- (b) in relation to any person who is a member of a registered scheme, the operator of that scheme,
- (c) any registered or accredited reprocessor or exporter, or
- (d) any person who is, or who the appropriate agency has reason to believe is—
 - (i) issuing or purporting to issue PERNs or PRNs, or
 - (ii) engaged in trading in, or brokerage in relation to, PERNs or PRNs.

Monitoring plan and enforcement

106.—(1) The appropriate agency must provide to the appropriate authority by 1st December, and publish by 31st December, in each year its proposed monitoring plan in respect of the following calendar year, describing—

- (a) its policy in relation to the monitoring it is required to carry out under regulation 104;
- (b) details of the monitoring it proposes to carry out in the following calendar year, including details of its proposals to monitor a sample of producers under regulation 104(4).

(2) The appropriate agency must publish by 31st May in 20** and in subsequent years a report setting out—

- (a) the monitoring and enforcement activities it has undertaken in the previous calendar year, and
- (b) the extent to which those activities have implemented its monitoring plan for the year reported on, including a description of its performance against the monitoring plan.

(3) The labelling authority must publish by 31st May in 20** and in subsequent years a report setting out the monitoring and enforcement activities it has undertaken in the previous calendar year.

Fit and proper person test

107.—(1) The appropriate agency may determine whether a person is a fit and proper person for the purposes of these Regulations.

(2) The appropriate agency may not determine that a person is a fit and proper person unless the appropriate agency is satisfied that the person will comply or will secure compliance with the conditions which apply—

- (a) to the approval of a registered scheme, where the person is an operator of a scheme;
- (b) to the accreditation of a reprocessor or an exporter, as the case may be, where the person is a reprocessor or an exporter.

(3) In making the determination referred to in paragraph (1), the appropriate agency may take into account—

- (a) whether the person, or a relevant associate of the person, is failing, or has in the past failed, to comply with—
 - (i) any of the conditions described in paragraph (2), whether imposed in or under these Regulations, the 2007 Regulations or 2007 (NI) Regulations, or
 - (ii) any regulatory requirements applying to that person or that person's activities,
- (b) whether the person, or a relevant associate of the person, has been convicted of a relevant offence,
- (c) the nature and seriousness of any failure to comply referred to in sub-paragraph (a), or relevant offence referred to in sub-paragraph (b), and
- (d) any other factor which the appropriate agency considers relevant to its determination.

(4) The appropriate agencies must publish joint guidance about the criteria which they will apply in determining whether a person is a fit and proper person for the purposes of these Regulations.

(5) For the purposes of sub-paragraph (3)—

“regulatory requirements” mean requirements imposed in or under primary or secondary legislation or retained EU law, including but not limited to requirements relating to the protection of the environment;

“relevant associate” means—

- (a) where the person whose status as a fit and proper person is being considered (“P”) is an individual—
 - (i) any body corporate of which P is or has been a director, manager, secretary or other similar officer, or over which P has, or has had, significant control;
 - (ii) any partnership (other than a limited liability partnership) of which P is, or has been, a partner;
 - (iii) any limited liability partnership of which P is, or has been, a member;
 - (iv) any individual who is an officer of a body corporate referred to in paragraph (i), a partner of a partnership referred to in paragraph (ii), or a member of a limited liability partnership referred to in paragraph (iii);
- (b) where P is a partnership (other than a limited liability partnership), a partner or former partner;
- (c) where P is a limited liability partnership, a member or former member;
- (d) where P is a body corporate—
 - (i) a current or former director, manager, secretary or other similar officer,
 - (ii) any other body corporate of which a director, manager, secretary or other similar officer of P is or has been a director, manager, secretary or other similar officer,
 - (iii) any body corporate within the same group as P, or over which a person who has significant control over P also has significant control; and

- (iv) any person who is a member of that body corporate;
 - (e) where P is an unincorporated association, any officer of the association, or member of its governing body;
 - (f) an employee of—
 - (i) P,
 - (ii) a partnership (other than a limited liability partnership) of which P is or has been a partner,
 - (iii) a limited liability partnership of which P is or has been a member, or
 - (iv) a body corporate of which P is or was a director, manager, secretary or other officer,
 - (g) any other person who plays a significant role in—
 - (i) the making of decisions about how the whole or a substantial part of P’s activities are to be managed, controlled or operated, or
 - (ii) the actual management, control or operation of the whole or a substantial part of those activities,
 - (h) a person who is an approved person under regulation 110 in relation to P, and
 “relevant offence” means an offence which the appropriate agency considers to be relevant to the determination referred to in paragraph (1).
- (6) For the purposes of the definition of “relevant associate” in paragraph (5)—
- “group” means a parent undertaking and its subsidiary undertakings, and for this purpose, “parent undertaking” and “subsidiary undertakings” have the meanings given in section 1162 of the Companies Act 2006, read with Schedule 7 to that Act^(a);
- “significant control” has the meaning given in section 790C of, and Part 1 of Schedule 1A to, the Companies Act 2006^(b).

Guidance

108.—(1) The appropriate agencies and the labelling authority may each from time to time publish guidance consisting of such information or advice as it considers appropriate in relation to the operation of any provision of these Regulations.

(2) The appropriate agencies must jointly publish a list of protocols applying in the United Kingdom which are approved by all the appropriate agencies for the purposes of paragraph 21(1)(b) of Schedule 6.

Public register

109.—(1) The appropriate agencies must jointly maintain and make available in accordance with this regulation a register relating to—

- (a) the schemes approved in accordance with Part 3,
- (b) the producers and schemes registered in accordance with Part 4,
- (c) the reproprocessors and exporters registered in accordance with Part 7, and
- (d) the reproprocessors and exporters accredited in accordance with Part 7.

(2) The register must contain the information prescribed in Schedule 10.

(3) The appropriate agencies must ensure that the register can be inspected online.

(4) The register may be kept in any form but must be indexed, arranged and searchable so that members of the public can readily trace information contained in it.

(a) 2006 c. 46.
 (b) Section 790C was inserted, with Part 21A by paragraph 1 of Schedule 3, to the Small Business, Enterprise and Employment Act 2015 (c. 26), and amended by S.I. 2015/1329, 2029, 2016/136, 2017/693, 694, 2019/348. Schedule 1A was inserted by paragraph 2 of Schedule 3 to that Act.

(5) The appropriate agencies must enter information on the register as soon as reasonably practicable after it comes into their possession.

(6) Nothing in this regulation or in Schedule 10 requires the register to contain information relating to, or to anything which is the subject-matter of, any criminal proceedings, including prospective proceedings, at any time before those proceedings are finally disposed of.

(7) Nothing in this regulation or in Schedule 10 requires the register to contain any information which has been superseded by later information after 7 years have elapsed from that later information being entered in the register.

Approved persons

110.—(1) The appropriate agency may approve a person listed in paragraph (2) for the purposes of—

- (a) in relation to a producer—
 - (i) verifying information and reports in accordance with regulations 38(2) and 46(2)(b) and, where the reports are submitted by the producer, in accordance with regulation 49(3)(b), and
 - (ii) issuing certificates of compliance in accordance with regulation 53;
- (b) in relation to the operator of a scheme—
 - (i) verifying the information referred to in regulation 38(2);
 - (ii) verifying reports under regulation 31(6);
 - (iii) signing the form referred to in regulation 42(7);
 - (iv) verifying reports in accordance with regulation 49(3)(b), where they are submitted by the operator of the scheme;
 - (v) signing the statement referred to in regulation 54(6);
- (c) in relation to a reprocessor or an exporter—
 - (i) submitting reports under regulation 89(2)(b);
 - (ii) verifying applications for accreditation under regulation 92(2)(d);
 - (iii) verifying reports under paragraph 20(n) of Schedule 6.

(2) A person listed is, where the relevant person—

- (a) is an individual, that individual,
- (b) is a partnership, a partner,
- (c) is a limited liability partnership, a member of that partnership,
- (d) is a company registered in the United Kingdom, a director or company secretary of that company,
- (e) is an unincorporated body, an individual who has control or management of that body, or
- (f) does not have a registered office in the United Kingdom, an individual who has control or management of the relevant person.

(3) For the purposes of paragraph (2), the “relevant person” means a producer, the operator of a scheme, an exporter or a reprocessor (as the case may be).

(4) An approved person may delegate their functions to any other person, subject to the delegation being approved under regulation 111 by the appropriate agency.

(5) An approved person who has delegated functions under paragraph (4) may continue to perform those functions.

(6) For the purposes of these Regulations, an act of a delegate performing the functions of an approved person on that person’s behalf is to be treated as an act of the approved person.

(7) In this regulation, and in regulation 111, “functions” means the functions referred to in paragraph (1)(a), (b) and (c).

Delegation of approved persons' functions: procedure

111.—(1) An approved person who wishes to delegate the person's functions to another person under regulation 110(4) must apply to the appropriate agency for approval on a form supplied for that purpose by that agency, signed by the approved person and the proposed delegate.

(2) An application for approval under paragraph (1) must, within 28 days of receipt of the application—

- (a) be granted where the appropriate agency is satisfied that the proposed delegate, taking into account the factors specified in paragraph (3), is capable of carrying out the functions on behalf of the approved person, or
- (b) otherwise be refused.

(3) The factors mentioned in paragraph (2)(a) are—

- (a) if the proposed delegate is an employee of the relevant person, the proposed delegate's level of seniority,
- (b) if the proposed delegate is not an employee of the relevant person, the nature of the proposed delegate's relationship with the approved person,
- (c) the degree of the proposed delegate's knowledge of, or access to, information necessary for the purposes of carrying out the functions on behalf of the approved person, and
- (d) any other factor which the appropriate agency reasonably thinks is relevant.

(4) For the purposes of paragraph (3), the "relevant person" means the producer, operator of a scheme, exporter or reprocessor whose approved person is applying to delegate their functions.

(5) An approval granted in accordance with paragraph (2)(a) may be for such period, or subject to such conditions, as the appropriate agency may specify.

(6) Where an application for approval is determined, the appropriate agency must notify the approved person and the proposed delegate in writing of the determination within 28 days of its decision, setting out—

- (a) where the application is granted, any conditions it has imposed pursuant to paragraph (4);
- (b) where the application is refused—
 - (i) the reasons for that refusal, and
 - (ii) the right of appeal under regulation 97(4).

(7) The appropriate agency may decide to withdraw approval granted under paragraph (2)(a) if it is no longer satisfied of the matters referred to in that paragraph and, if such a decision is taken, must serve on the approved person and the delegate written notice of—

- (a) the decision to withdraw approval,
- (b) the reasons for the decision,
- (c) the date on which the withdrawal takes effect, and
- (d) the right of appeal under regulation 97(4).

(8) If an approved person proposes to revoke a delegation approved under paragraph (2)(a), the approved person must serve written notice on the appropriate agency and on the delegate of this and of the date when the revocation takes effect.

Enforcement powers

112.—(1) A person who appears suitable to the appropriate agency or to the labelling authority may be authorised in writing by that agency or authority for the purposes of its functions under these Regulations to exercise the powers referred to in paragraph (2) below.

(2) The powers are those set out in—

- (a) section 108(4)(a) to (ka) of the 1995 Act (powers of enforcing authorities and persons authorised by them) as they apply in relation to each of England, Wales and Scotland, and

- (b) Article 72(2)(a) to (j) of the 1997 Order (powers of enforcing authorities and persons authorised by them) as they apply in relation to Northern Ireland.
- (3) For this purpose, section 108(4) of the 1995 Act and Article 72(2) of the 1997 Order are to be read as if—
- (a) references to the authorised person were references to a person authorised under paragraph (1) of this regulation,
 - (b) references to the enforcement authority were references to the appropriate agency or the labelling authority, and
 - (c) the modifications in paragraph (4) apply.
- (4) The modifications referred to in paragraph (3)(c) are that—
- (a) the words “(or, in an emergency, at any time and, if need be, by force)” in section 108(4)(a) and Article 72(2)(a) were omitted;
 - (b) the references in section 108(4)(f) and in Article 72(2)(f) to articles or substances in relation to which samples may be taken were to packaging and packaging materials and as if the power in that paragraph to take samples of the air, water or land in, on, or in the vicinity of, the premises were omitted;
 - (c) the powers set out in section 108(4)(d) and (g) and Article 72(2)(d) and (g) were omitted;
 - (d) in section 108(4)(h) and Article 72(2)(h)—
 - (i) the references to any article or substance as is mentioned in paragraph (g) were to any sample as is mentioned in sub-paragraph (b) above;
 - (ii) the references in section 108(4)(h)(iii) and in Article 72(2)(h)(iii) to an offence were to an offence under regulation 118;
 - (iii) for the words from “a variation notice” to the end of sub-paragraph (iii) and paragraph (iii) respectively, there were substituted “the imposition of a civil sanction under regulation 119 or the Environment Regulations (Enforcement Measures) (Scotland) Order 2015(a)”;
 - (e) section 108(4)(h)(iv), as it applies to Scotland, were omitted;
 - (f) the references in section 108(4)(k) and in Article 72(2)(j)—
 - (i) to records were to the records and returns required to be kept and provided to the appropriate agency under these Regulations, or under the 2023 Data Regulations, and
 - (ii) to information recorded in computerised form included any information recorded electronically;
 - (g) the words “(other than an article or substance within paragraph (g))” in section 108(4)(ka)(ii), as it applies to England and Wales, were omitted;
 - (h) the reference in section 108(4)(ka), as it applies to Scotland, to an offence under any of the pollution control enactments, or under section 40(1) of the Regulatory Reform (Scotland) Act 2014 were to an offence under these Regulations.
- (5) The provisions of section 108(6) to (7A), (7D) to (7F) and section 108A of the 1995 Act (as it applies to Scotland) and Article 72(4) and (5) of the 1997 Order apply to the powers conferred by paragraphs (1) and (2) as they apply to the powers conferred by section 108(4) of the 1995 Act and Article 72(2) of the 1997 Order respectively, but as if any reference to an authorised person were to a person authorised under paragraph (1) of this regulation, and as if—
- (a) in section 108(6), and Article 72(4), the words “or to take heavy equipment on to any premises which are to be entered” were omitted;
 - (b) in section 108(6) and (7), and Article 72(4) and (5), the words “Except in an emergency” were omitted;
 - (c) in section 108(7A), as it applies to England and Wales—

(a) S.S.I. 2015/383.

- (i) the reference to “subsection (4)(ka)” were a reference to “subsection (4)(f), (h), (k) and (ka)”, and
- (ii) the words “This is subject to subsections (7B) and (7C)” were omitted;
- (d) in section 108(7A) as it applies to Scotland—
 - (i) the reference to “subsection (4)(ka)” were a reference to “subsection (4)(f), (h), (k) and (ka)”, and
 - (ii) the words “to seize and remove documents” were omitted;
- (e) in Article 72 of the 1997 Order, there were inserted after paragraph (5)—
 - “(5A) An authorised person may not exercise the powers in paragraph (2)(f), (h) and (j) without—
 - (a) the consent of a person entitled to grant access to material on or accessible from the premises, or
 - (b) the authority of a warrant by virtue of Schedule 4 to this Order.”.

(6) The provisions of section 108(12), (12A) (as that provision applies to England and Wales) and (13) of the 1995 Act, and Article 72(9) and (10) of the 1997 Order apply to the powers conferred by paragraphs (1) and (2) as they apply to the powers conferred by section 108(4) of the 1995 Act and by Article 72(2) of the 1997 Order.

(7) The provisions of paragraphs 2 to 6 of Schedule 18 to the 1995 Act and paragraphs 2 to 5 of Schedule 4 to the 1997 Order (supplemental provisions with respect to powers of entry) apply to the powers conferred by this regulation as they apply to the powers conferred by section 108 of the 1995 Act and Article 72 of the 1997 Order respectively, but as if any reference—

- (a) to a designated person were to a person authorised in writing by the appropriate agency to exercise on its behalf any power conferred by this regulation,
- (b) to a relevant power were to a power conferred by this regulation, and
- (c) in paragraph 6(1) of Schedule 18 to section 108(4)(a) or (b) or (5) of the 1995 Act and in paragraph 5 of Schedule 4 to Article 72(2)(a) or (b) or (3) of the 1997 Order were to paragraph (1) of this regulation.

(8) In this regulation—

“the 1995 Act” means the Environment Act 1995(a);

“the 1997 Order” means the Waste and Contaminated Land (Northern Ireland) Order 1997(b).

Power to require the production of information

113.—(1) The labelling authority or an officer of the labelling authority may give notice to any person who is subject to obligations under Chapter 2 of Part 2 requiring that person to provide the authority with the information specified in the notice, where the information concerned is necessary to enable the labelling authority to exercise its functions under these Regulations, or to consider whether to exercise its functions under these Regulations.

(2) Paragraphs 15, 16 and 17 of Schedule 5 to the Consumer Rights Act 2015(c) apply to a notice issued under paragraph (1), as they apply to a notice issued under paragraph 14 of that Schedule, and for this purpose, those paragraphs are to be read as if—

- (a) all references to an enforcer were references to the labelling authority;
- (b) references to a notice under paragraph 14 were references to a notice issued under paragraph (1) of this regulation.

(a) 1995 c. 25. Section 108 has been amended by Schedule 3 to the Pollution Prevention and Control Act 1999 (c. 24), section 55(7) and (9) of the Anti-social Behaviour Act 2003, paragraph 3(2) of Schedule 2 to the Protection of Freedoms Act 2012 (c. 9), paragraph 5 of Schedule 10 to the Environment Act 2021 (c. 30) and by S.I. 2000/1973, S.S.I. 2006/181, S.I. 2010/675, 2013/755, 2015/374, 2016/475, 2017/506, 2019/458.

(b) S.I. 1997/2778 (N.I. 19).

(c) 2015 c. 15.

Power to purchase products

114.—(1) An officer of the labelling authority may—

- (a) make a purchase of a product, or
- (b) enter into an agreement to secure the provision of a product.

(2) For the purposes of exercising the power in sub-paragraph (1), an officer may—

- (a) at any reasonable time, enter premises to which the public has access (whether or not the public has access at that time), and
- (b) inspect any product on the premises which the public may inspect.

(3) The power of entry in sub-paragraph (2) may be exercised without first giving notice or obtaining a warrant.

Power to observe the carrying on of business

115.—(1) An officer of the labelling authority may enter premises to which the public has access in order to observe the carrying on of a business on those premises.

(2) The power in sub-paragraph (1) may be exercised at any reasonable time (whether or not the public has access at that time).

(3) The power of entry in sub-paragraph (1) may be exercised without first giving notice or obtaining a warrant.

Collation and provision of information

116.—(1) The appropriate agencies must establish a common database, managed by or on behalf of the appropriate agencies for the purposes of this regulation.

(2) The appropriate agency must—

- (a) collate and anonymise data from the reports provided to it under paragraph 20(k) of Schedule 6,
- (b) place the anonymised data in the common database, and
- (c) publish a report of the aggregated data,

as soon as reasonably practicable after reports made under paragraph 20(k) of Schedule 6 come into the agency's possession.

(3) The appropriate agency must provide each appropriate authority with an annual report summarising the aggregated data received by the agency, and the report must be submitted by 28th February in the year after the year in which the data has been provided to the appropriate agency.

PART 11

Enforcement

Interpretation

117. In this Part and in Schedule 11—

“enforcement agency” means—

- (a) the scheme administrator, in relation to a civil sanction imposed for failure to make the payments required under regulation 61(2) (disposal fees) or regulation 78(1) (scheme administrator costs);
- (b) the labelling authority in relation to—
 - (i) an offence under regulation 118(11), (12) and (13), where the commission of the offence concerned the labelling authority, or

- (ii) a civil sanction imposed in relation to contravention of any of the requirements in Chapter 2 of Part 2 (provision of recycling information);
 - (c) the appropriate agency, in relation to—
 - (i) an offence under any of regulation 118(1) to (10), (14) and (15);
 - (ii) an offence under regulation 118(11), (12) and (13), where the commission of the offence concerned the appropriate agency, or
 - (iii) any other civil sanction specified in the table following regulation 119(1);
- “Scottish enforcement agency” has the meaning given in regulation 119(9).

Offences and penalties

118.—(1) A producer who—

- (a) subject to paragraph (4), fails to comply with—
 - (i) the obligation in regulation 15(3)(a) to inform the appropriate agency, or
 - (ii) the obligation in regulation 15(3)(b), 16(2), 17(2) or 18(2) to be registered, or
- (b) fails to apply for registration by the applicable deadline set in regulation 37(1) (applications for producer registration),

is guilty of an offence.

(2) Paragraph (1) does not apply in respect of any period during which, under regulation 39(2)(c), the producer is treated as having been registered.

(3) A producer who fails—

- (a) to comply with the requirement in regulation 16(3)(a), 17(3)(a), 18(3)(a), or in any of 48(1), and (3) to (6) to keep records,
- (b) to make the reports required by regulation 16(3)(b), 17(3)(b), 18(3)(b), 50(1), 51 or 52(1) or (2), or
- (c) to make those reports by the deadlines set in regulations 50(3) to (6), 51(2) to (4), or 52(2) to (6), as applicable,

is guilty of an offence.

(4) A producer who contravenes a requirement of—

- (a) regulation 16(3)(c) (recycling obligations), or
- (b) regulation 16(3)(d) (certification obligation),

is guilty of an offence.

(5) A producer who does not comply with a requirement in regulation 28(1) or 29(1), (2), (4), (5) or (6) (take back obligations), is guilty of an offence.

(6) A producer who does not comply with a condition in regulation 40(1)(c) or (d) (provision of information to the appropriate agency), is guilty of an offence.

(7) An operator of a scheme who fails to comply with—

- (a) the reporting, recycling and certification obligations under regulation 31(3)(b) to (d) (scheme recycling obligations),
- (b) a requirement to register a scheme under regulations 31(1) and 42(1) (application for registration of a scheme),
- (c) the requirement to inform their members of the status of the scheme in accordance with regulation 31(7),
- (d) the obligation to apply for the registration of their members under regulation 37(4),
- (e) a condition in regulation 43 (conditions of registration of a scheme), or
- (f) the requirements in regulation 54 (schemes: records and returns) to keep records and make returns to the appropriate agency,

is guilty of an offence.

(8) An operator of a take back scheme who fails to comply with—

- (a) the obligations to check their members have a dedicated receptacle for collection of used fibre-based composite cups under regulation 31(4)(b);
- (b) the obligations to arrange for the collection of waste fibre-based composite cups from the members and for their recycling under regulation 31(4)(c);
- (c) the obligations to make the reports required by regulation 31(4)(d);

is guilty of an offence.

(9) A reprocessor or exporter who contravenes the requirement in regulation 86(1) (registration obligation), is guilty of an offence.

(10) A reprocessor or exporter who—

- (a) fails to comply with a condition in regulation 87 (conditions of registration), or a condition specified in and under Part 3 of Schedule 6 (conditions of accreditation),
- (b) contravenes a requirement in regulation 89 or in paragraph 20(i), (j), (k), (l), (m) or (n) of Schedule 6 (records and reporting requirements),
- (c) contravenes a requirement in regulation 91 (requirement for accreditation for issue of PRNs and PERNs),
- (d) contravenes a requirement in regulation 93 or Part 3 of Schedule 6 (conditions of accreditation), or
- (e) issues a PRN or a PERN pursuant to information which is false or misleading in a material particular, knowing the information to be false or misleading or being reckless as to whether it is false or misleading,

is guilty of an offence.

(11) A person who furnishes any information to the appropriate agency or to the labelling authority in connection with its functions under these Regulations or furnishes information to which regulation 46 applies to an operator of a scheme is guilty of an offence if, in furnishing the information, that person—

- (a) knows the information to be false or misleading in a material particular, or
- (b) provides such information recklessly, and the information is false or misleading in a material particular.

(12) A person who fails without reasonable excuse—

- (a) to comply with any requirement imposed in a notice under regulation 105(1), or
- (b) to give an officer of an appropriate agency or of the labelling authority, any assistance or information which that officer reasonably requires in the exercise of their powers under regulation 112,

is guilty of an offence.

(13) A person who intentionally delays or obstructs a person authorised by the appropriate agency or by the labelling authority—

- (a) in carrying out its functions under regulation 104, or
- (b) in the exercise of powers referred to in regulation 112,

is guilty of an offence.

(14) Where in accordance with Schedule 8 there is a group registration the holding company is guilty of an offence if it does not comply with any of the obligations referred to in paragraph 7(1) of Schedule 8.

(15) A person who fails to comply with a compliance notice imposed, or in the case of an enforcement undertaking, accepted, under regulation 119, is guilty of an offence.

(16) An offence under any of paragraphs (1) to (16) is punishable—

- (a) on conviction on indictment, by a fine, or

- (b) on summary conviction—
 - (i) in England and Wales, by a fine,
 - (ii) in Scotland or Northern Ireland, by a fine not exceeding the statutory maximum.

(17) Where—

- (a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association, and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual, or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.

(18) If an offence committed by a person under this regulation is due to the act or default of some other person, that other person is also guilty of the offence and liable to be proceeded against and punished accordingly, whether or not proceedings for the offence are taken against the first-mentioned person.

(19) In paragraph (18), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;
 - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a limited liability partnership, a member;
- (c) in relation to a partnership other than a limited liability partnership, including a Scottish partnership, a partner;
- (d) in relation to an unincorporated association other than a partnership or Scottish partnership, a person who is concerned in the management or control of the association.

(20) In paragraphs (1) to (7), references to a “producer” include a reference to a person who is deemed to be a producer under paragraph 6 or 8 of Schedule 9.

Civil sanctions

119.—(1) Where an enforcement agency is satisfied on the balance of probabilities that there has been a contravention of a requirement specified in the Table of civil sanctions in Part 2 of Schedule 11 (a “relevant requirement”), the enforcement agency may, in relation to that contravention—

- (a) impose a fixed monetary penalty in accordance with Part 3 of Schedule 11,
- (b) impose a variable monetary penalty in accordance with Part 4 of Schedule 11,
- (c) impose a compliance notice in accordance with Part 5 of Schedule 11,
- (d) accept an enforcement undertaking, in accordance with Part 6 of Schedule 11,

where, in the entry in the table for the relevant requirement, “yes” is stated in the column for that civil sanction.

(2) Where—

- (a) a relevant requirement has been contravened by a body corporate or a Scottish partnership or other unincorporated association, and
- (b) the enforcement agency is satisfied, on the balance of probabilities, that the contravention occurred with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual, or

(ii) an individual purporting to act in the capacity of a relevant individual, the enforcement agency may impose a specified civil sanction on, or accept a specified enforcement undertaking from, the individual as well as the body corporate, Scottish partnership or unincorporated association.

(3) If the enforcement agency is satisfied, on the balance of probabilities, that the contravention of a relevant requirement by a person is due to the act or default of some other person, the enforcement agency may also impose a specified civil sanction on that other person, or accept a specified enforcement undertaking from that other person, whether or not such a sanction is imposed on, or undertaking accepted from, the first-mentioned person.

(4) A fixed monetary penalty or a variable monetary penalty is recoverable by the enforcement agency as a civil debt.

(5) Paragraphs (1)(a), (b) and (d), and (4) of this regulation do not apply to SEPA.

(6) Paragraphs (2) and (3) only apply to SEPA to the extent to which they relate to a compliance notice issued by SEPA under paragraph (1)(c).

(7) The Lord Advocate may issue, and from time to time revise, guidance to a Scottish enforcement agency other than SEPA on the exercise of their functions relating to enforcement measures in Scotland.

(8) Those Scottish enforcement agencies other than SEPA must have regard to such guidance or revised guidance in exercising those functions in Scotland.

(9) In this regulation—

“relevant individual” has the meaning given in regulation 118(19);

“Scottish enforcement agency” means—

(a) SEPA,

(b) the labelling authority or the scheme administrator, so far as either authority is imposing a civil sanction provided for in these Regulations in Scotland;

“specified” means specified in the table in Part 2 of Schedule 11.

Enforcement cost recovery notices

120.—(1) An enforcement agency other than SEPA may serve a notice (“an enforcement cost recovery notice”) on a person on whom a variable monetary penalty notice or compliance notice has been served requiring that person to pay the costs incurred by the enforcement agency in relation to the imposition of that notice up to the time of its imposition.

(2) SEPA may serve an enforcement cost recovery notice on a person on whom a compliance notice has been served requiring that person to pay the costs incurred by SEPA in relation to the imposition of that notice up to the time of its imposition.

(3) The costs referred to in paragraphs (1) and (2) include in particular—

(a) investigation costs;

(b) administration costs;

(c) costs of obtaining expert advice (including legal advice).

(4) The enforcement cost recovery notice must specify—

(a) how payment must be made,

(b) the amount required to be paid and the period in which payment must be made, which must not be less than 28 days beginning with the day on which the enforcement cost recovery notice is served,

(c) the grounds for imposing the notice,

(d) the right of appeal, and

(e) the consequences of failure to comply with the notice in the specified period.

(5) The person on whom the notice is served may require the enforcement agency to provide a detailed breakdown of the amount.

(6) The person required to pay costs is not liable to pay any costs shown by that person to have been unnecessarily incurred.

(7) The person required to pay costs may appeal—

- (a) against the decision of the enforcement agency to impose the requirement to pay costs, or
- (b) against the decision of the enforcement agency as to the amount of those costs.

(8) A Scottish enforcement agency may recover as a civil debt any costs required to be paid under an enforcement cost recovery notice, and the amount is recoverable as if it were payment under an extract registered decree arbitral bearing a warrant for execution issued by a sheriff of any sheriffdom.

(9) An enforcement agency which is not a Scottish enforcement agency may recover as a civil debt any costs required to be paid under an enforcement cost recovery notice.

Payment of penalties into Consolidated Fund etc

121.—(1) Where an enforcement agency receives any penalty under this Part, the agency must pay it into the relevant fund.

(2) In paragraph (1), “relevant fund” means—

- (a) in relation to—
 - (i) the labelling authority or the scheme administrator, where they are not acting as a Scottish enforcement agency, or
 - (ii) the Environment Agency, the Consolidated Fund;
- (b) in relation to NRW, the Welsh Consolidated Fund;
- (c) in relation to DAERA, the Consolidated Fund of Northern Ireland;
- (d) in relation to a Scottish enforcement agency, the Scottish Consolidated Fund.

Withdrawing or amending a notice

122.—(1) An enforcement agency other than SEPA may at any time in writing—

- (a) withdraw a fixed monetary penalty notice;
- (b) withdraw a variable monetary penalty notice or an enforcement cost recovery notice or reduce the amount specified in the notice;
- (c) withdraw a compliance notice or amend the steps so as to reduce the amount of work necessary to comply with the notice.

(2) SEPA may at any time in writing withdraw a compliance notice or amend the steps so as to reduce the amount of work necessary to comply with the notice.

Publication of enforcement action

123.—(1) Where a civil sanction is imposed under this Part, the appropriate agency must publish in the public register maintained under regulation 109—

- (a) details of the contravention in respect of which the civil sanction has been imposed,
- (b) where the civil sanction is a fixed monetary penalty, the cases in which liability to the penalty has been discharged by payment of the penalty following the notice of intent and without further action being taken;
- (c) cases in which an enforcement undertaking has been entered into.

(2) The information referred to in paragraph (1) must be entered on the register within 28 days after the day on which a civil sanction is imposed, liability to a fixed monetary penalty is discharged, or an enforcement undertaking is accepted, as the case may be.

(3) The labelling authority and the scheme administrator must provide the information described in paragraph (1) in relation to any civil sanction they have imposed to the appropriate agency for publication in the register under paragraph (1).

(4) Where a civil sanction which has been imposed is overturned on appeal, the enforcement agency which imposed the civil sanction must ensure that any information relating to that civil sanction is removed from the register.

PART 12

Consequential Amendments, Revocations, Transitional Provisions and Review

Consequential Amendments

124.—(1) In the Waste Batteries and Accumulators Regulations 2009(a)—

- (a) in regulation 52(2)(e)(iii)(cc) after “2007” insert “or the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2023”;
- (b) in paragraph 7 of Schedule 3, in sub-paragraph (1)(c) after “2007” insert “or the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2023”.

(2) In the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013(b), in Part 2 of the Schedule, after paragraph (k), insert—

- “(1) An offence under the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2023.”

Revocations

125. The Regulations listed in Schedule 12 are revoked.

Transitional Arrangements: compliance schemes

126.—(1) A compliance scheme which has been approved under the 2007 Regulations or the 2007 (NI) Regulations is to be treated as having been approved until 1st February 20** unless the operator of the compliance scheme gives the appropriate agency notice in writing that it wishes the approval of the scheme to be withdrawn before that date.

(2) The operator of a compliance scheme referred to in paragraph (1) is subject to the obligations imposed on operators of compliance schemes under these Regulations.

Transitional Arrangements: reprocessors, exporters, PRNs and PERNs

127.—(1) An application by a reprocessor or an exporter for accreditation in relation to 20** made before regulation 92 comes into force is to be assessed under the 2007 Regulations or the 2007 (NI) Regulations notwithstanding their revocation.

(2) A reprocessor or an exporter who is accredited under Part 5 of the 2007 Regulations, or Part 5 of the 2007 (NI) Regulations—

- (a) is to be treated as being accredited until 31st January 20** for the purposes of issuing PRNs or PERNs in relation to packaging waste accepted or exported before 31st December 20**, unless—

(a) S.I. 2009/890.

(b) S.I. 2013/2258.

- (i) the reprocessor or exporter informs the appropriate agency that it wishes its accreditation to be withdrawn, or
 - (ii) the appropriate agency withdraws or suspends its accreditation;
- (b) must submit an application for accreditation in relation to 20** by 1st October 20** if they wish to be accredited under these Regulations for that year.
- (3) A reprocessor or an exporter must continue to comply until 28th February 20** with the obligations imposed on reproducers and exporters under the 2007 Regulations or the 2007 (NI) Regulations in relation to the accreditation year ending on 31st December 20**4.
- (4) A producer or compliance scheme may rely on PRNs and PERNs acquired from a reprocessor or exporter accredited under Part 5 of the 2007 Regulations, or Part 5 of the 2007 (NI) Regulations in the year to 31st December 20** which have not been used to demonstrate compliance with their obligations in that year to demonstrate compliance with their recycling obligations in the year ending 31st December 20**.

Transitional provisions: data collection and reporting

128. Any data collected by a producer under regulation 16 of any of the 2023 Data Regulations is to be treated as if it were collected under regulation 48 of these Regulations.

Transitional provisions: general

129.—(1) Any step taken before the relevant time which has effect under any provision of the 2007 Regulations, or the 2007 (NI) Regulations, is to be treated after the relevant time as having effect under any equivalent provision of these Regulations.

(2) Anything done under the 2007 Regulations or the 2007 (NI) Regulations continues to have effect but is taken to have been done under these Regulations on the date on which it was done under the 2007 Regulations or the 2007 (NI) Regulations, as the case may be, including (but not limited to) the following—

- (a) a notice or notification given under the 2007 Regulations or the 2007 (NI) Regulations that has not taken effect by the relevant time is taken to be given under these Regulations;
- (b) a decision made, or deemed to have been made, by the appropriate agency or appropriate authority under the 2007 Regulations or the 2007 (NI) Regulations is taken to be made under these Regulations;
- (c) any enforcement action taken under the 2007 Regulations or the 2007 (NI) Regulations, is to be treated as having been taken under these Regulations;
- (d) an appeal made under the 2007 Regulations or the 2007 (NI) Regulations that has not been determined by the relevant time is taken to be made under these Regulations, with the notice of appeal taken to be given on the date on which the appeal was made under the 2007 Regulations or the 2007 (NI) Regulations.

(3) If an application made under any provision of the 2007 Regulations or the 2007 (NI) Regulations, has not been determined by the relevant time—

- (a) those Regulations continue to have effect in relation to that application notwithstanding their revocation;
- (b) if the application is granted, it is to be treated as having been granted under these Regulations.

(4) An appeal may be made under these Regulations against a notice mentioned in paragraph (2)(a) or a decision mentioned in paragraph (2)(b) if, by the relevant time, the time for making an appeal under the 2007 Regulations or the 2007 (NI) Regulations had not expired, with the applicable time limit for giving notice of appeal running from the date on which the notice was served, or the decision was made, under the 2007 Regulations or the 2007 (NI) Regulations.

(5) Where the 2007 Regulations or the 2007 (NI) Regulations specified a time period and part of that time period had elapsed under those Regulations before revocation of those Regulations, that

part of that period is to be treated on commencement of these Regulations as having elapsed under the equivalent provision of these Regulations.

(6) This regulation does not affect the operation of section 16 of the Interpretation Act 1978(a), or section 28 of the Interpretation Act (Northern Ireland) 1954(b) in relation to any matter not dealt with in this regulation.

(7) In this regulation, the “relevant time” is the time immediately before the 2007 Regulations and the 2007 (NI) Regulations are revoked.

Review

130.—(1) The appropriate authorities must from time to time—

- (a) carry out a joint review of the regulatory provision contained in these Regulations, and
- (b) publish a report setting out the conclusions of the joint review.

(2) The first report must be published before 31st December 20**.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(c) requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Date	<i>Name</i> Parliamentary Under Secretary of State Department for Environment, Food and Rural Affairs
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SCHEDULE 1

Regulation 16(3)(c)

Recycling obligations

1.—(1) A producer’s obligations to recycle packaging waste in a relevant year are—

- (a) for each specified packaging category the producer handles, to recycle an amount of packaging waste for that packaging category (“the required amount”), as provided in paragraph 2(1), and
- (b) in relation to glass, to satisfy part of the required amount by recycling an amount of glass packaging waste by re-melt, as provided in paragraph 2(2),

and are calculated by aggregating the producer’s obligations in relation to each specified packaging category which the producer supplies, or in the case of an importer, which is supplied, or imported by that importer and discarded in the United Kingdom, in that year.

(a) 1978 c. 30.

(b) 1954 c. 33. Section 28 was amended by S.I. 1999/663.

(c) 2015 c. 26.

(2) For the purposes of paragraph (1), “specified packaging category” means a packaging category specified in the first column of Table 1 in paragraph 3.

2.—(1) The amount of packaging waste to be recycled by a producer (“PR”) in relation to a packaging category which PR handles is calculated as follows—

$$P \times Y = Z$$

where—

“P” is the amount in tonnes of packaging and packaging materials in that packaging category handled in the United Kingdom by the producer in the preceding year, calculated to the nearest tonne in accordance with regulation 12(7)—

- (a) including packaging or packaging materials which were imported into the United Kingdom by P or by an agent acting on P’s behalf (and for these purposes, packaging includes reusable packaging only on the first occasion that packaging is used);
- (b) excluding exempt packaging,

“Y” is the percentage prescribed in paragraph 3 as the recycling target for that packaging category for the relevant year, and

“Z” is the amount to the nearest tonne of packaging waste in that packaging category which is to be recycled in the relevant year.

(2) Where in the preceding year PR has handled any glass (whether in the form of packaging or packaging materials), PR must recycle by re-melt an amount of glass packaging waste calculated as follows—

$$T(L \times Y) = G$$

where—

“T” is the percentage target prescribed in paragraph 4 for the relevant year,

“L” is the amount to the nearest tonne of packaging or packaging materials in glass handled in the United Kingdom by the producer in the preceding year,

“Y” is the percentage prescribed in paragraph 3 as the recycling target for glass for the relevant year, and

“G” is the amount by tonnage of glass packaging waste which is to be recycled by re-melt in the relevant year.

3. The following percentages are prescribed as the recycling target “Y” in respect of the packaging category specified in the first column in relation to the years [2025] to [2030] as indicated—

Table 1

<i>Packaging category</i>	<i>[2025]</i>	<i>[2026]</i>	<i>[2027]</i>	<i>[2028]</i>	<i>[2029]</i>	<i>[2030]</i>
Plastic						
Wood						
Aluminium						
Steel						
Paper or board						
Glass						

4. The following percentage targets are prescribed as the recycling targets “T” for glass packaging waste to be achieved by re-melt for the years [2025] to [2030] as indicated.

Table 2

	[2025]	[2026]	[2027]	[2028]	[2029]	[2030]
Target	75%	76%	77%	78%	79%	80%

5. Where the appropriate agency is satisfied that a producer has instituted a system of using reusable packaging which has a life of at least four years, the producer's obligations under this Schedule in relation to that packaging may be discharged by equal instalments over four years commencing with the year in which that packaging is first used.

6. For the purposes of this Schedule—

- (a) packaging handled by a producer includes packaging which that producer discards;
- (b) “recycling by re-melt” means the recycling of waste glass packaging or packaging materials using a method that melts the glass before it is re-formed into a product.

SCHEDULE 2

Regulation 33(2)

Charges

Payment of charges

1.—(1) The charges set out in paragraphs 2 to 6 of this Schedule are payable for the matters set out in those paragraphs, subject to paragraphs 7 to 9.

(2) The charges payable under this Schedule are payable to the appropriate agency by the person making the relevant application.

(3) Subject to sub-paragraph (3), the charges payable under in this Schedule are due and payable in full on the making of the relevant application.

(4) Charges arising—

- (a) under paragraph 4(f) are payable on the resubmission of the information;
- (b) under paragraph 5(3) are payable by 30th September in every year apart from the year of first registration.

(5) Where for any reason an application is refused or withdrawn, the appropriate agency is not under any obligation to refund the whole or any part of an application charge that has been paid, unless an application is withdrawn before it is assessed.

Application for approval of a scheme

2. The charge for an application for approval of a compliance scheme under regulation 33 is [£7,214].

Application for registration of a scheme

3.—(1) The charge for an application for registration of a scheme under regulation 42 is

- (a) for a take back scheme, the total of the amounts listed in sub-paragraph (2);
- (b) for a compliance scheme, the total of the amounts listed in sub-paragraph (3).

(2) The amounts listed in this sub-paragraph are—

- (a) [£3,726], and
- (b) [£74] for each producer who is on the date of the application a member of the scheme.

(3) The amounts listed in this sub-paragraph are—

- (a) [£12,154];
- (b) [£1,410] for each large producer other than a producer referred to in paragraph (e) which is on the date of the application a member of the scheme;

- (c) [£597] for each small producer other than a producer referred to in paragraph (e) which is on the date of the application a member of the scheme;
- (d) [£2,306] in addition to the fee under paragraph (b) or (c), as appropriate, for each producer which is an online marketplace operator;
- (e) for producers which are subsidiaries and are to be registered as part of a group of companies—
 - (i) [£533] for each producer for the first 20 subsidiaries which are members of the scheme;
 - (ii) [£133] for each producer from the 21st subsidiary to the 100th subsidiary which is a member of the scheme;
- (f) [£420] for each notification made under regulation 43(c) in relation to a compliance scheme, relating to a large or small producer.

(4) The charge for late submission of an application for registration of a scheme is [£335] for each member whom the scheme operator registers late where none of the events described in regulation 37(5) has occurred.

(5) Where—

- (a) a producer is a member of a registered scheme;
- (b) the producer has—
 - (i) a registered office, or
 - (ii) where the producer does not have a registered office, its head office or principal place of business,
 in a different nation in the United Kingdom to that of the operator of the scheme of which the producer is a member, and
- (c) the appropriate agency for that producer has made a national charging scheme,

the operator of the scheme must pay the charge set by the appropriate agency in relation to that producer.

(6) In this paragraph, “national charging scheme” means a charging scheme referred to in paragraph 9 made by an appropriate agency which makes different provision for the charges listed in this paragraph.

Application for producer registration

4.—(1) The charge for an application for registration of a producer under regulation 38, is the total of—

- (a) [£2,224] for a large producer other than a producer referred to in paragraph (e);
- (b) [£1,110] for a small producer other than a producer referred to in paragraph (e);
- (c) [£141] for a producer required to register under regulation 28(1)(a);
- (d) [£2,306] in addition to the fee under paragraph (a) or (b), as appropriate, where the producer is an online marketplace operator;
- (e) for producers which are subsidiaries to be registered as part of a group of companies—
 - (i) [£533] for each producer for the first 20 subsidiaries which are to be so registered;
 - (ii) [£133] for each producer from the twenty-first subsidiary to the 100th subsidiary which are to be so registered.

(2) The charge where an application is re-submitted as a result of the applicant’s failure to comply with regulation 38 is [£669].

(3) The charge under regulation 38(4) for an application for a producer required to register submitted after the deadline for registration is [£335], where none of the events described in regulation 37(5) have occurred.

Application and annual charge for registration of a reprocessor or exporter

5.—(1) The charge for application for registration of a reprocessor or exporter under regulation 86 is [£2,645].

(2) The charge for amendment of the arrangements referred to in regulation 86(10)(a) is [£428].

(3) The annual charge referred to in regulation 86(10)(b) is [£1,317].

Application for accreditation of a reprocessor or exporter.

6.—(1) The charge for an application by a reprocessor or exporter for—

(a) accreditation for a packaging waste material under regulation 92(1) is—

(i) [£500] where the PRN or PERN tonnage limit stated in the application for that material (the “stated tonnage limit”) is under 501 tonnes;

(ii) [£2,000] where the stated tonnage limit is 501 or more tonnes, but less than 5,001 tonnes;

(iii) [£3,000] where the stated tonnage limit is 5,001 or more tonnes, but less than 10,001 tonnes;

(iv) [£4,098] where the stated tonnage limit is 10,001 or more tonnes;

(b) accreditation for an overseas reprocessing site under regulation 92(5)(b) is [£216];

(c) the addition of an overseas reprocessing site to the accreditation of an exporter under regulation 92(12) is [£216].

(2) The charge for amendments to the sampling and inspection plan or the business plan referred to in regulation 92(8) is [£428].

(3) In the event that PRNs or PERNs are issued for a greater tonnage than the stated tonnage limit, the reprocessor or exporter must pay an additional charge to the appropriate agency (“A”) determined in accordance with the following formula—

$$A = (B - C) + D$$

where—

“B” is the amount of the charge which would have been payable if the application had stated the tonnage actually processed during the year;

“C” is the amount of the charge which was paid when the application was submitted;

“D” is an additional processing fee of [£100].

(4) The payment required under sub-paragraph (3) must be paid by the reprocessor or exporter before the end of the period of 28 days starting on the day on which the stated tonnage limit was exceeded.

Abatement

7. The appropriate agency may, by notice to the person liable for the charge, waive or reduce any charge specified in this Schedule if it considers it to be significantly disproportionate in a particular case, having regard to the actual costs and expenses incurred or to be incurred by the appropriate agency in relation to the activity for which the charge is imposed.

Annual inflationary increases

8.—(1) The charges under this Schedule shall increase annually on 1st September in each year starting on 1st September 20**, in line with any increase in the Consumer Prices Index published by the Office for National Statistics as at 31st March of the same year.

(2) The appropriate agencies must each publish details of charges which have increased in accordance with sub-paragraph (1).

Charging schemes

9. The charges provided for in this Schedule cease to apply if, and to the extent that, they are superseded by charges provided for in any charging scheme made under—

- (a) section 41 of the Environment Act 1995, by the Environment Agency, NRW or SEPA, or
- (b) Article 76A of the Waste and Contaminated Land (Northern Ireland) Order 1997^(a), or regulation 20B of the Waste Management Licensing Regulations (Northern Ireland) 2003^(b), by DAERA.

SCHEDULE 3

Regulation 38(1)(b)

Information

PART 1

Information required for producer registration

1. The name, address and telephone number of—
 - (a) the place where the producer is habitually resident, or
 - (b) the registered office of the producer or, if they do not have a registered office, the head office or principal place of business of the producer.
2. If the producer is not habitually resident in the United Kingdom, or if the registered office, head office or principal place of business of the producer is not in the United Kingdom, the address of the branch or postal address of the producer in the United Kingdom.
3. The business name of the producer if different from that referred to in paragraph 1 above.
4. The name and contact details for the individual at the producer who is responsible for dealing with enquiries from the appropriate agency.
5. The address for service of notices on the producer if different from that referred to in paragraph 1 above.
6. Where the producer is a partnership, the names of all the partners.
7. Which of the functions described in regulation 9(1) the producer performs in relation to packaging.
8. If the producer performs more than one such function, which function constitutes the producer's main activity as a producer.
9. The relevant SIC code for the function the producer performs in relation to packaging or, where the producer performs more than one such function, for the function which constitutes the producer's main activity as a producer.
10. The producer's turnover in the last financial year—
 - (a) in respect of which audited accounts are available, or
 - (b) where audited accounts are not required for that person, in respect of which accounts are available.
11. Except where the application is made under regulation 37(1)(c), the amount in tonnes of packaging which—

(a) S.I. 1997/2778 (N.I.19). Article 76A was inserted by s. 65(1) of the Environment Act 2021 (c. 30).

(b) S.R. (N.I.) 2003 No. 493. Regulation 20B was inserted by s. 65(6) of the Environment Act 2021.

- (a) the producer has supplied in the threshold calculation year, or
- (b) in the case of an importer, has supplied, or has imported and discarded in the United Kingdom.

12. Whether or not the producer is liable to pay disposal fees under regulation 61.

13. Confirmation that the producer has satisfied the record keeping obligations in regulation 48, so far as they are capable of being satisfied by the producer on the date on which the producer applies for registration.

14. Where the producer is a brand owner—

- (a) details of all names, trademarks and other distinctive marks which appear on packaging for which the brand owner is responsible, and
- (b) whether the brand owner also produces packaging on which no name, trade mark or other distinctive mark appears.

15. Where the producer is subject to obligations under regulation 28 (take back obligation: disposable cups), a list of those premises of the producer to which the public have access in each of England, Northern Ireland, Scotland, and Wales.

PART 2

Information to be included in an application for registration of a scheme

16. The name of the scheme.

17. The name of the operator of the scheme (“scheme operator”), and where the scheme operator is a partnership, the names of all the partners.

18. The address and telephone number of—

- (a) the registered office of the scheme operator or,
- (b) if not a company, the head office or principal place of business of the scheme operator.

19. The address for service of notices on the scheme operator if different from that referred to in paragraph 18.

20. Full particulars of the agreement for the constitution of the scheme, including—

- (a) the point at which a producer is considered to be a member of the scheme;
- (b) a sample of the contract between the scheme operator and members of the scheme;
- (c) any rules or regulations to be observed by members of the scheme.

21. In relation to each producer who is a member of the scheme—

- (a) the information listed in Part 1 of Schedule 3;
- (b) the producer’s turnover, and the amount, in tonnes, of packaging the producer has handled as calculated in accordance with regulation 12.

22. Which of the functions described in regulation 9(1) each member of the scheme performs in relation to packaging.

23. If a member performs more than one such function, which function constitutes that member’s main activity as a producer.

24. The relevant SIC code for the function each member of the scheme performs in relation to packaging or, where the member performs more than one such function, for the function which constitutes that member’s main activity as a producer.

25. Confirmation that the scheme has, where applicable, satisfied the requirements in regulation 54.

PART 3

Requirements for the scheme's operational plan

26. The information to be contained in the operational plan referred to in regulation 33(1)(b)(iv) for schemes is information demonstrating—

- (a) that sufficient financial resources and technical expertise will be available to enable the scheme operator to perform its recycling obligations—
 - (i) under regulation 31(3)(c) in the case of a compliance scheme, or
 - (ii) under regulation 31(4)(c) in the case of a take back scheme,
- (b) how the recycling obligations of the scheme operator under regulation 31(3)(c) or 31(4)(c) will be performed as regards each of the packaging materials relevant to those obligations including—
 - (i) the names and addresses of the reprocessors or exporters, or both, which the scheme operator intends to use, and
 - (ii) the amounts to the nearest tonne of each such packaging material which the scheme operator proposes to recycle in the three years immediately following that year's registration,
- (c) the steps the scheme operator proposes to take to recycle any of the packaging materials relevant to the recycling obligations of the scheme operator under regulation 31(3)(c) or 31(4)(c) in order not to affect adversely the interests of any producer who is a member of the scheme to which the operational plan relates, and whose recycling obligations are predominantly in relation to another such packaging material,
- (d) in relation to PERNs and PRNs which the operator of a compliance scheme expects to acquire in each quarter of the three years immediately following that year's registration, the tonnage of packaging waste and the type of packaging material to which they are expected to relate;
- (e) the contracts the scheme operator anticipates will be made with reprocessors or exporters or both and packaging waste suppliers in the three years immediately following that year's registration,
- (f) how the scheme operator is assisting reprocessors to direct resources at—
 - (i) increasing the capacity for the collection and reprocessing of packaging waste (in the case of a compliance scheme), or fibre-based composite cups (in the case of a take back scheme), and
 - (ii) encouraging the development of markets for materials or goods made from packaging waste, or fibre-based composite cups, that has been recycled, and
- (g) how information to which regulation 46 applies is to be monitored under a monitoring plan so that the scheme operator can meet its obligations under regulation 31(3).

SCHEDULE 4

Regulations 48

Producer Reporting Information

PART 1

Interpretation and general

1.—(1) In this Schedule—

- (a) “reporting period”, in relation to a description of producer and a description of information means—

- (i) a period in respect of which the producer is required to report that information to the appropriate agency under regulations 50 to 52, or
 - (ii) such other period as the scheme administrator may direct under regulation 49(4);
 - (b) references to the weight of packaging in kilograms or tonnes are references to the actual, measured weight of that packaging in kilograms to the nearest kilogram, or in tonnes to the nearest tonne;
 - (c) references to packaging supplied by a producer are to be treated as including, in the case of an importer, any packaging which that importer has imported and discarded in the United Kingdom.
- (2) The scheme administrator may direct all producers, or a class of producers specified in the direction, that the information described in one or more of paragraphs 3 to 9 is not required.
- (3) A direction given under sub-paragraph (2)—
- (a) must apply for a period of twelve months;
 - (b) subject to sub-paragraph (4), must be given at least 12 months before the start of the reporting period to which it relates, and must be communicated to all registered producers and scheme operators.
- (4) Sub-paragraph (3)(b) does not apply in relation to any directions given in relation to the 20** and 20** reporting years, which must be given as soon as possible after this Schedule comes into force.
- (5) A producer to whom Part 2 applies is not required to keep records of, or report on, the information which is the subject of a direction given under sub-paragraph (3).

PART 2

Information required from brand owners, packer/fillers, importers, distributors and service providers

- 2.** In this Part, paragraph 3 applies to small producers, and paragraphs 4 to 10 apply to large producers, who are—
- (a) brand owners,
 - (b) packer/fillers,
 - (c) importers,
 - (d) distributors, or
 - (e) service providers.

Small producers

- 3.** For small producers—
- (a) whether the packaging supplied is primary packaging, shipment packaging, secondary packaging or tertiary packaging (its “packaging type”);
 - (b) the weight in kilograms of packaging supplied in each packaging category and in each packaging type during the reporting period;
 - (c) the weight in kilograms of packaging, and the number of units of packaging supplied during the reporting period which consists of drinks containers.

Large producers

4. The weight in kilograms of packaging in each packaging category and each relevant packaging sub-category the producer has supplied during the reporting period.

5. The weight in kilograms of household packaging in each packaging category and relevant packaging sub-category the producer has supplied during the reporting period.

6.—(1) For large producers other than brand owners, a breakdown of the packaging supplied in each packaging category and relevant packaging sub-category during the reporting period, specifying—

- (a) its packaging type,
- (b) the weight in kilograms of packaging supplied in each packaging type,
- (c) the weight in kilograms of household packaging supplied which is primary packaging or shipment packaging, and
- (d) the weight in kilograms of packaging, and the number of units of packaging, in each packaging category which consists of drink containers.

(2) Sub-paragraph (1) does not apply in relation to packaging imported by an importer which has been discarded by that importer in the United Kingdom.

7.—(1) For each large producer who is a distributor (“D”), the information in sub-paragraph (2) in relation to producers to whom D has supplied unfilled household packaging or other unfilled packaging during the reporting period who are—

- (a) subject to large producer obligations, or
- (b) where the supply takes place before 1st October 20**, producers whom D expects to be subject to large producer obligations by 31st December 20**.

(2) The information in this sub-paragraph is—

- (a) the identity of the producer, including, subject to sub-paragraph (3), the producer registration number assigned to that producer under regulation 39(2)(a),
- (b) the number of units of such packaging supplied to that producer during the reporting period, and
- (c) the weight of unfilled packaging and of unfilled household packaging supplied to that producer.

(3) Where the supply takes place before 1st October 20**, the producer registration number need not be recorded.

8.—(1) Where the producer has instituted a system of reusing reusable packaging, a description of that system, including—

- (a) the weight in kilograms of all packaging supplied during the reporting period that is reusable or refillable;
- (b) the weight in kilograms of the packaging referred to in sub-paragraph (a) which is primary packaging;

(2) The information provided under sub-paragraph (1) must be given for each packaging category or relevant packaging sub-category supplied by the producer during the reporting period.

(3) The producer need only include information on reusable household packaging in the year in which it is first supplied.

9. The weight in kilograms of household packaging supplied by the producer which consists of commonly binned items, broken down by packaging category and relevant packaging sub-category.

PART 3

Information required from online marketplace operators

10. The weight in kilograms of packaging in each packaging category and relevant packaging sub-category which the producer supplied during the reporting period.

11. The weight of household packaging the producer supplied during the reporting period in each packaging category and relevant packaging sub-category.

12. A description of the methodology used by the producer to collate the information required under paragraphs 10 and 11.

PART 4

Supply and discarding of packaging by nation and other information

13.—(1) The weight in kilograms of—

- (a) all packaging the producer supplies, where the producer is a seller, online marketplace operator, distributor or service provider, or
- (b) all packaging the producer discards, where the producer is an importer,

in a reporting period in each nation in the United Kingdom, in each packaging category.

(2) For the purposes of reports submitted in relation to the requirement years [2025], [2026] and [2027], producers who are—

- (a) sellers who supply secondary or tertiary packaging may estimate the amount of that packaging which has been supplied to a nation in the United Kingdom in order to calculate the weight of packaging supplied to that nation;
- (b) importers who import secondary or tertiary packaging may estimate the amount of that packaging discarded in a nation in the United Kingdom in order to calculate the weight of packaging discarded in that nation.

(3) Sub-paragraph (2) does not apply to packaging which is supplied directly by a seller to the person using it.

14.—(1) The weight in kilograms of relevant packaging waste the producer has collected from consumers and sent for recycling during the reporting period.

(2) The weight in kilograms of packaging waste the producer has collected during the reporting period—

- (a) consisting of the producer's own packaging waste, and
- (b) consisting of packaging waste from other persons.

(3) The weight in kilograms of the waste referred to in sub-paragraph (2) which was—

- (a) collected from each nation within the United Kingdom, and
- (b) sent for recycling to another nation in the United Kingdom, identifying the nation concerned.

(4) The amount of waste declared under sub-paragraphs (1), (2) and (3) must be broken down by packaging category and relevant packaging sub-category.

(5) In this paragraph, “relevant packaging waste” means—

- (a) reusable packaging which has been used at least once and has become waste, or
- (b) any other packaging waste which is collected from households for recycling by less than 75% of the relevant authorities in the United Kingdom responsible for waste collection,
or

(6) The scheme administrator must publish a list of—

- (a) the items which are collected for recycling from households by each relevant authority in each part of the United Kingdom;
- (b) those items which are collected for recycling from households by more than 75% of the relevant authorities in the United Kingdom responsible for waste collection.

15. Where a producer is a seller and has supplied plastic or paper bags in England, the number of bags supplied in England in the following categories—

- (a) single use carrier bags, within the meaning of the Single Use Carrier Bags Charges (England) Order 2015(a);
- (b) bags made wholly or partly of plastic which—
 - (i) are supplied for use as packaging for food items including bread, fruit or vegetables;
 - (ii) are not carrier bags within paragraph (a);
- (c) paper bags, of any thickness, with handles, and which are not sealed.

SCHEDULE 5

Regulation 58(3)

The scheme administrator

1.—(1) The scheme administrator may enter into an agreement with a public body or with a private sector body for that body to perform any of the functions of the scheme administrator on behalf of the scheme administrator.

(2) The scheme administrator must obtain the consent of each of the appropriate authorities before entering into an agreement referred to in sub-paragraph (1).

(3) References in these Regulations to the scheme administrator include a reference to any body which is performing any functions of the scheme administrator pursuant to an agreement entered into under paragraph (1).

2. In discharging its functions, the scheme administrator is to act in accordance with the following principles—

- (a) that the scheme administrator must act fairly in—
 - (i) the distribution of monies received from producers under these Regulations, and
 - (ii) the treatment of relevant authorities and producers across the United Kingdom;
- (b) that the scheme administrator must take into account the different circumstances applying in each part of the United Kingdom;
- (c) the need to support—
 - (i) the use of environmentally sustainable packaging, and
 - (ii) an increase in recycling of packaging, and a reduction in the disposal of packaging waste;
- (d) the need to support an increase in the effectiveness and efficiency of waste management services provided by relevant authorities;
- (e) the need to use its resources in the most efficient and effective way, and to achieve the best possible environmental outcomes;
- (f) that the scheme administrator should exercise its functions transparently, accounting fully for all monies received by it, and disbursed by it in the exercise of its functions;
- (g) that the scheme administrator should not earn a profit from carrying out its functions under these Regulations;
- (h) the need to adjust the way in which the scheme administrator exercises its functions in different parts of the United Kingdom where the scheme administrator considers this is appropriate in order to exercise those functions most effectively in accordance with these principles.

3. The scheme administrator must make and maintain effective arrangements for communicating with and consulting producers, manufacturers of packaging, the operators of registered schemes, relevant authorities and waste management companies, or, where appropriate, persons appearing

(a) S.I. 2015/776.

to the scheme administrator to represent the interests of such persons or otherwise to have a legitimate interest in—

- (a) the way in which it exercises its functions, or
- (b) the development of—
 - (i) its proposals to exercise its functions, or
 - (ii) its strategy or annual operational plan.

4.—(1) The scheme administrator must make available to members of the public, and to businesses that discard packaging waste, information on the recovery, including recycling, and disposal of packaging waste and the prevention of packaging litter.

(2) The scheme administrator may satisfy the obligation in sub-paragraph (1) by—

- (a) conducting, or making arrangements for, public information campaigns to—
 - (i) inform members of the public and businesses how to manage their packaging waste; and
 - (ii) encourage members of the public and businesses to recycle more packaging waste,
- (b) conducting public information campaigns on the prevention of packaging litter;
- (c) publishing information on packaging, including on the recyclability of different types of packaging in use, and the extent to which different producers are using environmentally sustainable packaging.

(3) In determining the type of public information campaigns to be carried out, and what the focus of those campaigns should be, the scheme administrator may take account of the following factors—

- (a) the recycling rates of packaging waste of different packaging categories,
- (b) what waste packaging items are collected for recycling by relevant authorities, and whether any new items are added to recycling collections,
- (c) differences in recycling behaviour of members of the public and businesses and differences in collection systems in different areas within the United Kingdom, and
- (d) any other factor the scheme administrator considers relevant.

5.—(1) The scheme administrator may provide, or arrange for the provision of, information, guidance and support to businesses which are producers, to assist them in understanding their obligations under these Regulations.

(2) The scheme administrator may determine what level of information, guidance and support is required for the purposes of this paragraph, taking into account the needs of different classes of producer.

6.—(1) The scheme administrator may provide, or arrange for the provision of—

- (a) guidance to relevant authorities on the information the scheme administrator needs to assess the disposal costs of a relevant authority for the purposes of Chapter 3 of Part 6, and
- (b) information, guidance, advice and support to relevant authorities as to how they may—
 - (i) deliver efficient and effective waste management services, and
 - (ii) increase the amount of packaging waste collected for recycling.

(2) The scheme administrator may determine what level of information, guidance, advice and support is required for the purposes of this paragraph, taking into account the needs of different relevant authorities.

7. The scheme administrator must—

- (a) develop, or arrange for the development of, and maintain—
 - (i) a methodology which producers may use to assess the recyclability of the packaging they produce;

- (ii) guidance on the use of that methodology;
- (b) publish that methodology and guidance in the way appearing to the scheme administrator to be most appropriate to bring them to the attention of producers.

8. The scheme administrator must establish a procedure to manage and resolve complaints by producers and relevant authorities as to the way in which the scheme administrator exercises its functions under the Regulations, including in particular—

- (a) complaints by producers in relation to the assessment of—
 - (i) the disposal fee which they are liable to pay under regulation 61(2),
 - (ii) the disposal fee which they are liable to pay in relation to scheme administrator costs under regulation 78,
 - (iii) any recalculation of their annual disposal fee under regulation 81 or 82, and
- (b) complaints by relevant authorities in relation to—
 - (i) any decision concerning the payments they are due to receive towards their disposal costs under regulation 80, or
 - (ii) any recalculation of those payments under regulation 81 or 82.

9.—(1) The scheme administrator must before the end of the period of 6 months beginning with the date on which it is appointed under regulation 58(1) publish a strategy setting out—

- (a) its objectives and functions;
- (b) what outcomes it will seek to achieve;
- (c) its governance arrangements;
- (d) how it proposes to deliver its objectives and to exercise its functions;
- (e) how, by performing its functions, it will contribute to—
 - (i) the increased use of environmentally sustainable packaging by producers who are subject to obligations under these Regulations;
 - (ii) supporting the delivery of efficient and effective waste management services by relevant authorities, and the collection of a common set of packaging materials for recycling from households;
 - (iii) enabling consumers and businesses to discard packaging waste correctly through the provision of public information and communication campaigns;
- (f) its approach to engaging with stakeholders and other organisations having a legitimate interest in the way in which it performs its functions;
- (g) how it will measure and report on—
 - (i) the delivery of its objectives;
 - (ii) the impact of the contributions referred to in paragraph (e);
 - (iii) the achievement of its environmental outcomes.

(2) Before publishing the strategy, the scheme administrator must send the draft of its proposed strategy to each appropriate authority, and allow the authority at least one month to make representations to the scheme administrator on the strategy.

(3) The scheme administrator must take any representations made to it under paragraph (2) into account in finalising its strategy for publication.

(4) If the scheme administrator makes any changes to its strategy, it must publish an updated version as soon as reasonably possible.

(5) The strategy must be reviewed and updated at intervals not exceeding every 5 years after it is first published.

10.—(1) The scheme administrator must publish an operational plan each year by 28th February setting out—

- (a) its priorities for the financial year starting on the following 1st April (“the operational year”);
- (b) the amount of disposal costs which it seeks to recover in the operational year;
- (c) the action it proposes to take in the operational year to deliver the policy on fees issued under regulation 69(1), and how the fees to be charged to producers for disposal costs will be structured in that year;
- (d) the engagement activities it intends to carry out in the operational year;
- (e) the public information campaigns it proposes to conduct in the operational year;
- (f) the other activities it intends to carry out in the operational year;
- (g) the key performance indicators it will apply.

(2) Before publishing the operational plan, the scheme administrator must send the draft of its proposed operational plan to each appropriate authority, and allow the authority at least one month to make representations to the scheme administrator on the plan.

(3) The scheme administrator must take any representations made to it under paragraph (2) into account in finalising its operational plan.

(4) If the scheme administrator makes any changes to its operational plan, it must publish an updated version as soon as reasonably possible.

11.—(1) The scheme administrator must publish a report each year by 30th September which—

- (a) describes the activities undertaken by the scheme administrator in the exercise of its functions during the financial year ending on 31st March of that year;
- (b) sets out—
 - (i) the total amount raised from producers in relation to disposal costs;
 - (ii) the total amount paid to each relevant authority towards its disposal costs;
 - (iii) how the scheme administrator has used its resources in the most efficient and effective way;
- (c) describes—
 - (i) the impact of its fees policy on the use of environmentally sustainable packaging, and
 - (ii) the contribution the scheme administrator has made to the achievement of the outcomes described in its strategy;
- (d) sets out what activities the scheme administrator has undertaken in each nation in the United Kingdom;
- (e) describes its performance against the key performance indicators for each nation in the United Kingdom.

(2) Before publishing the report, the scheme administrator must send a draft of its proposed report to each appropriate authority, and allow the authority at least one month to make representations to the scheme administrator on the report.

(3) The scheme administrator must take any representations made to it under paragraph (2) into account in finalising its report.

12.—(1) The scheme administrator must—

- (a) keep proper accounts and proper accounting records in relation to the exercise of its functions under these Regulations (“the relevant functions”);
- (b) prepare in respect of each financial year a statement of accounts giving a true and fair view of the state of affairs and the income and expenditure of the scheme administrator in relation to the relevant functions, including details of—
 - (i) the fees paid to the scheme administrator by producers under regulations 61(2) and the amounts distributed to relevant authorities under regulation 80,
 - (ii) the fees paid to the scheme administrator by producers under regulation 78(1), and

- (iii) any amounts owed to, and by, the scheme administrator.
- (2) Each statement of accounts must—
- (a) be consistent with the International Financial Reporting Standards (“IFRS”), and
 - (b) comply with any directions given jointly by all of the appropriate authorities, so far as those directions are consistent with IFRS as to—
 - (i) its content and form;
 - (ii) the methods and principles to be applied in preparing it.
- (3) The scheme administrator must publish the statement of accounts prepared under subparagraphs (1) and (2) before 30th September after the end of the financial year to which it relates.
- (4) In this paragraph “accounting records” include all books, papers and other records of the scheme administrator relating to, or to matters dealt with in, the accounts required to be kept by virtue of this paragraph.

SCHEDULE 6

Reprocessors and exporters

Regulation 86(5)

PART 1

Information for registration

Reprocessors

1. The name of the reprocessor, and the address and telephone number of the registered office of the reprocessor or, if not a company, the head office or the principal place of business of the reprocessor.
2. The business name of the reprocessor if different from that referred to in paragraph 1.
3. The address for service of notices on the reprocessor if different from that referred to in paragraph 1.
4. Where the reprocessor is a partnership, the names of all the partners.
5. The name and address of the reprocessing site operated by the reprocessor.
6. A list of the packaging waste materials the site is authorised to accept and recycle, with details of the weight of the material which the site is permitted to accept and recycle.
7. Information on the recycling operations the reprocessor wishes the registration to cover, and the packaging waste material for which the application is being made.

Exporters

8. The name of the exporter, and the address and telephone number of the registered office of the exporter or, if not a company, the head office or the principal place of business of the exporter in the United Kingdom.
9. The business name of the exporter if different from that referred to in paragraph 8.
10. The address for service of notices on the exporter if different from that referred to in paragraph 8.
11. Where the exporter is a partnership, the names of all the partners.

12. The locations in the United Kingdom from which the packaging waste is to be exported by the exporter.

13. The packaging waste material the exporter proposes to export.

14. The overseas reprocessing sites to which the exporter will export the packaging waste, where known at the date of registration.

15. Information on the recycling operations at the overseas reprocessing sites the exporter wishes the registration to cover.

PART 2

Reporting requirements

16. In this Part, “reporting period” means—

- (a) a quarter, in the case of a registered reprocessor or exporter, or
- (b) a month, in the case of an accredited reprocessor or exporter.

17. Reprocessors must report the following information to the appropriate agency for each packaging waste material handled at each reprocessing site for which they are registered—

- (a) the weight of the packaging waste received at the reprocessing site for recycling in each reporting period;
- (b) details of the person from whom the packaging waste was received, including—
 - (i) the name and address of that person,
 - (ii) a description of the role that person has in relation to the packaging waste, with details of what they do to the waste;
- (c) the weight of the packaging waste recycled in the reporting period by the reprocessor at the reprocessing site;
- (d) the weight of the packaging waste received at the reprocessing site in the reporting period which was not recycled by the reprocessor at the site (“unrecycled waste”);
- (e) the weight of unrecycled packaging waste which was—
 - (i) sent to another reprocessor,
 - (ii) exported, or
 - (iii) sent to any other facility or site,
- (f) the final destination in the United Kingdom of all unrecycled waste, identifying each facility or site to which unrecycled waste is sent.

18. Exporters must report the following information to the appropriate agency for each packaging waste material for which they are registered—

- (a) the weight of the packaging waste exported for recycling in each reporting period,
- (b) details of the person or body in the United Kingdom from whom the packaging waste was received by the exporter, including—
 - (i) the name and address of that person or body;
 - (ii) a description of the role that person or body has in relation to the packaging waste;
- (c) the weight of the packaging waste exported for recycling, and details of the overseas reprocessing sites to which it is exported;
- (d) the weight of the packaging waste exported for recycling which—
 - (i) has been refused by the recipient destination, or
 - (ii) stopped during the course of export;

- (e) the weight of the packaging waste referred to in sub-paragraph (d)(i) and (ii) which has been repatriated;
- (f) details of the weight of the packaging waste received by the exporter in each reporting period which has not been exported by the exporter (“unexported packaging waste”);
- (g) the weight of unexported packaging waste which was—
 - (i) sent to a reprocessor in the United Kingdom,
 - (ii) sent to another exporter in the United Kingdom, or
 - (iii) sent to any other facility or site in the United Kingdom;
- (h) the final destination in the United Kingdom of all unexported packaging waste.

19. In this Part, a reference to the weight of the packaging waste received for recycling is to the weight in tonnes of the recyclable proportion of that packaging waste, calculated in accordance with paragraph 21.

PART 3

Conditions of Accreditation

20. The conditions referred to in regulation 93(b)(iv) are that—

- (a) PRNs must not be issued for more than—
 - (i) the recyclable proportion of the packaging waste received for recycling at the reprocessing site for which the reprocessor is accredited, as calculated in accordance with paragraph 21, and
 - (ii) the amount which will be recycled on the site for which the reprocessor is accredited no later than the end of the year after the year in which it is received;
- (b) PRNs which relate to packaging waste received for recycling in December of a year must specify that fact;
- (c) PERNs may only be issued in relation to packaging waste—
 - (i) that has been received for recycling at an overseas reprocessing site for which the exporter is accredited at the time of export;
 - (ii) for which the exporter has evidence that the packaging waste to which it relates has been received at the overseas reprocessing site, and of the tonnage of packaging waste received at that site;
- (d) PERNs must not be issued for more than the recyclable proportion of the packaging waste exported to an overseas reprocessing site for which the exporter is accredited, as calculated in accordance with paragraph 21;
- (e) a PERN must not be issued unless the exporter has up-to-date information that the recycling operations taking place at each overseas reprocessing site where the packaging waste is to be recycled take place under conditions that are broadly equivalent to requirements applicable to reprocessing sites in the United Kingdom;
- (f) PERNs which relate to packaging waste received at an overseas reprocessing site for recycling in December of a year must specify that fact;
- (g) a PRN or PERN must not be issued after 31st January in any year in respect of an amount of packaging waste received for recycling at the reprocessing site or at the overseas reprocessing site in the previous year;
- (h) PRNs and PERNs may only be issued to producers or operators of schemes, or to the representatives of producers or operators of schemes;
- (i) records must be kept to identify the load of packaging waste to which a PRN or PERN relates, and when that waste was recycled or exported for recycling, and must include—

- (i) evidence demonstrating that PRNs and PERNs have only been issued where permitted in accordance with this paragraph, and for amounts calculated in accordance with this paragraph and paragraph 21;
 - (ii) for PRNs, evidence that packaging waste received for recycling at the reprocessing site has been recycled;
 - (iii) for PERNs, evidence that packaging waste exported for recycling has been received and recycled at the overseas reprocessing site to which it has been exported, and of the tonnage of packaging waste received at the overseas reprocessing site;
 - (iv) sufficient records to enable a full audit to be carried out of the procedures and record keeping of the exporter or reprocessor, as specified in their application for accreditation, including any variation approved by the appropriate agency in writing;
- (j) records must be—
- (i) maintained for each month in a summary log in a format specified by the appropriate agency,
 - (ii) retained for at least 7 years after the end of the year in which the record is made, and
 - (iii) made available to the appropriate agency on demand;
- (k) reports must be provided to the appropriate agency before the 21st day of a month in respect of the previous month which—
- (i) sets out the number of PRNs or PERNs issued in that month;
 - (ii) sets out the average price received for the sale of PRNs or PERNs in that month;
 - (iii) sets out the total revenue generated from the sale of PRNs or PERNs in that month; by the exporter or reprocessor, as the case may be;
- (l) the reports referred to in paragraph (k) must also—
- (i) set out the information set out in paragraphs 17 or 18 as applicable, and in paragraph 20(i);
 - (ii) be in the form prescribed by the appropriate agency for this purpose;
- (m) a report must be provided to the appropriate agency before 28th February in each year which—
- (i) sets out all the information provided in the monthly reports which relate to the whole of the previous year;
 - (ii) sets out the amount of revenue generated from the sale of PRNs or PERNs in the previous year;
 - (iii) sets out what that amount has been spent on, including information on the matters set out in regulation 92(2)(c);
 - (iv) accounts for the whole of that amount;
 - (v) sets out and explains any deviation during the previous year from the business plan referred to in regulation 92(2)(c);
 - (vi) is in the form prescribed by the appropriate agency for this purpose;
- (n) the reports required under sub-paragraphs (k) and (m) must be verified by the signature of an approved person of the exporter or reprocessor;
- (o) a reprocessor or exporter must—
- (i) implement the business plan referred to in regulation 92(2)(c),
 - (ii) operate in accordance with the sampling and inspection plan approved by the appropriate agency under regulation 92(9),
 - (iii) implement all other procedures and policies set out in their application under regulation 92(2)(a), and
 - (iv) comply with such other conditions as the appropriate agency may specify in the notification of a grant of accreditation;

- (p) a PERN may only be issued in respect of packaging waste that is exported in accordance with—
 - (i) the Transfrontier Shipment of Waste Regulations 2007(a),
 - (ii) Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste(b), and
 - (iii) Commission Regulation (EC) No 1418/2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply(c);
- (q) an exporter who exports packaging waste to the overseas reprocessing site via an interim site which sorts, partially treats or bulks up the waste before the waste is sent on to its final destination at an overseas reprocessing site—
 - (i) must provide the names and addresses of any interim site used during the year to the appropriate agency before the waste is exported in the manner specified by the agency;
 - (ii) may only issue PERNs against the weight of packaging waste received for reprocessing at the overseas reprocessing site;
- (r) a reprocessor may not issue PRNs, and an exporter may not issue PERNs, for more waste in a year than the amount in tonnes for which they are accredited under these Regulations;
- (s) PRNs and PERNs may not be issued in relation to any waste which is exempt packaging under regulation 13(2)(e);
- (t) PRNs and PERNs must be issued in a manner which least hinders the ability of any person to acquire PRNs and PERNs;
- (u) PERNs may only be issued in relation to waste for which—
 - (i) the exporter is the legal owner at the point of export, or
 - (ii) the exporter has transferred legal ownership to the person responsible for the operation of the overseas reprocessing site to which the waste is exported, and that person is the legal owner at the point of export;
- (v) PRNs may only be issued in relation to waste if the acceptance, storage and treatment of the waste by the reprocessor is authorised by a relevant authorisation.

21.—(1) For the purposes of this Schedule, the “recyclable proportion” may be calculated as one of the following amounts—

- (a) the actual weight of the packaging waste material received by the reprocessor for recycling, or by the exporter for exporting to an overseas reprocessing site, after deduction of everything which is not the packaging waste material, or
 - (b) the percentage of packaging waste specified in any protocol for packaging waste reprocessing which is approved by the appropriate agencies as applying to recycling of the material in question throughout the United Kingdom, or
 - (c) the amount identified by applying the sampling and inspection plan approved by the appropriate agency under regulation 92(9), in relation to the material in question.
- (2) The “recyclable proportion” may not include any material—
- (a) other than material from the same packaging category or relevant packaging sub-category as the material being recycled,
 - (b) which is not packaging waste, or
 - (c) which is packaging waste which does not originate in the United Kingdom.

(a) S.I. 2007/1711.

(b) EUR 1013/2006, amended by S.I. 2019/473, 590, 2020/1455 and 2021/785.

(c) EUR 1418/2007, amended by S.I. 2019/590 and 2021/785.

Procedure on Appeals

Application

1.—(1) Paragraph 2 applies to a person who wishes to appeal to the First Tier Tribunal under regulation 97 or 98.

(2) Paragraphs 3 to 6 apply to a person who wishes to appeal to—

- (a) the Planning Appeals Commission under regulation 97 or 98, or
- (b) to the Scottish Ministers under regulation 97.

(3) Paragraph 7 applies to a person who wishes to appeal to the sheriff under regulation 98.

Appeals to First Tier Tribunal

2.—(1) A person referred to in paragraph 1(1) must appeal to the First Tier Tribunal in accordance with the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009(a) (“the 2009 Rules”), and the 2009 Rules apply to the appeal, subject to the modification in sub-paragraph (2).

(2) Rule 22 of the 2009 Rules applies to an appeal brought under these Regulations as if rule 22(1)(b) required the notice of appeal to be received by the Tribunal within 2 months of—

- (a) in the case of an appeal under regulation 97, the date on which notice of the decision to which the appeal relates was sent to the appellant, or
- (b) in the case of an appeal under regulation 98, the date on which any complaint relating to that decision under the complaints procedure established by the scheme administrator under paragraph 8 of Schedule 5 has been completed.

Appeals to Planning Appeals Commission or Scottish Ministers

3.—(1) A person referred to in paragraph 1(2) must appeal to the Planning Appeals Commission or to the Scottish Ministers (“the relevant appeal body”) as the case may be, by notice in writing sent to the relevant appeal body.

(2) The notice referred to in sub-paragraph (1) must be accompanied by—

- (a) a statement of the grounds of appeal;
- (b) a copy of the following documents—
 - (i) the decision or notice which is the subject-matter of the appeal,
 - (ii) any relevant application,
 - (iii) in the case of an appeal to the Planning Appeals Commission, any correspondence between the appellant and the scheme administrator or the appropriate agency or document relevant to the appeal, which could be required to be disclosed as part of standard disclosure under Order 24 of the Rules of the Supreme Court (Northern Ireland) 1980(b), and
 - (iv) any other document on which the appellant intends to rely for the purposes of the appeal, and
- (c) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.

4.—(1) Subject to sub-paragraph (2), notice of appeal must be given before the expiry of the period of 2 months beginning with—

(a) S.I. 2009/1976.
(b) S.R. 1980 No. 346.

- (a) in the case of an appeal under regulation 97, the date on which notice of the act or decision to which the appeal relates was sent to the appellant, or
- (b) in the case of an appeal under regulation 98, the date on which the complaints procedure established by the scheme administrator under paragraph 8 of Schedule 5 relating to that act or decision has been completed.

(2) The relevant appeal body may at any time allow notice of an appeal to be given after the expiry of the period mentioned in sub-paragraph (1).

5. Where under regulation 99(3) the appeal is by way of a hearing, the person hearing the appeal (“P”) must, unless P has been appointed to determine the appeal under regulation 99(2)(a), make a written report to the relevant appeal body of P’s conclusions, including where relevant any findings of fact, and recommendation as to the determination of the appeal with the reasons for the recommendation.

6.—(1) The relevant appeal body or other person determining an appeal must notify the appellant in writing of the decision and the reasons for the decision.

(2) If the relevant appeal body determines an appeal after a hearing under regulation 99(3), it must provide the appellant with a copy of any report made under paragraph 5.

(3) The relevant appeal body or other person determining an appeal must, at the same time as notifying the appellant of the decision, send a copy of any document sent to the appellant under this paragraph to—

- (a) the appropriate agency, if the appeal concerns a decision of the appropriate agency,
- (b) the labelling authority, if the appeal concerns a civil sanction imposed by it, or
- (c) the scheme administrator, if the appeal concerns a decision of the scheme administrator.

Sheriff

7. A person referred to in paragraph 1(3) must appeal to the sheriff within 2 months of the date on which the complaints procedure established by the scheme administrator under paragraph 8 of Schedule 5 relating to that act or decision has been completed.

SCHEDULE 8

Regulation 102

Groups of Companies

PART 1

General

1. This Part applies in relation to a relevant year—

- (a) where a holding company and one or more of its subsidiaries, or two or more subsidiary companies of the same holding company are each producers under regulation 9, and
- (b) where the aggregate of the turnovers, and the aggregate of the amounts of packaging or packaging materials handled by each such company in the year preceding the relevant year, are sufficient to satisfy the threshold tests as provided by regulation 12(1) or (2).

2. For the purposes of this Schedule “subsidiary” and “holding company” have the same meanings as they have in section 1159 of the Companies Act 2006.

3. In respect of a year each company referred to in paragraph 1 above is a producer of a class referred to in regulation 9(1)(a) to (g) if in that year and the preceding year the company performs the relevant functions specified in regulation 9(2) to (14) in relation to that class of producer.

4. If the aggregate of the turnovers, and the aggregate of the amounts of packaging or packaging materials handled by each of the companies in a group which are producers under regulation 9 satisfy the threshold tests provided for in regulation each of those companies is to be treated as a large producer for the purposes of these Regulations whether or not it would satisfy those tests if it were not a member of the group.

5. If the aggregate of the turnovers, and the aggregate of the amounts of packaging or packaging materials handled by each of the companies in the group which are producers under regulation 9 satisfy the threshold tests provided for in regulation 12(2), but not those provided for in regulation 12(1) each of those companies is to be treated as a small producer for the purposes of these Regulations whether or not it would satisfy those tests if it were not a member of the group.

6. Subject to regulation 30, companies which are producers and are in a group of companies must comply with their producer registration obligations for a relevant year by—

- (a) being registered separately for that year with the appropriate agency as required by regulation 16(2), in which case each company so registered has its own obligations under these Regulations, or
- (b) the holding company and one or more of the subsidiaries being registered together for that year with the appropriate agency (a “group registration”) in which case paragraph 7 applies.

7.—(1) Where there is a group registration—

- (a) the subsidiary companies in the group registration are exempt from complying with their obligations under regulations 16 to 18 for the relevant year;
- (b) the holding company has an obligation for the relevant year to make the group registration and for this purpose regulations 30 to 41, and Parts 1 and 2 of Schedule 3, are to be read as if—
 - (i) references to the applicant or the producer were references to the holding company, and
 - (ii) references to information to be provided regarding the producer were to information to be provided regarding each company in the group registration;
- (c) the holding company has recycling obligations for the relevant year which are the aggregate of its own obligations in respect of that year, if any, and the obligations which the subsidiary companies in the group registration would have had but for the group registration;
- (d) the holding company must—
 - (i) comply with record keeping obligations and reporting obligations on behalf of the group, and
 - (ii) provide a certificate of compliance on behalf of the group;
- (e) where a company in the group, other than the holding company, would apart from this paragraph be liable to pay disposal fees under regulation 61, its liability is transferred to the holding company, and the holding company is to be treated as liable to pay an amount equal to the sum of the disposal fees which would, apart from this paragraph, be payable by each company in the group.

(2) For the purposes of sub-paragraph (1)(d), references in Part 5 and Schedule 4—

- (a) to a producer are to be read as references to the holding company, and
- (b) to information are to be read as references to information regarding each company in the group registration.

8. This Part is subject to the provisions of Part 2.

PART 2

Mid-Year changes

9. Paragraphs 10 to 14 apply where a company joins a group of companies and becomes a company to which paragraph 1 applies.

10. The company must either—

- (a) be registered separately with the appropriate agency as required by regulation 16(2), or
- (b) be registered with the appropriate agency as part of a group registration under Part 1 of this Schedule and for the purposes of this paragraph—
 - (i) such registration is effected upon notice being given by the holding company to the appropriate agency of the change in the group registration, and
 - (ii) where prior to joining the group of companies the company was registered with the appropriate agency, the appropriate agency must cancel the company's registration and regulation 41(3) applies to that cancellation as it applies to a cancellation under regulation 41(2).

11. Where—

- (a) in relation to the requirement year in which the company joins the group, the company itself satisfies the threshold tests, and
- (b) the company is registered as part of a group registration,

the holding company must comply with the company's obligations under these Regulations for that year in accordance with Part 1 of this Schedule.

12. Where—

- (a) in relation to the requirement year in which the company joins the group the company itself satisfies the threshold tests, and
- (b) the company is registered separately with the appropriate agency,

the company must comply with its obligations under these Regulations for that year.

13.—(1) Where—

- (a) in relation to the requirement year in which the company joins the group the company itself does not satisfy the threshold tests, and
- (b) the company is registered as part of a group registration,

the holding company must, subject to sub-paragraph (2), comply with the company's obligations under these Regulations for that year.

(2) The obligation of the holding company is to be calculated as a proportion of the company's recycling obligations, disposal fee obligations and scheme administrator costs obligations for the year in which it joins the group, such proportion being calculated as provided in paragraph 22.

14.—(1) Where—

- (a) in relation to the requirement year in which the company joins the group the company itself does not satisfy the threshold tests, and
- (b) the company is registered separately with the appropriate agency,

the company must, subject to sub-paragraph (2), comply with the company's obligations under these Regulations for that year.

(2) The obligation of the company is to be calculated as proportion of its recycling obligations, disposal fee obligations and scheme administrator fee obligations for the year in which it joins the group, such proportion being calculated as provided in paragraph 22.

15. Paragraphs 16 to 20 apply where a holding company or subsidiary company to which paragraph 1 applies ceases to belong to a group of companies.

16. Where, in relation to the requirement year the company itself satisfies the threshold tests, the company must register with the appropriate agency as required by regulation (2), 17(2) or 18(2), as applicable, within 28 days of ceasing to be a member of a group and regulations 37 to 41 apply as if this were an occurrence specified in regulation 37(5)(a).

17. Where—

- (a) in relation to the requirement year in which the company ceases to be a member of the group the company itself satisfies the threshold tests, and
- (b) the company was registered as part of a group registration,

the holding company must comply with the company's obligations under these Regulations for that year.

18. Where—

- (a) in relation to the requirement year in which the company ceases to be a member of the group the company itself satisfies the threshold tests, and
- (b) the company is registered separately with the appropriate agency,

the company must comply with its obligations under these Regulations for that year.

19. Where—

- (a) in relation to the requirement year in which the company ceases to be a member of the group the company itself does not satisfy the threshold tests, and
- (b) the company was registered as part of a group registration,

the holding company must comply with the company's obligations under these Regulations for that year.

20. Where—

- (a) in relation to the requirement year in which the company ceases to be a member of the group the company itself does not satisfy the threshold tests, and
- (b) the company was registered separately with the appropriate agency,

the holding company must comply with the company's obligations under these Regulations for that year.

21. Where in a relevant year paragraph 9 applies to a company as a result of that company ceasing to be a member of one group ("the first group") and becoming a member of another group ("the second group")—

- (a) where in relation to both groups the company is registered as part of a group registration—
 - (i) the holding company of the first group must comply with the company's obligations under these Regulations for the year in which the company ceases to be a member of that group, and
 - (ii) the holding company of the second group must comply with those obligations in any subsequent year in which the company is a member of the second group,
- (b) where in relation to both groups the company is registered separately with the appropriate agency, the company must comply with its obligations under these Regulations for the year,
- (c) where in relation to the first group the company was registered as part of a group registration and in relation to the second group the company is registered separately with the appropriate agency—

- (i) the holding company of the first group must comply with the company's obligations under these Regulations for the year in which the company ceases to be a member of that group, and
- (ii) the company itself must comply with its obligations under these Regulations for any subsequent year, or
- (d) where in relation to the first group the company was registered separately with the appropriate agency and in relation to the second group the company is registered as part of a group registration—
 - (i) the company itself must comply with its obligations under these Regulations for the year in which it joins the group, and
 - (ii) the holding company of the second group must comply with the company's obligations under these Regulations for any subsequent year.

22. The proportion referred to in paragraphs 13 and 14 is to be calculated as—

$$G/H$$

where—

- (a) “G” is the number of days in the relevant year during which the company was a member of the group, and
- (b) “H” is the number of days in the relevant year.

23. For the purposes of this Part of this Schedule—

- (a) “disposal fee obligations” means obligations to pay disposal fee under 61;
- (b) “scheme administrator fee obligations” means obligations to pay a fee to cover the costs of the scheme administrator imposed under regulation 78;
- (c) the “threshold tests” means the threshold tests provided in regulation 12(2).

SCHEDULE 9

Regulation 103

Licensors and Pub Operating Businesses

PART 1

General

1. For the purposes of this Schedule—

“head organisation” means a licensor or pub operating business as defined in regulation 103(4) and (5) respectively, and

“member” means—

- (a) where the head organisation is a licensor, a licensee being the person granted a licence to use a trade mark by the licensor under a licence agreement as provided for in regulation 103, or
- (b) where the head organisation is a pub operating business, a tenant being the person granted a lease or tenancy by the pub operating business as provided for in regulation 103.

2.—(1) A head organisation has obligations under this Schedule in the situations set out in paragraph 3(1) where the conditions in paragraph 3(2) are met.

(2) Where a head organisation has obligations—

- (a) Part 2 applies to determine the obligations of a licensor, and
- (b) Part 3 applies to determine the obligations of a pub operating business.

3.—(1) The situations referred to in paragraph 2 are that—

- (a) the head organisation and one or more of its members would, but for the fact that they do not satisfy one or both of the threshold criteria in regulation 12(2), each have producer responsibility obligations under these Regulations,
- (b) two or more members of the head organisation would, but for not satisfying one or both of the threshold criteria in regulation 12(2), each have producer responsibility obligations under these Regulations, or
- (c) the head organisation has producer responsibility obligations under these Regulations and one or more of its members would, but for a failure to satisfy one or both of the threshold criteria in regulation 12(2), have producer responsibility obligations under these Regulations.

(2) The conditions referred to in paragraph 2 are that—

- (a) the head organisation satisfies the threshold criterion relating to turnover in regulation 12(2)(a), and
- (b) the head organisation and one or more of its members, or two or more of its members, in one of the situations in sub-paragraph (1), together satisfy the threshold criterion relating to packaging handled in regulation 12(2)(b), determined in accordance with paragraph 5 or 7.

4. Where the head organisation does not have the information necessary for the purposes of Parts 2 and 3—

- (a) the organisation must use its best endeavours to obtain such information, and
- (b) where despite having used its best endeavours, it nevertheless does not have such information it must produce its best estimate and that estimate must be used for the purposes of Parts 2 and 3.

PART 2

Licensors

5.—(1) Where the head organisation is a licensor, for the purposes of determining whether the threshold criterion in regulation 12(2)(b) is satisfied, only packaging or packaging materials specified in sub-paragraph (2) are to be taken into account.

(2) The packaging and packaging materials referred to in sub-paragraph (1) are—

- (a) packaging or packaging materials that bear a trade mark of the head organisation for which a licence to use such trade mark has been granted under the licence agreement,
- (b) packaging associated with goods that bear a trade mark of the head organisation for which a licence to use such trade mark has been granted under the licence agreement, and
- (c) where the member is obliged under the licence agreement to—
 - (i) purchase goods in packaging,
 - (ii) purchase goods and associated packaging or packaging materials to be used to contain or protect such goods or to facilitate the handling of or for the presentation of such goods,
 - (iii) purchase packaging or packaging materials to be used to contain or protect such goods or to facilitate the handling of or for the presentation of such goods,

from the head organisation or a supplier nominated or authorised by the head organisation where the head organisation has negotiated some or all of the terms of the supply, such packaging or packaging materials.

6. Where the head organisation is a licensor, there is a situation falling in paragraph 3(1) above and the conditions in paragraph 3(2) have been met, the head organisation—

- (a) is deemed to be a producer of one or more classes specified in regulation 9(1)(a) to (g),
- (b) is subject to the obligations set out in regulations 48(6) and 52(1)—
 - (i) in respect of its own activities, where applicable, and the activities of its members, and
 - (ii) in relation to the packaging or packaging materials described in paragraph 5(2), but only insofar as that packaging is not otherwise reported on under paragraphs 13 to 15 of Schedule 4.

PART 3

Pub operating businesses

7.—(1) Where the head organisation is a pub operating business, for the purposes of determining whether the threshold criterion in regulation 12(2)(b) is satisfied, only packaging or packaging materials specified in sub-paragraph (2) are to be taken into account.

(2) The packaging or packaging materials referred to in sub-paragraph (1) are packaging or packaging materials that contain the goods that are the subject of the obligation to purchase from—

- (a) the head organisation, or
- (b) a person nominated or authorised by that head organisation under the pub operating agreement,

whether or not the goods have been packed or filled in the packaging or packaging materials when they are purchased by the member.

8. Where the head organisation is a pub operating business, there is a situation falling in paragraph 3(1) and the conditions in paragraph 3(2) have been met, the head organisation—

- (a) is deemed to be a producer of one or more classes specified in regulation 9(1)(a) to (g),
- (b) is subject to the obligations set out in regulations 48(6) and 52(1)—
 - (i) in respect of its own activities, where applicable, and the activities of its members, and
 - (ii) in relation to the packaging or packaging materials described in paragraph 7(2), but only insofar as that packaging is not otherwise reported on under paragraphs 13 to 15 of Schedule 4.

SCHEDULE 10

Regulation 109

Public Register

1.—(1) The name and address of the registered office, head office or principal place of business of—

- (a) each producer who is registered under regulation 16(2), 17(2), 18(2) or 28(1)(a);
- (b) in relation to each registered scheme—
 - (i) the operator of the scheme, and
 - (ii) each member of the scheme.

(2) The name and address of the registered office, head office or principal place of business of—

- (a) each registered reprocessor and exporter, and
- (b) each accredited reprocessor and exporter.

2. The number assigned to each producer, scheme, reprocessor and exporter on registration.
3. In relation to each registered producer—
 - (a) whether the producer is a large producer or a small producer;
 - (b) whether the producer is subject to—
 - (i) recycling obligations under regulation 16(3)(c) and Schedule 1, and
 - (ii) certification obligations under regulation 16(3)(d);
 - (c) whether the producer is subject to obligations under regulation 28;
 - (d) whether the producer is required to make reports under regulation 52;
 - (e) whether the producer is required to pay disposal costs under regulation 61(1).
4. In relation to each registered scheme—
 - (a) the date on which the scheme was approved under regulation 33;
 - (b) whether the scheme is a compliance scheme or a take back scheme.
5. In relation to registered reproducers and exporters, and accredited reproducers and exporters—
 - (a) each material type received for recycling or export included in the reprocessor or exporter's registration and, if relevant, accreditation,
 - (b) in relation to any recovery operation to be used, the appropriate classification of the applicable operation provided for in Annex II to the Waste Directive,
 - (c) for how many tonnes of packaging waste the reprocessor or exporter is accredited to issue PRNs or PERNs,
 - (d) the trading name, address and telephone number of the reprocessor or exporter,
 - (e) the reprocessing site address for an accredited reprocessor,
 - (f) the accreditation reference number supplied by the appropriate agency,
 - (g) whether or not monthly returns and annual returns have been provided in accordance with the conditions set out in paragraph 20(k) and (m) of Schedule 6,
 - (h) whether the appropriate agency has served a notice to suspend or cancel accreditation, and
 - (i) whether accreditation has been suspended or cancelled.
6. A statement in relation to each registered large producer as to whether a satisfactory certificate of compliance has been furnished in accordance with regulation 53.
7. A statement in relation to each registered operator of a scheme ("OS") as to whether OS has complied with its obligations under regulation 31(3) or (4), as the case may be.
8. Any information which the appropriate agency is required to publish under regulation 123.

SCHEDULE 11

Regulation 119(1)

Civil sanctions

PART 1

Application

1.—(1) Parts 3 (fixed monetary penalties), 4 (variable monetary penalties) and 6 (enforcement undertakings) apply to enforcement agencies in England, Wales and Northern Ireland, and to a Scottish enforcement agency other than SEPA in Scotland.

- (2) Part 2 (table of civil sanctions) applies to—
- (a) to enforcement agencies in England, Wales and Northern Ireland, and to a Scottish enforcement agency other than SEPA in Scotland, and
 - (b) to other Scottish enforcement agencies so far as it concerns compliance notices.
- (3) Part 5 (compliance notices) applies to all enforcement agencies.

PART 2

Table of civil sanctions

<i>Requirements</i>	<i>Fixed monetary penalty</i>	<i>Variable monetary penalty</i>	<i>Compliance notice</i>	<i>Enforcement undertaking</i>
Producers				
Regulation 15(3)(a) (record keeping obligations)	Yes	No	No	No
Regulation 15(3)(b), 16(2), 17(2) and 18(2) (registration obligation)	No	Yes	Yes	Yes
Regulation 16(6)(a) and 22(1)(a) (determination of recyclability);	No	Yes	Yes	Yes
Regulations 22(2) and 23 (labelling obligations)	No	Yes	Yes	Yes
Regulation 26(4) (providing information on recyclability)	No	Yes	Yes	Yes
Regulation 37(1) and (5) (registration in time)	No	Yes	No	No
Regulation 16(3)(a) and (6)(b), 17(3)(a), 18(3)(a), 22(1)(b), 48 (record keeping obligations)	No	Yes	Yes	Yes
Regulation 16(3)(b) and (6)(c), 17(3)(b), 18(3)(b), 50(1) or (2), 51(1), 52(1), (2) or (3) (reporting obligation)	No	Yes	Yes	Yes
Regulation 50(3), (4), (5), (6), 51(2), (3), (4), 52(4), (5) or (6) (reporting in time)	No	Yes	No	No
Regulation 16(3)(c) (recycling obligations)	No	Yes	Yes	Yes
Regulation 16(3)(d) (certification obligation)	Yes	No	No	No
Regulation 27(2) (pay charges to labelling authority)	Yes	No	Yes	No
Regulation 28(1)(a)(registration: take back obligation)	No	Yes	Yes	Yes
Regulation 28(1)(b) or (c) (availability of bins)	Yes	No	Yes	Yes
Regulation 28(1)(d) (recycling of cups)	No	Yes	Yes	Yes
Regulation 29(1) to (6), (records and reports)	No	Yes	Yes	Yes

<i>Requirements</i>	<i>Fixed monetary penalty</i>	<i>Variable monetary penalty</i>	<i>Compliance notice</i>	<i>Enforcement undertaking</i>
Regulation 40(1)(c) and (d) (provision of information)	Yes	No	No	No
Regulation 113(1) (provision of information)	Yes	No	No	No
Regulation 61(3) (requirement to pay disposal costs within 50 days of a payment becoming due)	No	Yes	Yes	Yes
Regulation 78(5)(b) (requirement to pay scheme administrator costs within 50 days of a payment becoming due)	No	Yes	Yes	Yes
Scheme operators				
Regulation 31(1) or 42(1) (registration of a scheme)	No	Yes	Yes	Yes
Regulation 31(3)(a) (compliance scheme registration obligations)	No	Yes	Yes	Yes
Regulation 31(3)(b) (compliance scheme recycling obligations)	No	Yes	No	Yes
Regulation 31(3)(d) (compliance scheme certification obligation)	Yes	No	Yes	No
Regulation 31(4)(a) (take back scheme registration of members)	No	Yes	Yes	Yes
Regulation 31(4)(b) (take back scheme dedicated receptacle for fibre-based composite cups)	Yes	No	Yes	Yes
Regulation 31(4)(c) (take back scheme collection and recycling of waste fibre-based composite cups)	No	Yes	Yes	Yes
Regulation 31(4)(d) (reporting obligations of take back schemes)	No	Yes	Yes	Yes
Regulation 31(7) (provision of information to members)	No	Yes	Yes	Yes
Regulation 43 (conditions of registration of a scheme)	No	Yes	Yes	Yes
Regulation 54 (scheme reporting obligations)	No	Yes	Yes	Yes
Reprocessors and Exporters				
Regulation 86(1) (registration requirement)	No	Yes	Yes	Yes
Regulation 87 (conditions of registration)	No	Yes	Yes	Yes
Regulation 89 or paragraph 20(i), (j), (k), (l), (m) or (n) of	Yes	No	Yes	Yes

<i>Requirements</i>	<i>Fixed monetary penalty</i>	<i>Variable monetary penalty</i>	<i>Compliance notice</i>	<i>Enforcement undertaking</i>
Schedule 6 (records and reporting requirements)				
Regulation 91 (requirement for accreditation for issue of PRNs and PERNs)	No	Yes	Yes	Yes
Regulation 93, and Part 3 of Schedule 6 (conditions of accreditation)	No	Yes	Yes	Yes
General				
Regulation 105(1) (provision of information)	Yes	No	No	Yes
Regulation 118(11) (provision of false or misleading information)	No	Yes	Yes	No
Regulation 118(12) (failure to comply with reasonable request of the appropriate agency the labelling authority or one of their officers)	Yes	No	Yes	Yes
Regulation 118(13) (obstruction of an authorised person)	Yes	No	No	Yes
Regulation 118(15) (failure to comply with a compliance notice or enforcement undertaking)	No	Yes	Yes	Yes
Holding companies				
Paragraph 7(1)(c) of Schedule 8	No	Yes	No	Yes
Paragraph 7(1)(d)(i) or (ii) of Schedule 8	Yes	No	No	No

PART 3

Fixed Monetary Penalties

2.—(1) An enforcement agency may by notice impose a fixed monetary penalty on a person in relation to a contravention of a requirement in a provision specified in the table in Part 2 (“the table”) if the table indicates that such penalty is possible for contravention of that requirement.

(2) Before doing so the enforcement agency must be satisfied on the balance of probabilities that the person has contravened the requirement.

(3) “Fixed monetary penalty” means a requirement to pay the enforcement agency the amount specified in paragraph (4).

(4) The amount of the fixed monetary penalty is £1,000.

(5) A requirement under this paragraph may not be imposed on a person on more than one occasion in relation to the same act or omission, unless the act or omission is a continuing act or omission.

3.—(1) Where an enforcement agency proposes to impose a fixed monetary penalty on a person, the enforcement agency must serve on that person a notice of what is proposed (a “notice of intent”).

(2) The notice of intent must include—

- (a) the grounds for imposing the fixed monetary penalty;
- (b) the amount of the penalty;
- (c) a statement that liability for the penalty can be discharged by paying 50% of the penalty within 28 days beginning with the day after the day on which the notice of intent was issued;
- (d) information as to—
 - (i) the effect of that discharge payment;
 - (ii) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received;
 - (iii) the circumstances in which the enforcement agency may not impose the penalty (including any defences applicable to the offence for the contravention of the requirement for which the fixed monetary penalty is imposed on that person).

4. The penalty is discharged if a person who receives a notice of intent pays 50% of the amount of the penalty within 28 days beginning with the day on which the notice was received.

5. A person on whom a notice of intent is served may within 28 days beginning with the day on which the notice was received (“the 28 day period”) make written representations and objections to the enforcement agency in relation to the proposed imposition of the fixed monetary penalty.

6.—(1) If the person who has received a notice of intent does not discharge liability within the 28 day period the enforcement agency may, after considering any representations or objections made during that period, serve a final notice imposing a fixed monetary penalty.

(2) The enforcement agency may not serve a final notice on a person where the enforcement agency is satisfied that the person would not, by reason of any defence, be liable to be convicted of an offence for the contravention of the requirement to which the notice relates, if there is such an offence.

(3) Where a final notice imposing a fixed monetary penalty is served on a person who has made written representations or objections under paragraph 5, that person may discharge the final notice by paying 50% of the penalty within 28 days beginning with the day after the day on which the final notice is received.

7. A final notice must include information as to—

- (a) the amount of the penalty,
- (b) the grounds for imposing the penalty,
- (c) how payment may be made,
- (d) the period of 56 days within which payment must be made,
- (e) details of the late payment penalties, and, if applicable, early payment discounts,
- (f) the right of appeal, and
- (g) the consequences of non-payment.

8.—(1) The person receiving the final notice may appeal against it.

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact,
- (b) that the decision was wrong in law, or
- (c) that the decision was unreasonable.

9.—(1) The penalty must be paid within 56 days of receipt of the final notice.

(2) If the penalty is not paid within 56 days the amount payable is increased by 50%.

(3) In the case of an appeal the penalty is payable within 28 days of the determination of the appeal (if the appeal is unsuccessful), or the date on which the appeal is withdrawn, and if it is not paid within 28 days the amount of the penalty is increased by 50%.

10.—(1) If a notice of intent for a fixed monetary penalty is served on any person—

- (a) no criminal proceedings may be instituted against that person for a related offence in respect of the act or omission to which the notice relates before 28 days from the date on which the notice of intent is issued, and
- (b) if that person so discharges liability, that person may not at any time be convicted of a related offence in relation to that act or omission.

(2) If a fixed monetary penalty is imposed on any person and that person has paid the penalty due, that person may not at any time be convicted of a related offence in respect of the act or omission giving rise to the penalty, unless the act or omission is a continuing act or omission.

(3) In this paragraph, “related offence” means the offence for the contravention of the requirement for which the fixed monetary penalty is imposed on that person.

PART 4

Variable monetary penalties

11.—(1) An enforcement agency may by notice impose a requirement to pay a monetary penalty to an enforcement agency of such amount as the enforcement agency may determine (“a variable monetary penalty”), in relation to the contravention of a requirement under a provision specified in the table in Part 2 of this Schedule if that table indicates that such penalty is possible for a contravention of that requirement.

(2) Where a variable monetary penalty is imposed in relation to failure to make a payment due under regulation 61(2) (disposal fees) or regulation 78(1) (scheme administrator costs) before the end of a period of 50 days starting with the day on which payment is due in accordance with regulation 61(3) or 78(5)(b) as applicable, the amount of the variable monetary penalty is to be calculated as an amount equal to the higher of—

- (a) 20% of the unpaid disposal fees, including unpaid disposal fees in relation to scheme administrator costs which that producer is liable to pay, or
- (b) 5% of the turnover of the producer reported under regulation 10, or, where the producer is a member of a group which has a group registration, 2% of the collective turnover of those members of the group that are included in the group registration.

(3) Before imposing a variable monetary penalty the enforcement agency must be satisfied on the balance of probabilities that the person has contravened that requirement.

(4) A requirement under this paragraph may not be imposed on a person on more than one occasion in relation to the same act or omission, unless the act or omission is a continuing act or omission.

(5) Where a variable monetary penalty is imposed in relation to the contravention of a requirement, and that contravention is an offence under regulation 118 that is punishable on summary conviction by a fine, the amount of the variable monetary penalty may not exceed the maximum amount (if any) of that fine.

(6) Before serving a notice relating to a variable monetary penalty the enforcement agency may require the person to provide such information as is reasonable to establish the amount of any financial benefit arising as a result of the contravention.

12.—(1) Where an enforcement agency proposes to impose a variable monetary penalty on a person, the enforcement agency must serve on that person a notice of what is proposed (a “notice of intent”).

(2) The notice of intent must include—

- (a) the grounds for imposing the variable monetary penalty;
- (b) the amount of the penalty;
- (c) information as to—
 - (i) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was received;
 - (ii) the circumstances in which the regulator may not impose the penalty.

13. A person on whom a notice of intent is served may within 28 days beginning with the day on which the notice was received (“the 28 day period”) make written representations and objections to the enforcement agency in relation to the proposed imposition of the variable monetary penalty.

14.—(1) After the end of the period for making representations and objections, the enforcement agency must, after considering any representations or objections made within the 28 day period decide whether to impose the variable monetary penalty in the notice of intent, with or without modifications.

(2) Where the enforcement agency decides to impose a variable monetary penalty, the notice imposing it (the “final notice”) must comply with paragraph 16.

(3) The enforcement agency may not serve a final notice on a person where the enforcement agency is satisfied that the person would not, by reason of any defence, be liable to be convicted of the offence for the contravention of the requirement to which the notice relates, if there is such an offence.

15. A final notice for a variable monetary penalty must include information as to—

- (a) the amount of the penalty,
- (b) the grounds for imposing the penalty,
- (c) how payment may be made,
- (d) the period within which payment must be made which must be not less than 28 days,
- (e) rights of appeal, and
- (f) the consequences of failing to comply with the notice.

16.—(1) The person receiving the final notice may appeal against it.

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the amount of the penalty is unreasonable;
- (d) that the decision was unreasonable for any other reason.

(3) Where an appeal is made against the issue of a final notice, the penalty is payable within 28 days of the determination of the appeal (if the appeal is unsuccessful), or from the date on which the appeal is withdrawn.

17. If a notice of intent for a variable monetary penalty is served on any person—

- (a) no criminal proceedings may be instituted against that person for a related offence in respect of the act or omission to which the notice relates before 28 days from the date on which the notice of intent is issued, and
- (b) if that person so discharges liability, that person may not at any time be convicted of a related offence in relation to that act or omission.

(2) If a variable monetary penalty is imposed on any person, and the person has paid the penalty due, that person may not at any time be convicted of a related offence in respect of the act or omission giving rise to the variable monetary penalty, unless the act or omission is a continuing act or omission.

(3) In this paragraph, “related offence” means the offence for the contravention of the requirement for which the variable monetary penalty is imposed on that person.

PART 5

Compliance notices

18.—(1) An enforcement agency may by notice impose a requirement to take such steps as the enforcement agency may specify, within such period as it may specify, to secure that the contravention does not occur, continue or recur (“a compliance notice”), in relation to the contravention of a requirement under a provision specified in the table in Part 2 of this Schedule if that table indicates that such notice may be given for a contravention of that requirement.

(2) Before doing so the enforcement agency must be satisfied that there are reasonable grounds for considering that the person will contravene or has contravened that requirement.

(3) Subject to sub-paragraph (4), a requirement under this paragraph may not be imposed on a person on more than one occasion in relation to the same act or omission, unless the act or omission is a continuing act or omission.

(4) Sub-paragraph (3) does not prevent another requirement being imposed on a person under this paragraph if any earlier requirement imposed on that person in relation to the same act or omission has first been withdrawn.

(5) The enforcement agency may not impose a compliance notice on a person where the enforcement agency is satisfied that the person would not, by reason of any defence, be liable to be convicted of an offence for the contravention of the requirement to which the notice relates, if there is such an offence.

19. A compliance notice must include information as to—

- (a) the grounds for imposing the notice,
- (b) what steps the person receiving the notice must take and the period within which those steps must be completed,
- (c) the right of appeal, and
- (d) the consequences of failing to comply with the notice.

20.—(1) The person receiving the notice may appeal against it.

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the nature of the requirement is unreasonable;
- (d) that the decision was unreasonable for any other reason.

PART 6

Enforcement undertakings

21.—(1) An enforcement agency may accept an enforcement undertaking from a person in a case where the enforcement agency has reasonable grounds to suspect that the person has contravened a requirement in a provision specified in the table in Part 2 of this Schedule and that table indicates that an enforcement undertaking may be accepted in relation to the contravention of that requirement.

(2) For the purposes of this Part, an “enforcement undertaking” is a written undertaking to take such action as may be specified in the undertaking within such period as may be so specified.

22.—(1) An enforcement undertaking must specify—

- (a) action to secure that the contravention of the requirement does not continue or recur;
- (b) action to secure that the position is, so far as possible, restored to what it would have been if the requirement had not been contravened;

- (c) action (which may include the payment of a sum of money) to secure a benefit or improvement to the environment, such as the prevention of littering, or an increase in the reuse and recycling of packaging.
- (2) It must specify the period within which each of the actions specified must be completed.
- (3) It must include—
 - (a) a statement that the undertaking is made in accordance with this Part,
 - (b) the terms of the undertaking, and
 - (c) a statement of how and when the person giving the undertaking is considered to have discharged it.
- (4) The enforcement undertaking may be varied, or the period within which the action must be completed may be extended, if both parties agree in writing.

23. If an enforcement agency has accepted an enforcement undertaking then, unless the person from whom the undertaking is accepted has failed to comply with the undertaking or any part of it—

- (a) that person may not at any time be convicted of an offence for contravention of the requirement in respect of the act or omission to which the undertaking relates,
- (b) the enforcement agency may not impose on that person any fixed monetary penalty, variable monetary penalty, or compliance notice in respect of that act or omission.

24.—(1) Each enforcement agency must establish and publish the procedure for entering into an enforcement undertaking.

(2) The enforcement agency must consult such persons as it considers appropriate before doing so.

(3) When it accepts an undertaking the enforcement agency may publish it in whatever manner it sees fit.

25.—(1) An enforcement agency which is satisfied that an enforcement undertaking has been complied with must issue a certificate to that effect.

(2) An enforcement agency may require the person who has given the undertaking to provide sufficient information to determine whether the undertaking has been complied with.

(3) The person who gave the undertaking may at any time apply for such a certificate.

(4) The enforcement agency must make a decision as to whether to issue such a certificate, and give written notice of the decision to the applicant, within 14 days of such an application.

(5) The person to whom the notice is given may appeal against a decision not to issue a certificate on the grounds that the decision—

- (a) was based on an error of fact;
- (b) was wrong in law;
- (c) was unreasonable;
- (d) was wrong for any other reason.

26.—(1) A person who has given inaccurate, misleading or incomplete information in relation to an enforcement undertaking is regarded as not having complied with it.

(2) An enforcement agency may by notice in writing revoke a certificate issued under paragraph 26 if it was issued on the basis of inaccurate, incomplete or misleading information.

27.—(1) If an enforcement undertaking is not complied with the enforcement agency may either—

- (a) serve a fixed monetary penalty notice, a variable monetary penalty notice or compliance notice as specified in the Table in Part 2, or
- (b) bring criminal proceedings for an offence in relation to the contravention of the requirement in respect of which the undertaking was given (a “related offence”).

(2) If a person has complied partly but not fully with an undertaking, that part-compliance must be taken into account in the imposition of any criminal or other sanction on the person.

(3) Criminal proceedings for a related offence which is triable summarily may be instituted at any time up to six months from the date when the appropriate agency notifies the person that such person has failed to comply with that undertaking.

SCHEDULE 12

Regulation 125

Revocations

The 2007 Regulations

The 2007 (NI) Regulations

The Producer Responsibility Obligations (Packaging Waste) (Amendment No. 2) Regulations 2008(a)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) (Northern Ireland) 2008(b)

The Producer Responsibility Obligations (Packaging Waste) (Amendment No 2) Regulations (Northern Ireland) 2008(c)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010(d)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2010(e)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2012(f)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2013(g)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2013(h)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016(i)

The Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016(j)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2016(k)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2017(l)

The Producer Responsibility Obligations (Packaging Waste) (Amendment No 2) Regulations (Northern Ireland) 2017(m)

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- (a) S.I. 2008/1941.
 - (b) S.R. 2008 No 77.
 - (c) S.R. 2008 No 373.
 - (d) S.I. 2010/2849.
 - (e) S.R. 2010 No 396.
 - (f) S.I. 2012/3082.
 - (g) S.R. 2013 No 262.
 - (h) S.I. 2013/1857.
 - (i) S.R. 2016 No 79.
 - (j) S.I. 2016/241.
 - (k) S.I. 2016/1146.
 - (l) S.R. 2017 No 3.
 - (m) S.R. 2017 No 230.

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2020(a)

The Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations 2020(b)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) (England) Regulations 2020(c)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) (Wales) Regulations 2020(d)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2022(e)

The Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations 2022(f)

The Producer Responsibility Obligations (Packaging Waste) (Amendment) (England and Wales) Regulations 2022(g)

The Packaging Waste (Data Reporting) (England) Regulations 2023(h)

The Packaging Waste (Data Reporting) (England) (Amendment) Regulations 2023(i)

The Packaging Waste (Data Collection and Reporting) (Wales) Regulations 2023(j)

The Packaging Waste (Data Reporting) (Scotland) Regulations 2023(k)

The Packaging Waste (Data Reporting) (Scotland) (Amendment) Regulations 2023(l)

The Packaging Waste (Data Reporting) (No. 2) Regulations (Northern Ireland) 2023(m)

The Packaging Waste (Data Reporting) (No. 2) (Amendment) Regulations (Northern Ireland) 2023(n)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations impose requirements on producers who are established in the United Kingdom in relation to the packaging they supply, requiring certain producers to meet recycling obligations and to pay for the collection and disposal costs of their packaging when it becomes household packaging waste or binned packaging. The Regulations establish a scheme administrator to administer the provisions on disposal costs, require producers to register with the appropriate agencies, impose requirements for the collection and reporting of data in relation to packaging supplied by producers, the recycling of packaging waste, and other obligations on producers. They also regulate reprocessors and exporters of packaging waste.

(a) S.R. 2020 No 345.

(b) S.S.I.2020/387.

(c) S.I. 2020/1336.

(d) S.I. 2020/1390.

(e) S.R. 2022 No 286.

(f) S.S.I. 2022/330.

(g) S.I. 2010/2849.

(h) S.I. 2023/219.

(i) S.I. 2023/721.

(j) S.I. 2023/798 (W. 127).

(k) S.S.I.2023/7.

(l) S.S.I. 2023/160.

(m) S.R. 2023 No. 25.

(n) S.R. 2023 No. 106.

Part 1 (regulations 1 to 15) contains the interpretation provisions for the Regulations, and provides for the threshold criteria which determine whether a producer is a large or small producer subject to the obligations in the Regulations (regulation 12).

Part 2 (regulations 16 to 29 and Schedule 1) sets out the obligations on producers. Chapter 1 (regulations 16 to 18 and Schedule 1) provides an overview of the obligations on large producers, small producers, and sellers, and imposes recycling obligations on large producers. Chapter 2 (regulations 20 to 27) contain obligations relating to the labelling of packaging to show whether it is recyclable or not, and the provision of recycling information. Chapter 3 (regulations 28 to 29) imposes obligations on producers selling drinks in fibre-based composite cups to take back those cups when discarded for recycling.

Part 3 (regulations 30 to 36 and Schedule 2) contains provisions on producers and schemes. Regulation 30 provides for producers who are members of a registered scheme to be exempt from certain of the obligations imposed on producers if they fulfil the conditions set out in this regulation. Regulations 31 to 36 set out the obligations on the operators of both compliance schemes and take back schemes, and provide for the grant and withdrawal of approval to schemes. Schedule 2 sets out the charges payable to the appropriate agencies by producers, scheme operators, exporters and reprocessors.

Part 4 (regulations 37 to 46 and Schedule 3) provides for the registration of producers and schemes. Chapter 1 (regulations 37 to 41) concerns the registration of producers; chapter 2 (regulations 42 to 46) concerns the registration of schemes.

Part 5 (regulations 48 to 56 and Schedule 4) imposes obligations on producers and on scheme operators to collect and report the information set out in Schedule 4 to the Regulations to the appropriate agency, requires scheme operators, producers and reprocessors and exporters to notify the appropriate agency in insolvency and related circumstances.

Part 6 (regulations 57 to 84 and Schedule 5) imposes obligations on large producers to pay fees in relation to disposal costs, and makes provision for the scheme administrator. Chapter 1 (regulations 57 to 69) requires the appropriate authorities to appoint a scheme administrator, identifies those producers liable to pay disposal fees, and makes provision for the calculation of the amount of their liability in relation to household packaging waste and binned packaging waste. It also requires the scheme administrator to publish a statement of its policy on the adjustment of the amount of the disposal costs charged to producers. Chapter 2 (regulations 71 to 77) defines the disposal costs of relevant authorities in relation to which liability may be imposed on producers, and sets out how those costs are to be assessed. It also provides for the assessment by the scheme administrator of the costs it incurs in relation to the provision of public information. Chapter 3 (regulations 78 to 79) gives the scheme administrator power to impose liability on large producers to pay a fee to the scheme administrator to cover the expenses it incurs in exercising its functions. Chapter 4 (regulation 80) provides for the distribution of monies received from producers to relevant authorities. Chapter 5 (regulations 81 to 84) gives the scheme administrator power to recalculate the liability of producers in an assessment year or the costs incurred by relevant authorities in providing an efficient waste management service in that year in specified circumstances both during the assessment year, and after the assessment year has ended.

Part 7 (regulations 86 to 95 and Schedule 6) regulates reprocessors and exporters. Chapter 1 (regulations 86 to 89) provides for the registration of reprocessors and exporters, and imposes record keeping and reporting requirements on registered reprocessors and exporters. Chapter 2 (regulations 91 to 95), prohibits the issue of PRNs or PERNs by anyone who is not an accredited reprocessor or exporter, provides for the accreditation of reprocessors and exporters, and imposes record keeping and reporting requirements on accredited reprocessors and exporters.

Part 8 (regulations 96 to 101 and Schedule 7) provide for an appeal process for certain decisions taken by an appropriate agency, or by the scheme administrator, under the Regulations.

Part 9 (regulations 102 to 103, and Schedules 8 and 9) make provision for the application of the obligations imposed under the Regulations to groups of companies, licensors and pub-operating

businesses. It also provides for the consequences of changes of a producer, or the membership of a scheme or group of companies in the middle of a year.

Part 10 (regulations 104 to 116 and Schedule 10) sets out the powers and duties of the appropriate agencies and the labelling authority under these Regulations, including an obligation on the appropriate agencies to maintain a public register of registered schemes, producers and registered and accredited reprocessors and exporters.

Part 11 (regulations 117 to 123 and Schedule 11) provides for the enforcement of the obligations in these Regulations by criminal offences and the imposition of civil sanctions.

Part 12 (regulations 125 to 130) revokes the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2007, the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations (Northern Ireland) 2007, and the four Regulations made in relation to data collection and reporting of packaging waste which preceded these Regulations. They also make transitional provisions, and provide for a joint review of the Regulations by the Secretary of State, the Welsh Ministers, the Scottish Ministers and the Department of Agriculture, Environment and Rural Affairs for Northern Ireland.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is published alongside these Regulations on www.legislation.gov.uk and available from www.legislation.gov.uk and from the Department for Environment, Food and Rural Affairs, Seacole Building, 2 Marsham Street, London, SW1P 4DF.

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