

Draft Regulations laid before Parliament under section 93(10) of the Environment Act 1995, section 62 of the Regulatory Enforcement and Sanctions Act 2008 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2016 No.

ENVIRONMENTAL PROTECTION

The Packaging Waste Regulations 2016

Made

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The Secretary of State makes these Regulations in exercise of the powers conferred by—

- (a) sections 93 to 95 of the Environment Act 1995 (“the EA 1995”)(a);
- (b) section 2(2) of the European Communities Act 1972 (“the ECA 1972”)(b);
- (c) section 62 of the Regulatory Enforcement and Sanctions Act (“the RESA 2008”)(c).

The Secretary of State is designated(d) for the purposes of section 2(2) of the ECA 1972 in relation to the management of packaging and packaging waste.

The Secretary of State has consulted in accordance with section 93(2) of the EA 1995, and has had regard to the matters specified in section 93(6) of the EA 1995 as required by section 93(5) of that Act.

In accordance with section 66 of the RESA 2008, the Secretary of State is satisfied that the Environment Agency will act in accordance with the principles that—

- (a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;
- (b) regulatory activities should be targeted only at cases in which action is needed.

A draft of these Regulations has been laid before, and approved by a resolution of, each House of Parliament in accordance with section 93(10) of the EA 1995, section 62 of the RESA 2008 and paragraph 2(2) of Schedule 2 to the ECA 1972.

PART 1

Introduction

Citation, commencement and extent

1. These Regulations—

- (a) may be cited as the Packaging Waste Regulations 2016;
- (b) come into force on [x] 2016;
- (c) extend to Great Britain.

Interpretation

2. In these Regulations—

“the Packaging Directive” means European Parliament and Council Directive 94/62/EC on packaging and packaging waste(e);

“amount” in relation to an amount in tonnes, other than in “rounded amount”, means a fraction or whole amount;

“appropriate Agency” has the meaning given in paragraph 1 of Schedule 22;

“appropriate authority” has the meaning given in paragraph 2 of Schedule 22;

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- (a) 1995 c.25; section 93 was amended by S.I. 2011/1043. Section 94 was amended by S.I. 2000/311, 2004/1261, 2011/1043 and 2013/755. Under paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c.32), despite the transfer to the Welsh Ministers of functions in relation to implementing obligations under European Union law in relation to devolved matters, the Secretary of State’s function in relation to implementing those obligations continues to be exercisable as regards Wales. Under section 57 of the Scotland Act 1998 (c.46), despite the transfer to the Scottish Ministers of functions in relation to implementing obligations under European Union law in respect of devolved matters, the Secretary of State’s function in relation to implementing those obligations continues to be exercisable as regards Scotland.
 - (b) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
 - (c) 2008 c.13.
 - (d) S.I. 1996/266, to which there are amendments not relevant to these Regulations.
 - (e) OJ No L 365, 31.12.94, p.10, as last amended by Directive (EU) 2015/720 (OJ No L 115, 6.5.2015. p.11).

“approved person” means the person approved under regulation 37;

“calculation year” means the year preceding an obligation year;

“holding company” has the meaning given in section 1159 of the Companies Act 2006(a);

“obligation year” means—

- (a) in the case of schemes, a year in which the scheme is registered in accordance with regulation 19(1);
- (b) in the case of those with obligations pursuant to—
 - (i) Schedule 8 (pub businesses with small tenant obligations), the year specified in paragraph 1(2)(a) of that Schedule;
 - (ii) Schedule 6 (groups of companies), the year specified in paragraph 1(a) of that Schedule;
 - (iii) Schedule 7 (franchisors with small franchisee obligations), the year specified in paragraph 1(2)(a) of that Schedule;
- (c) otherwise the year in which the person is a producer;

“packaging” has the meaning given to it in Article 3(1) of the Packaging Directive;

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

“packaging waste” has the meaning given in Article 3(2) of the Packaging Directive but does not include packaging that became waste outside the United Kingdom;

“partnership” has the meaning given in section 1 of the Partnership Act 1890(b);

“PERN” means a packaging export recovery note as described in regulation 26(3)(b);

“PRN” means a packaging recovery note as described in regulation 26(3)(a);

“producer” means a person falling within one of the classes of producer in accordance with paragraph 1 of Schedule 1;

“producer amount test” means the test in paragraph 2(1)(b) of Schedule 1;

“producer class” means a class of producer in paragraph 1(b) of Schedule 1;

“producer threshold test” means the test in paragraph 2 of Schedule 1;

“producer turnover test” means the test in paragraph 2(1)(a) of Schedule 1;

“producer obligations” means the obligations in regulations 3 to 7;

“producer using the allocation method” means a producer which has elected to use the calculation method in accordance with paragraph 12 of Schedule 3;

“producer registration deadline” means the date specified in regulation 3(2);

“recovery” means any of the applicable operations provided for in Annex II to Directive 2008/98/EC of the European Parliament and of the Council on waste(c) and, for the purposes of these Regulations, incineration at waste incineration plants with energy recovery within the meaning of Article 3(8) of the Packaging Directive must be treated as if it is recovery;

“recovery and recycling obligations” means—

- (a) in the case of operators of registered schemes, the obligation in regulation 14(a);
- (b) otherwise the obligations in regulation 4;

“recyclable material” means glass, aluminium, steel, paper/board, plastic or wood, and packaging materials composed of a combination of any of those materials are to be treated as made of the material which is predominant by weight;

“recycling” has the meaning given in Article 3(7) of the Packaging Directive;

(a) 2006 c.46.

(b) 1890 c.39. Section 1 was amended by the Statute Law (Repeals) Act 1998 (c.43) and by S.I. 2009/1941.

(c) OJ No L 312, 22.11.08, p.3, as last amended by Commission Regulation (EU) No 1357/14 (OJ No L 365, 19.12.14, p.89).

“reuse” has the meaning given in Article 3(5) of the Packaging Directive;
“rounded” in relation to an amount in tonnes, means—
(a) rounded up to the nearest whole tonne where the part tonne is 0.5 or more; or
(b) rounded down to the nearest whole tonne where the part tonne is less than 0.5;
“scheme” means an arrangement for fulfilling obligations on behalf of producers in accordance with regulation 14;
“subsidiary” has the meaning given in section 1159 of the Companies Act 2006;
“turnover” means, in relation to a person, their turnover as defined in section 539 of the Companies Act 2006 but as if the references to a company were references to that person;
“year” means a calendar year beginning on 1st January.

PART 2

Producers’ obligations

Obligation to be registered

- 3.—(1) A producer must register with the appropriate Agency in the obligation year.
- (2) An application for registration must be made—
- (a) where an event in paragraph (3) occurs on or after 12th March in the year, within a period of 28 days beginning with the date on which the event occurs;
 - (b) otherwise on or before 7th April of the year.
- (3) The events are—
- (a) the applicant becomes a producer in respect of the year;
 - (b) an application to register made before 7th April in the year is refused;
 - (c) the application for registration of a scheme of which the applicant is a member is refused;
 - (d) the registration of a scheme of which the applicant is a member is cancelled; or
 - (e) the applicant’s membership of a scheme is discontinued.
- (4) Schedule 2 (producer registration applications) has effect.

Recovery and recycling obligations

4.—(1) A producer must in the obligation year secure the recovery and recycling of amounts of packaging waste in accordance with Schedule 3 (amounts and processes).

(2) A producer may only demonstrate compliance with that obligation by acquiring evidence in accordance with regulation 26.

Obligation to certify

5.—(1) A producer must furnish a document to the appropriate Agency certifying compliance with its recovery and recycling obligations in respect of the obligation year.

(2) The certificate must be furnished on or before 31st January in the year immediately following the obligation year.

(3) Schedule 4 (information in certificate of compliance) has effect.

Obligation to keep records

6.—(1) A producer must keep a record of information in respect of the obligation year.

(2) The record must be furnished to the appropriate Agency at the same time as the certificate referred to in regulation 5(2).

(3) The record must be kept for a period of four years beginning with the date it is made.

(4) A copy of the record must be made available to the appropriate Agency on demand.

(5) Schedule 5 (information in producer record) has effect.

Obligation to provide information to consumers

7. If a producer's main activity is that of a seller, it must provide information throughout the obligation year to consumers of the goods sold about—

- (a) the return, collection and recovery systems available to them;
- (b) its role in contributing to the reuse, recovery and recycling of packaging and packaging waste;
- (c) the meaning of related markings on packaging that is placed on the market and that relates to the producer's recovery and recycling obligations; and
- (d) the chapter dealing with the management of packaging and packaging waste in any plan prepared under—
 - (i) in the case of England and Wales, regulation 7 of the Waste (England and Wales) Regulations 2011 (requirement for waste management plans)(a); or
 - (ii) in the case of Scotland, regulation 3 of the National Waste Management Plan for Scotland Regulations 2007 (national waste management plan for Scotland)(b).

Special cases

8. The following have effect—

- (a) Schedule 6 (groups of companies);
- (b) Schedule 7 (franchisors with small franchisee obligations);
- (c) Schedule 8 (pub businesses with small tenant obligations).

Exclusions

9.—(1) This Part does not apply to the following in an obligation year—

- (a) a charity, within the meaning of paragraph 1 of Schedule 6 to the Finance Act 2010(c);
- (b) a producer which is a member throughout the year of a registered scheme; or
- (c) a producer which becomes a member of a registered scheme after 1st January of the year, save that such a producer must comply with the obligations in regulations 3, 6 and 7 for the period of the year during which the producer is not a member of the scheme.

(2) For the purposes of paragraph (1)(b) and (c), a member of a scheme is excluded only where any information the scheme requests for the purposes of meeting its obligations within a reasonable period of receiving such a request is given and any fee for membership is paid.

(a) S.I. 2011/988, to which there are amendments not relevant to these Regulations.

(b) S.S.I. 1985/2345, amended by S.S.I. 2011/226; there are other amending instruments but none is relevant.

(c) 2010 c.13. Paragraph 1 was last amended by the Finance Act 2015 (c.32).

PART 3

Producers' registration

Duty to grant registration

10.—(1) An application for registration as a producer must—

- (a) be granted where it has complied with any requirements of regulation 3 and Schedule 2;
- (b) otherwise be refused.

(2) Any decision of the appropriate Agency under paragraph (1)(b) to refuse to register a producer must within a period of 28 days beginning with the date of the decision be notified to the producer together with the reasons for the decision, a statement as to the right of appeal under regulation 41(1)(a) and a statement as to the offence specified in regulation 38(1)(a).

Conditions

11. A registered producer must—

- (a) comply with producer obligations;
- (b) provide any information reasonably requested by the appropriate Agency with regard to the obligations in paragraph (a);
- (c) inform the appropriate Agency of the following events within a period of 28 days beginning with the date on which the event occurs—
 - (i) any change in the circumstances which relate to its registration and, where it is a partnership, any change of partners;
 - (ii) any material change in the information provided in accordance with paragraph 1(b) of Schedule 2; and
 - (iii) any material change in the further information provided in accordance with paragraph 1(c) or (d) or 7 of Schedule 2; and
- (d) notify the appropriate Agency that it wishes to cancel its registration where it has become a member of a registered scheme or ceased to be a producer in respect of a year.

Power to cancel registration

12.—(1) The appropriate Agency may cancel the registration of a producer where it appears that it—

- (a) is in breach of any of the conditions specified in regulation 11; or
- (b) knowingly or recklessly supplied false information in connection with its application for registration, or with compliance with any of the conditions specified in regulation 11.

(2) The appropriate Agency must cancel the registration of a producer where—

- (a) it is notified that the producer has become a member of a registered scheme;
- (b) has otherwise ceased to be subject to the obligation to be registered.

(3) Schedule 9 (cancellation of producer registration) has effect.

PART 4

Schemes

Rights to apply

- 13.**—(1) The operator of a scheme may apply to the appropriate Agency for—
- (a) approval, to be determined in accordance with regulation 15;
 - (b) if so approved, registration, to be determined in accordance with regulation 19.

Operators' obligations

14. The operator of a registered scheme must, in respect of the obligation year, fulfil the following obligations that each producer which is a member on 31st December of the year would have had, but for membership of the scheme—

- (a) recovery and recycling obligations; and
- (b) the obligation to provide information to consumers in accordance with regulation 7.

Duty to grant approval

- 15.**—(1) An application for approval of a scheme must—
- (a) within a period of 28 days beginning with the date of receipt be granted where the appropriate Agency is satisfied that—
 - (i) it is likely to subsist for a period of at least five years beginning with the date of the approval; and
 - (ii) the operator is likely to be able to meet its expected recovery and recycling obligations for that period; or
 - (b) otherwise be refused.
- (2) But the appropriate Agency may refuse to grant approval notwithstanding that it is satisfied as to the matters in paragraph (1)(a), if the operator has served notice under regulation 22 that the requirements of regulation 14 were not met.
- (3) Schedule 10 (approval applications) has effect.

Obligation to apply for further approval

- 16.**—(1) A further application for approval in accordance with regulation 13(1)(a) must be made on the occurrence of—
- (a) a change in the person operating the scheme;
 - (b) a conviction of the operator for an offence under these Regulations;
 - (c) the operator notifying the appropriate Agency under regulation 22 of non-compliance with the requirements of regulation 14; or
 - (d) a failure by the operator to comply with the conditions in paragraph 1 of Schedule 11 (conditions in exceptional circumstances).
- (2) The further application must be made—
- (a) where an event mentioned in paragraph (1)(a), (b) or (d) occurs, within a period of 28 days beginning with the date on which the event occurs;
 - (b) where an event mentioned in paragraph (1)(c) occurs, within a period of 14 days beginning with the date on which the event occurs.

Conditions

17.—(1) The operator of an approved scheme must—

- (a) notify producers which have expressed an interest in becoming members of the scheme immediately after the scheme is approved;
- (b) monitor the accuracy of information to which regulation 24 applies, so that it may reasonably be discovered when a member has not complied with regulation 24(2)(c);
- (c) not acquire PRNs or PERNs other than to secure the recovery and recycling of amounts of packaging waste, or reasonable estimates of those amounts, pursuant to regulation 14(a);
- (d) maintain sufficient financial resources to acquire PRNs or PERNs pursuant to regulation 14(a);
- (e) maintain access to, and sufficient financial resources to pay for, the expertise necessary for the purposes of calculating the obligations in regulation 14;
- (f) provide any information reasonably requested by the appropriate Agency for the purposes of monitoring compliance pursuant to regulation 31(1)(b) or (c);
- (g) in relation to each obligation year—
 - (i) within a period of 28 days of the occurrence of one of the following events, notify the appropriate Agency of—
 - (aa) any change in the person operating the scheme, and in the case where the operator is a partnership, any change of partners; or
 - (bb) any material change in the information provided in accordance with paragraph 2(b) or (c) of Schedule 13;
 - (ii) notify any changes in membership in accordance with regulation 21; and
- (h) send a statement of compliance in accordance with regulation 22; and
- (i) keep and provide records in accordance with regulation 23.

(2) Schedule 11 (conditions in exceptional circumstances) has effect.

Power to withdraw approval

18.—(1) The appropriate Agency may withdraw approval of a scheme where it appears that—

- (a) the operator is in breach of any of the conditions in regulation 14 or 17(1) or Schedule 11; or
- (b) the operator knowingly or recklessly supplies false information in connection with the application for registration, or with compliance with the conditions in regulation 14 or 17(1) or Schedule 11.

(2) Schedule 12 (withdrawal of approval) has effect.

Duty to grant registration

19.—(1) An application for registration of a scheme must—

- (a) be granted where—
 - (i) the operator has complied with any requirement of Schedule 13;
 - (ii) the appropriate Agency is satisfied that the information provided in accordance with paragraph 2(c) of Schedule 13 has been provided in accordance with paragraph 5 of that Schedule; and
 - (iii) the scheme is approved and the scheme was—
 - (aa) registered in the previous year; or

- (bb) approved no earlier than in the year previous to that in which the application for registration is made;
- (b) otherwise be refused.
- (2) Schedule 13 (scheme registration applications) has effect.
- (3) Schedule 14 (scheme registration fees) has effect.

Requirement for new approval

20. Where an application for registration is refused on the grounds of failure to meet the requirements of regulation 19(1)(a)(iii), the operator must make a new application for approval of the scheme in accordance with regulation 15 before making a further application for registration of the scheme under regulation 19.

Obligation to notify change of membership

21.—(1) The operator of a registered scheme must notify the appropriate Agency at intervals required by the Agency of any change in membership in respect of the obligation year.

- (2) Such notification must be accompanied by the additional fee in paragraph 6 of Schedule 14.

Obligation to send statement

22. An operator of a registered scheme must, by 31st January in the year immediately following the obligation year, send a statement signed by the approved person to the appropriate Agency confirming whether or not the requirements of regulation 14 have been met.

Obligation to keep records

23.—(1) An operator of a registered scheme must, in respect of the obligation year—

- (a) keep a record of the information set out in paragraph (2); and
- (b) furnish a copy of the record to the appropriate Agency on or before 31st January in the year immediately following the obligation year.

(2) The information is—

- (a) the rounded amount in tonnes of packaging waste received or exported for recovery and for recycling, as set out in the PRNs or PERNs acquired; and
- (b) the total rounded amount in tonnes of each material which the operator is required to recover and recycle in accordance with regulation 14(a).

(3) The record must be maintained for a period of four years beginning with the date on which it is made.

- (4) A copy of the record must be made available to the appropriate Agency on demand.

Members' information obligations

24.—(1) This regulation applies to information which—

- (a) is provided to the operator of a scheme by a producer which is a member at the time the information is provided; and
- (b) the operator will need to rely on for the purposes of an application for registration under regulation 19.

(2) A producer which provides to the operator information to which this regulation applies must—

- (a) provide it on a form supplied for the purpose by the appropriate Agency;
- (b) ensure that the form is signed by the approved person; and
- (c) ensure that the information is as accurate as reasonably possible.

Applications from Northern Ireland

25. Schedule 15 (applications from Northern Ireland) has effect.

PART 5

Evidence and accreditation

Evidence of recovery

26.—(1) The evidence referred to in regulation 4(2) must, in relation to securing the recovery and recycling of each amount in regulation 4(1), refer to—

- (a) the amount of packaging waste which must be recovered or recycled;
- (b) the kind of packaging waste which must be recovered or recycled;
- (c) the kind of process by which the packaging waste must be recovered or recycled; and
- (d) packaging waste which was received or exported for recovery or recycling during the obligation year.

(2) Where evidence refers to packaging waste received in December of an obligation year, it may also be used to demonstrate compliance in relation to the year immediately following it.

(3) The evidence must be in the form of—

- (a) a packaging recovery note establishing that a whole number of tonnes of packaging waste specified in the note will be recovered within the United Kingdom;
- (b) a packaging export recovery note establishing that a whole number of tonnes of packaging waste specified in the note will be recovered outside the United Kingdom; or
- (c) any combination of PRNs or PERNs or both taken together.

(4) PRNs or PERNs must be in any form specified by the appropriate Agency.

Obligation to be accredited etc.

27.—(1) A person must not issue PRNs or PERNs unless accredited by the appropriate Agency—

- (a) where the PRNs or PERNs are of the kind referred to in regulation 26(2), at the time the packaging waste referred to in the evidence is received;
- (b) otherwise at the time of issue.

(2) Schedule 16 (accreditation applications) has effect.

Duty to grant accreditation

28.—(1) An application for accreditation to issue PRNs or PERNs must—

- (a) be granted where the appropriate Agency is satisfied as to the matters in paragraph (3);
- (b) otherwise be refused.

(2) The appropriate Agency may accredit a person to issue PRNs, PERNs or both.

(3) The matters are—

- (a) the contents of the business plan referred to in paragraph 1(c) of Schedule 16;
- (b) that the application has been made in accordance with Schedule 16;
- (c) that the person will comply with the conditions in, or any conditions imposed under, Schedule 17 (conditions of accreditation); and
- (d) that the requirements of Article 6(2) of the Packaging Directive will be met in relation to any waste to be exported for recovery.

Conditions of accreditation

29. A person accredited to issue PRNs or PERNS must comply with the conditions in Schedule 17.

Power to suspend and cancel accreditation

30.—(1) The appropriate Agency may suspend or cancel accreditation where it appears to it that the person accredited—

- (a) has failed to comply with any of the conditions specified in or under Schedule 17; or
- (b) has knowingly or recklessly supplied false information in the application for accreditation made under Schedule 16 or in connection with compliance with any of the conditions specified in or under Schedule 17.

(2) In the case of a person accredited to issue PERNs, the appropriate Agency must cancel the accreditation to the extent that it relates to the situation in paragraph (3).

(3) The situation is that the appropriate Agency is no longer satisfied that the requirements of Article 6(2) of the Packaging Directive are met in relation to the export of one or more specified recyclable materials for recovery or recycling at one or more sites outside the European Union.

(4) Schedule 18 (suspension etc. of accreditation) has effect.

PART 6

Monitoring, enforcement etc.

Duty to monitor

31.—(1) The appropriate Agency must monitor compliance with—

- (a) producer obligations by persons who are or may be producers;
- (b) the obligations in regulation 14 by operators of registered schemes;
- (c) the conditions in regulation 17(1) or Schedule 11 by such operators; and
- (d) the conditions in Schedule 17 by persons accredited to issue PRNs or PERNs.

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

- (a) in the case of producers—
 - (i) registration, as required by regulation 3(1);
 - (ii) the accuracy of information provided in pursuance of regulation 3, regulation 11 and Schedule 2; and
 - (iii) the accuracy of the information in certificates furnished under regulation 5; and
- (b) in the case of schemes, the accuracy of—
 - (i) information in records furnished under regulation 6;
 - (ii) information provided in pursuance of regulation 23;
 - (iii) records furnished under Schedule 10; and
 - (iv) information provided in pursuance of regulation 21 and Schedule 13.

(3) The appropriate Agency may by notice require a person listed in paragraph (5) to keep records for the purpose indicated and furnish these to the Agency.

(4) The records must—

- (a) contain such information as the appropriate Agency reasonably considers it needs for the purposes indicated;
- (b) be in any form specified in the notice; and
- (c) be submitted within any period specified in the notice.

(5) The persons are—

- (a) any person who has, or who the appropriate Agency has reason to believe has, producer obligations;
- (b) in relation to any producer which is a member of a registered scheme, the operator of the scheme;
- (c) any person who is, or who the Agency has reason to believe is, issuing PRNs or PERNs;
- (d) any person who is engaged in trading in, or brokerage in relation to, PRNs or PERNs; or
- (e) any person accredited to issue PRNs or PERNs.

Duty to publish report

32.—(1) The appropriate Agency must provide to the appropriate authority a report setting out its plans to carry out monitoring under regulation 31 which must include—

- (a) how the Agency will carry out monitoring under regulation 31; and
- (b) an indication of the minimum number of persons which it proposes to monitor in the course of that year.

(2) The report must be provided by 1st December, and published by 31st December, in the year immediately preceding the year to which it relates.

Duty to maintain public register

33.—(1) The appropriate Agency must maintain and make available a public register relating to—

- (a) the producers and registered schemes; and
- (b) the persons accredited by it to issue PRNs or PERNs.

(2) Schedule 19 (information in public register) has effect.

Powers of entry and inspection

34.—(1) A person who appears suitable to the appropriate Agency may be authorised in writing by that Agency for the purposes of its functions under these Regulations to exercise the powers of entry and inspection in paragraph (2).

(2) The powers of entry and inspection are those in section 108(4)(a) to (l) of the Environment Act 1995 (powers of enforcing authorities and persons authorised by them)^(a) and for this purpose section 108(4) is to be read as if references to the authorised person were references to a person authorised under paragraph (1) of this regulation and as if—

- (a) the words “(or, in an emergency, at any time and, if need be, by force)” in section 108(4)(a) were omitted;
- (b) the reference in section 108(4)(f) to articles or substances in relation to which samples may be taken were to records and 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 power in section 108(4)(g) were omitted;
- (d) the reference in section 108(4)(h) to any article or substance were to any sample as is mentioned in sub-paragraph (b) and as if the reference to an offence in section 108(4)(h)(iii) were to an offence under regulation 38;
- (e) the reference to records in section 108(4)(k)(i) were to the records and returns required to be kept and provided to the appropriate Agency under these Regulations; and

(a) 1995 c.25. Section 108 and Schedule 18 were last amended, in relation to Scotland, by S.S.I. 2015/74 and the Regulatory Reform (Scotland) Act 2014 (asp 3).

(f) the reference to the power in section 108(1) were to the power conferred by this regulation.

(3) The provisions of section 108(6) and (7) of the Environment Act 1995 apply to the powers conferred by paragraphs (1) and (2) as they apply to the powers conferred by section 108(4) of the Act, 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 (7) the words “Except in an emergency” were omitted; and
- (b) in section 108(6) the words “or to take heavy equipment on to any premises which are to be entered” were omitted.

(4) The provisions of section 108(12) and (13) of the Environment Act 1995 apply to the powers conferred by paragraphs (1) and (2) as they apply to the powers conferred by section 108(4) of the Act.

(5) The provisions of paragraphs 2 to 6 of Schedule 18 to the Environment Act 1995 (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 Act, 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, including a power exercisable by virtue of a warrant under the provisions of that Schedule as applied by this paragraph; and
- (c) in paragraph 6(1) to section 108(4)(a) or (b) or (5) of the Act were to paragraph (1) of this regulation.

(6) In this regulation, “warrant” means a warrant under the provisions in Schedule 18 to the Environment Act 1995 as applied by paragraph (5).

Duty to collate and provide information

35.—(1) The appropriate Agency must place in the common database each report provided under paragraph 1(e) of Schedule 4 no later than 21 days after receipt.

(2) The appropriate Agency must place in the common database any new information provided under paragraph 1(c) or (d) of Schedule 2 or paragraph 2(c) of Schedule 13 by the same date.

(3) The Environment Agency(**a**) must, by 31st March in the year following the year in which the report in paragraph (1) is due to be provided, give the Secretary of State a copy.

(4) The Environment Agency must give the Secretary of State any information provided to it under paragraph (2) by 30th June in the same year, or where the information is not provided to it by then, by 28th February in the following year.

(5) In this regulation, “the common database” means the electronic database held jointly by the Environment Agency, the Scottish Environment Protection Agency(**b**) and the Natural Resources Body for Wales(**c**) in which information under paragraph (1) and (2) is placed.

Duty to issue guidance

36. The appropriate authority must issue guidance for the purpose of ensuring that consumers obtain appropriate information from producers about the matters in regulation 7.

(a) The Environment Agency was established by section 1 of the Environment Act 1995 (c.25).

(b) The Scottish Environment Protection Agency was established by section 20 of the Environment Act 1995.

(c) The Natural Resources Body for Wales was established by article 3 of the Natural Resources Body for Wales (Establishment) Order 2012 (2012/1903 (W.230)).

Power to approve persons

37.—(1) The appropriate Agency may approve a person listed in paragraph (2) for the purposes of—

- (a) in the case of a producer, issuing certificates of compliance and signing the form referred to in regulation 24(2)(b) or paragraph 1(c) or (d) of Schedule 2;
 - (b) in the case of an operator of a registered scheme, signing the form referred to in paragraph 2(c) of Schedule 13 or the statement referred to in regulation 22.
- (2) A person listed is, where the producer or operator—
- (a) is a company registered in Great Britain, a director or company secretary of that company;
 - (b) is a partnership, a partner;
 - (c) is an individual, the individual;
 - (d) is an unincorporated body, an individual who has control or management of that body; or
 - (e) does not have a registered office in Great Britain, an individual who has control or management of the producer or operator.
- (3) Schedule 20 (delegation of functions) has effect.

PART 7

Sanctions, appeals etc.

Offences and penalties

38.—(1) A producer which fails to comply with the following is guilty of an offence—

- (a) regulation 3, other than in the case of a holding company which is a producer by virtue of paragraph 4 of Schedule 6;
- (b) regulation 4; or
- (c) regulation 5.

(2) But a producer is not guilty of an offence under paragraph (1) in respect of any period during which, under paragraph 6(b) of Schedule 2, it is treated as having been registered.

(3) An operator of a registered scheme which fails to comply with regulation 14(a) is guilty of an offence.

(4) A person who contravenes a requirement of regulation 27 or who is in breach of either of the conditions in paragraph 1(k) or (n) of Schedule 17 is guilty of an offence.

(5) A person who furnishes any information to the appropriate Agency in connection with its functions under these Regulations or furnishes information to which regulation 24 applies to an operator of a scheme is guilty of an offence if the person—

- (a) knows the information to be false or misleading in a material particular; or
- (b) furnishes such information recklessly and it is false or misleading in a material particular.

(6) A person who fails without reasonable excuse to comply with any requirement imposed in a notice under regulation 31(3) is guilty of an offence.

(7) A person who intentionally delays or obstructs a person authorised by the appropriate Agency in the exercise of powers in regulation 34 is guilty of an offence.

(8) A person guilty of an offence under this regulation is liable—

- (a) in relation to Scotland—
 - (i) on summary conviction to a fine not exceeding the statutory maximum;
 - (ii) on conviction on indictment, to a fine.

(b) otherwise to a fine.

(9) Where an offence under these Regulations is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of, or have been attributable to neglect on the part of, any partner or a person who was purporting to act as such, that person as well as the partnership is guilty of that offence.

Civil sanctions: England

39.—(1) This regulation applies in England only.

(2) The Environment Agency may impose civil sanctions, issue notices or accept undertakings in England as follows—

<i>Provision creating offence</i>	<i>Fixed Monetary Penalty</i>	<i>Variable Monetary Penalty</i>	<i>Compliance Notice</i>	<i>Restoration Notice</i>	<i>Stop Notice</i>	<i>Enforcement Undertaking</i>
regulation 38(1)(a)	Yes	Yes	No	No	No	Yes
regulation 38(1)(b)	No	Yes	No	No	No	Yes
regulation 38(1)(c)	Yes	No	No	No	No	No
regulation 38(3)	No	Yes	No	No	No	Yes
regulation 38(7)	No	Yes	No	No	No	No

(3) For that purpose, the provisions of the Environmental Civil Sanctions (England) Order 2010(a), with the table in paragraph (1) taken to be an entry at the appropriate place in the table at Schedule 5 (offences), apply as if they were provisions of these Regulations.

Civil sanctions: Wales

40.—(1) This regulation applies in Wales only.

(2) The Natural Resources Body for Wales may impose civil sanctions, issue notices or accept undertakings in Wales in accordance with the table in regulation 39(1).

(3) For that purpose, the provisions of the Environmental Civil Sanctions (Wales) Order 2010(b), with the table in regulation 39(1) taken to be an entry at the appropriate place in the table at Schedule 5 (offences), apply as if they were provisions of these Regulations.

Right of appeal

41.—(1) A producer may appeal to the appropriate authority against a decision of the appropriate Agency—

- (a) to refuse to grant an application for its registration under regulation 10(1)(b);
- (b) to cancel its registration under regulation 12(1).

(2) An operator of a scheme may appeal to the appropriate authority against a decision of the appropriate Agency—

- (a) to refuse to grant its application for approval under regulation 15(1)(b);
- (b) to withdraw its approval under regulation 18(1) or paragraph 3 of Schedule 12;

(a) S.I. 2010/1157, amended by S.I. 2015/664.

(b) 2010/1821 (W.178), amended by S.I. 2013/755 (W.90) and S.I. 2015/664.

- (c) after notice under paragraph 2 of Schedule 12 is served, to withdraw its approval under that paragraph;
 - (d) to refuse to grant its application for registration under regulation 19(1)(b).
- (3) A person may appeal to the appropriate authority against a decision of the appropriate Agency—
- (a) to refuse the person’s application for accreditation to issue PRNs or PERNs under regulation 28(1)(b);
 - (b) to specify a condition in relation to such accreditation pursuant to paragraph 1(r) of Schedule 17;
 - (c) to suspend or cancel such accreditation under regulation 30.
- (4) Schedule 21 (appeals) has effect.

PART 8

General

Transfer of obligations on receivership

42.—(1) A producer ceases to have producer obligations for the obligation year on going into receivership.

- (2) The person who carries on the activities of the producer must—
- (a) within a period of 28 days beginning with the day after the date of going into receivership, notify the appropriate Agency of the fact that the producer went into receivership and the date of this;
 - (b) apply to be registered in accordance with regulation 3; and
 - (c) comply with any of the obligations in regulations 4 to 7 that the producer would have had, but for going into receivership.
- (3) In this regulation, “receivership” includes—
- (a) in the case of a company, liquidation or administration;
 - (b) in the case of an individual, bankruptcy or incapacity.

Notification of winding-up

43.—(1) A producer, operator of an approved scheme or person accredited to issue PRNs or PERNs must notify the appropriate Agency as soon as is practicable on becoming aware that an event applies or is about to apply to it.

- (2) The events are—
- (a) a winding-up order has been made or a resolution for voluntary winding-up has been passed;
 - (b) a determination for a voluntary winding-up has been made;
 - (c) a receiver or a manager of the company or limited liability partnership’s undertaking has been duly appointed;
 - (d) its undertaking has entered administration; or
 - (e) a voluntary arrangement proposed for the purposes of Part 1 of the Insolvency Act 1986(a) has been approved under that Part of the Act.

(3) For the purposes of paragraph (1), the circumstances in which an operator of a scheme must notify include where the event applies or is about to apply to the scheme but not the operator.

(a) 1986 c.45. Part 1 was last amended by the Small Business, Enterprise and Employment Act 2015 (c.26).

Service of notice

- 44.**—(1) Notice under these Regulations must be in writing.
- (2) Notice may be served on or given to a person by—
- (a) personal delivery;
 - (b) leaving it at the person’s proper address; or
 - (c) sending it by post or electronic means to the person’s proper address.
- (3) In the case of a body corporate, notice may be served on or given to a director of that body or the secretary or clerk.
- (4) In the case of a partnership, notice may be served on or given to a partner or a person having control or management of the partnership business.
- (5) In paragraph (2), “proper address” means—
- (a) in the case of a body corporate, a director of the body or the secretary or clerk—
 - (i) the registered or principal office of that body; or
 - (ii) the email address of the director, secretary or clerk;
 - (b) in the case of a partnership or a partner or person having control or management of the partnership business—
 - (i) the principal office of the partnership; or
 - (ii) the email address of a partner or a person having that control or management; or
 - (c) in any other case, a person’s last known address, which includes an email address.
- (6) For the purposes of paragraph (5), the principal office of a company registered outside the United Kingdom or of a partnership established outside the United Kingdom is their principal office in the United Kingdom.
- (7) In this regulation “notice” includes notification or confirmation.

Electronic data

- 45.** Under these Regulations—
- (a) any document which is to be given to any person may be given 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 by a record or register 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 within the meaning of regulation 3(10) of Regulation (EU) 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market^(a).

PART 9

Review, transition etc.

Review

- 46.**—(1) The Secretary of State, in relation to England and Wales, must from time to time—
- (a) carry out a review of the regulatory provision in these Regulations; and
 - (b) publish a report setting out the conclusions of the review.

(a) OJ No L 257, 28.8.14, p. 73.

(2) In carrying out the review of any regulatory provision which implements an obligation in Article 6(1) of the Packaging Directive, the Secretary of State must have regard to how the obligation is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision;
- (b) assess the extent to which these 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.

(4) The first report under this regulation must be published before the end of the period of five years beginning with [x] 2016.

(5) Subsequent reports under this regulation must be published at intervals not exceeding five years.

(6) In this regulation, “regulatory provision” has the meaning given by section 32(4) of the Small Business, Enterprise and Employment Act 2015(a).

Amendments, revocations and transition

47. Schedule 23 (amendments, revocations and transition) has effect.

Date

Name
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

(a) 2015 c.26.

SCHEDULE 1

Regulation 2

Classes of producer

Classes

1. A person falls within one the following classes of producer if—
- (a) in a year (“year 2”) the threshold test is satisfied; and
 - (b) in the years indicated in the following table the person—
 - (i) performs the activity corresponding to the class of producer; and
 - (ii) supplies an item indicated where the supply falls within one of the corresponding classes of supply.

<i>Class of producer</i>	<i>Activity in year 2 and year preceding that (“year 1”)</i>	<i>Items and classes of supply in year 1</i>
Manufacturer	Manufactures raw materials for packaging	Packaging materials; Class A, B or C supply
Convertor	Uses or modifies packaging materials in the production or formation of packaging	Packaging or packaging materials; Class A, B or C supply
Packer/filler	Puts goods into packaging	Packaging or packaging materials: Class A, B or C supply
Importer	Imports packaging or packaging materials into the United Kingdom	Packaging or packaging materials; Class A, B or C supply
Seller	Supplies packaging to a user or a consumer of that packaging, whether or not the filling has taken place at the time of the supply	Packaging; Class E supply
Secondary provider	The activity for manufacturer, convertor, packer/filler or importer	Transit packaging; Class B or F supply
Service Provider	Supplies reusable packaging to a user of that packaging where the supply is made by hiring out or lending the packaging	Packaging; Class G supply

Threshold test

- 2.—(1) The threshold test is satisfied if—
- (a) the person’s turnover was more than £2,000,000 in the financial year immediately preceding—
 - (i) where the person performs in year 2 any of the activities corresponding to the producer classes on or before 7th April of year 2, 7th April;
 - (ii) otherwise the date in year 2 on which that person first performs that activity; and

- (b) in the calculation year the person handled in aggregate more than 50 tonnes of packaging or packaging materials.
- (2) For the purposes of sub-paragraph (1)(a)—
- (a) the person’s turnover is determined by reference to—
 - (i) where the person is a company and annual accounts have been delivered to the registrar under section 441 of the Companies Act 2006^(a), those accounts;
 - (ii) otherwise other audited or final accounts; and
 - (b) “financial year”—
 - (i) where the person is a company, is determined as provided in section 390(1) to (3) of the Companies Act 2006;
 - (ii) otherwise has the meaning given in section 390(4) of the Companies Act 2006, but as if the reference there to an undertaking were a reference to that person.
- (3) For the purposes of sub-paragraph (1)(b), the amount of packaging or packaging materials handled is the rounded amount in tonnes handled in the United Kingdom in respect of which the producer made a supply referred to in Column 3 of the above Table, other than a deemed supply by—
- (a) including—
 - (i) packaging, including reused transit packaging, or packaging materials which were imported into the United Kingdom by the producer; and
 - (ii) packaging or packaging materials exported from the United Kingdom to any artificial island, installation or structure at sea, other than a vessel; and
 - (b) excluding—
 - (i) reused sales packaging or primary packaging as defined in paragraph 1(a) of Article 3 of the Packaging Directive;
 - (ii) production residues from the production of packaging or packaging materials or from any other production process occurring before, during or after the producer handled the packaging or packaging materials;
 - (iii) any packaging or packaging materials which were exported from the United Kingdom by the producer or which to the producer’s reasonable knowledge were otherwise exported from the United Kingdom other than the packaging and packaging materials in paragraph (a)(ii); and
 - (iv) reused transit packaging (with the exception of reused transit packaging imported into the United Kingdom).

Packer/filler class: special provision

3. Where a person performs the activity of a convertor and a packer/filler as part of a continuous packing/filling process, and in relation to the same packaging, as regards supplies of packaging or packaging materials made to or by the person in connection with the activity or process, the person is treated for the purposes of these Regulations as a producer of the class of packer/filler only.

Interpretation

4. In this Schedule—

“Class A supply” means—

- (a) the final use or consumption by an importer of imported packaging or packaging materials; or
- (b) a deemed supply;

(a) 2006 c.46.

“Class B supply” means a supply, other than solely for the purpose of transport, to a distributor which in relation to the packaging or packaging materials supplied did not perform the activity of one of the classes of producer;

“Class C supply” means a supply (other than a Class F supply) to a person for the performance by them of the activity of one of the classes of producer which—

- (a) is different from the activity performed by the person’s immediate supplier; and
- (b) is not the activity of an importer;

“Class E supply” means a supply, other than a supply of transit packaging in respect of which a Class F supply has already been made, to a user or consumer who did not perform the activity of one of the classes of producer;

“Class F supply” means a supply using the transit packaging supplied to perform the activities of a packer/filler and seller to—

- (a) a person who performed the activity of one of the classes of producer;
- (b) a user or consumer; or
- (c) a distributor;

“Class G supply” means a supply made by hiring out or lending the packaging to—

- (a) a person who performed the activity of one of the classes of producer; or
- (b) a distributor;

“deemed supply” means a supply which is deemed to occur when a person who has performed the activity of one of the classes of producer then performs another such activity in relation to the same packaging or packaging materials;

“supply” means doing the following in relation to packaging or packaging materials owned by the supplier—

- (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;

“transit packaging” means—

- (a) grouped packaging or secondary packaging, as defined in paragraph (b) in Article 3(1) of the Packaging Directive; or
- (b) transport packaging or tertiary packaging as defined in paragraph (c) in Article 3(1) of the Packaging Directive.

SCHEDULE 2

Regulation 3(4)

Producer registration applications

1. An application for producer registration must—
 - (a) be made in writing;
 - (b) contain the information set out in paragraph 2;
 - (c) be accompanied by the following further information, on a form supplied for that purpose by the appropriate Agency and signed by the approved person, in relation to the obligation year—
 - (i) each producer class to which the applicant belongs;
 - (ii) if it belongs to more than one producer class, which of those classes constitutes its main activity as a producer; and
 - (iii) the relevant code in “Indexes to the UK Standard Industrial Classification of Economic Activities 2007” published by the Office for National Statistics in 2009^(a) for the class of producer to which the applicant belongs or for the applicant’s main activity;
 - (d) other than in the case of a producer using the allocation method, be accompanied by the following further information, on a form supplied for that purpose by the appropriate Agency and signed by the approved person, in relation to the obligation year—
 - (i) for each producer class, the amounts of packaging waste which are required to be recovered in accordance with its recovery and recycling obligations;
 - (ii) the basis on which those amounts were calculated; and
 - (iii) such other information, which is specified on the form, as the appropriate Agency reasonably requires in order to determine the application;
 - (e) in the case of a producer using the allocation method, be accompanied by—
 - (i) where the producer is required to deliver accounts to the registrar under section 441 of the Companies Act 2006, those accounts;
 - (ii) where those accounts are not available, other written evidence of turnover.
2. The information is—
 - (a) the business name of the producer;
 - (b) the address and telephone number of the registered office of the producer or, if not a company, the principal place of business of the producer;
 - (c) the address for service of notices on the producer if different to that given under subparagraph (b); and
 - (d) where the producer is a partnership, the names of all the partners.
3. A producer making an application for registration must pay the fee in paragraph 8 to the appropriate Agency on or before the date the application must be made on or before the producer registration deadline.
4. Any information provided must be as accurate as reasonably possible.
5. Where the producer is a partnership, the application must be made by any partner acting on behalf of the partnership.
6. Where an application for producer registration is granted—

(a) ISBN 978-0-230-21014-1..

- (a) the appropriate Agency must within a period of 28 days beginning with the date of the decision confirm to the producer that it is registered with it; and
- (b) the producer is treated as registered from the beginning of the year save that—
 - (i) where the application is made following an event in regulation 3(3), it is treated as registered from the date on which the event occurs; or
 - (ii) where the confirmation specifies the date from which it is treated as being registered, it is treated as registered from that date.

7. Where the application for registration is made in the circumstances in paragraph 1(a), (b), (d) or (e), the further information referred to in paragraph 2(c) or (d) need not accompany the application, but must be provided within a period of 28 days beginning with the date on which the application is made.

8.—(1) The fee for registration is—

- (a) in the case of a producer using the allocation method, £562;
- (b) in all other cases, £776.

(2) A holding company which is a producer by virtue of paragraph 4 of Schedule 6 must pay an additional fee for each subsidiary for which recovery and recycling obligations are not calculated in accordance with the allocation method in paragraph 12 of Schedule 3 of—

- (a) £180 for each of the first 4 subsidiaries;
- (b) £90 for each of the 5th to the 20th subsidiaries inclusive; and
- (c) £45 for each of the 21st and subsequent subsidiaries.

(3) On each resubmission of an application which is required by reason of the producer having failed to meet the requirements of paragraph 1 or 7 on the producer's previous submission, the appropriate Agency must charge an additional fee of £220.

(4) The appropriate Agency must provide the form referred to in paragraph 1(c) or (d) free of charge to any person requesting one.

SCHEDULE 3

Regulation 4

Amounts and processes

PART 1

Amounts

1. The amounts are calculated as follows.

2.—(1) Calculate an amount in tonnes of glass packaging waste (“G”) which must be recycled by re-melt as follows—

$$\frac{67(L \times C \times Y)}{100} = G$$

(2) In sub-paragraph (1), “re-melt” means a method that melts the glass before it is reformed into a product.

3.—(1) For each M, calculate an amount in tonnes of packaging materials which is packaging waste (“Q”) which may be recycled by any means as follows—

$$M \times C \times Y = Q$$

(2) For the purposes of the remaining calculations, aggregate each Q to get a total amount in tonnes of packaging materials which is packaging waste (“T”).

4.—(1) Calculate an amount in tonnes of packaging waste (“B”) which may be recycled by any means as follows—

$$\frac{92Z}{100} - T = B$$

(2) But where the person is a producer using the allocation method, Part 3 applies.

5. Calculate an amount of packaging waste (“A”) which may be recovered by any means as follows—

$$\frac{8Z}{100} = A$$

6. A, B, G and each Q must be calculated in relation to each producer class to which the producer belongs.

7. An amount not less than A, B, G and each Q must be recovered or recycled for each class by the process indicated in paragraphs 2 to 5.

8. In this Part—

“C” is the percentage in paragraph 9 for the producer class;

“L” is the rounded amount in tonnes of the glass (whether in the form of packaging or packaging materials) handled in Great Britain by the producer in the calculation year;

“M” is the rounded amount in tonnes of recyclable material (whether in the form of packaging or packaging materials) handled in Great Britain by the producer in the calculation year;

“P” is the rounded amount in tonnes of packaging and packaging materials handled in Great Britain by the producer in the calculation year, calculated by—

- (a) taking into account packaging, including reused transit packaging as defined in paragraph 4 of Schedule 1, or packaging materials, which were imported into the United Kingdom by the producer; and
- (b) excluding—
 - (i) reused sales packaging or primary packaging as defined in paragraph 1(a) of Article 3 of the Packaging Directive;
 - (ii) production residues from the production of packaging or packaging materials or from any other production process occurring before, during or after the producer handled the packaging or packaging materials;
 - (iii) any packaging or packaging materials so supplied which were exported from the United Kingdom by the producer or which to the producer’s reasonable knowledge were otherwise exported from the United Kingdom (except to any artificial island, installation or structure at sea, other than a vessel); and
 - (iv) reused transit packaging (except reused transit packaging imported into the United Kingdom);

“X” is the percentage in paragraph 10;

“Y” is the percentage in paragraph 11; and

“Z” is the result of the following calculation—

$$P \times C \times X = Z$$

PART 2

Prescribed percentages

9.—(1) The percentage is, for the following classes of producer—

<i>Class</i>	<i>Percentage</i>
(a) manufacturer	6%;
(b) convertor	9%;
(c) packer/filler	37%;
(d) seller	48%;
(e) secondary provider	85%;
(f) service provider	85%.

(2) The percentage is, for the class of importer—

- (a) 6%—
 - (i) for Class A supplies, where the importer also carries out the functions of a convertor;
 - (ii) for Class B supplies, where the relevant packaging or packaging materials are supplied by the distributor which receives them to a convertor;
 - (iii) for Class C supplies to a convertor;
- (b) 15%—
 - (i) for Class A supplies, where the importer also carries out the functions of a packer/filler;
 - (ii) for Class B supplies, where the relevant packaging or packaging materials are supplied, by the distributor which receives them, to a packer/filler;
 - (iii) for Class C supplies to a packer/filler;
 - (iv) for Class G supplies;
- (c) 52%—
 - (i) for Class A supplies where the importer also carries out the functions of a seller;

- (ii) for Class B supplies where the relevant packaging or packaging materials are supplied, by the distributor which receives them, to a seller;
- (iii) for Class C supplies to a seller;
- (d) 100%—
 - (i) for Class A supplies, where the importer is also the final user or consumer;
 - (ii) for Class F supplies.

10. The percentage is, for the following years—

<i>Recovery target</i>	<i>Year</i>
78%	2016
79%	2017

11. The percentage is, for the following materials and years—

<i>Material</i>	<i>2016</i>	<i>2017</i>
Glass	77%	77%
Aluminium	52%	55%
Steel	75%	76%
Paper/Board	69.5%	69.5%
Plastic	52%	57%
Wood	22%	22%

PART 3

Producers using the allocation method

12. A producer with an annual turnover in the financial year preceding the producer registration deadline of £5,000,000 or less may elect to calculate B for the purposes of paragraph 4 as follows—

$$\frac{30a}{1,000,000} = B$$

where “a” is the turnover rounded up to the nearest ten thousand pounds.

13. Where a producer so elects—

- (a) Q and G are taken to be zero for the purposes of paragraphs 2 and 3;
- (b) the recycling amount must be so calculated for a period of three years beginning with the year in which the election is made under paragraph 12.

14. For the purposes of paragraph 12, the producer’s annual turnover is determined by reference to—

- (a) where the producer is a company and annual accounts have been delivered to the registrar under section 441 of the Companies Act 2006(a), audited accounts;
- (b) otherwise other accounts.

15. For the purposes of paragraph 12, the obligation is carried out by recycling the recyclable material which is predominant by weight.

16. In this Part, “financial year” has the meaning given in paragraph 2(2)(b) of Schedule 1.

(a) 2006 c.46.

PART 4

Handling packaging etc.

17. Where the handling of packaging or packaging materials is referred to in this Schedule, paragraph 2(3) of Schedule 1 applies, but as though the words “For the purposes of sub-paragraph (1)(b),” and the words “other than a deemed supply,” were omitted.

18. 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 a period of four years beginning with the year in which the packaging is first used.

SCHEDULE 4

Regulation 5(3)

Information in certificate of compliance

- 1.** The 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 and the obligation year to which it relates;
 - (c) the producer in respect of which the approved person is issuing the certificate;
 - (d) a statement by the approved person that the certificate has been issued in accordance with any guidance issued by the appropriate Agency under section 94(4) of the Environment Act 1995(a);
 - (e) certification by the approved person as to whether the producer has complied with its recovery and recycling obligations; and
 - (f) copies of all PRNs or PERNs acquired for the obligation year.

SCHEDULE 5

Regulation 6(5)

Information in producer record

- 1.** The information in the case of a producer using the allocation method is—
 - (a) the producer’s turnover;
 - (b) the amount in tonnes of packaging waste which is to be recycled; and
 - (c) the aggregate tonnage of packaging materials referred to in the PRNs or PERNs acquired.
- 2.** In any other case the information is—
 - (a) the rounded amount in tonnes, of packaging waste delivered respectively for recovery and for recycling to a person accredited to issue PRNs or PERNs, by or on behalf of the producer as set out in the PRNs or PERNs acquired; and
 - (b) the total number of tonnes of each material which the producer is required to recover and recycle in accordance with Schedule 3.

(a) 1995 c.25.

SCHEDULE 6

Regulation 8(a)

Groups of companies

Application

1. This Schedule applies to two or more companies (a “group of companies”) where—
 - (a) in a year each company in the group—
 - (i) falls within a producer class;
 - (ii) is either a subsidiary of the same holding company or the holding company itself; and
 - (b) the aggregate amount of the turnovers of, and amounts of packaging or packaging materials handled by, the companies in the group satisfies the producer threshold test.

Small companies

2.—(1) A small company in a group of companies is taken to satisfy the producer threshold test for the obligation year.

(2) Such a company’s recovery and recycling obligations for the year are a proportion of that calculated under Schedule 3.

- (3) The proportion is—

$$\frac{G}{H}$$

where—

“G” is the number of days in the year during which the company was in the group of companies;

“H” is the number of days in the year.

(4) In this paragraph, “small company” means a company which does not satisfy the producer threshold test in the obligation year.

Group registration

3. The holding company for a group of companies may fulfil the obligation of each company in the group to be registered in the obligation year in accordance with regulation 6.

Obligations

4. Where a holding company registers a group of companies—
 - (a) the holding company is a producer in the obligation year for the purposes of these Regulations in relation to the producer obligations each company in the group would have had but for the holding company’s registration; and
 - (b) Part 2 does not apply to each subsidiary in the group for the year.

Companies joining in year

5. Where a company joins after 1st January in the obligation year a group of companies registered pursuant to paragraph 3—

- (a) the company must, if it is a producer under these Regulations in the period beginning with 1st January and ending with the date on which it joins the group, comply with the obligations in regulations 3, 6 and 7 for that period; and
- (b) otherwise Part 2 does not apply to the company.

Companies leaving in year

6. Where a company ceases to be in a group of companies after registration pursuant to paragraph 3 but before 31st December in the obligation year—

- (a) the holding company of the group is the producer in relation to the company's producer obligations for the year; and
- (b) Part 2 does not apply to the company.

Companies joining second group in year

7. Where a company ceases to be in a group after registration pursuant to paragraph 3 but before 31st December, and the company joins another group before 31st December—

- (a) the holding company in respect of the first group is the producer in relation to the company's producer obligations; and
- (b) Part 2 does not apply to the company or other holding company.

SCHEDULE 7

Regulation 8(b)

Franchisors with small franchisee obligations

Application

1.—(1) This Schedule applies to a franchisor (a "FOS") where it has obligations relating to small franchisees.

(2) A franchisor has those obligations where—

- (a) in a year—
 - (i) it has an agreement with one or more small franchisees relating to the same trade-mark; and
 - (ii) any two or more of the franchisor and those small franchisees each fall within a producer class;
- (b) the franchisor satisfies the producer turnover test; and
- (c) the aggregate amount of the franchise-related packaging or packaging materials handled by the franchisor and the small franchisees satisfies the producer amount test.

Obligations

2.—(1) A FOS is a producer for the purposes of these Regulations for the obligation year in relation to—

- (a) the franchise-related packaging or packaging materials handled by the group; and
- (b) where the FOS falls within a producer class and satisfies the producer amount test, any other packaging or packaging materials it handled.

(2) In sub-paragraph (1)(a), "the group" means each of the franchisees identified in paragraph 1(2)(a) falling within a producer class and, where the FOS itself falls within a producer class, the FOS.

Franchisors based abroad

3. Where the FOS with small franchisee obligations does not have a registered office or principal place of business in Great Britain, its obligations must be performed by a person who carries out or manages its functions in Great Britain and has a registered office or principal place of business there.

Information

4.—(1) A FOS with small franchisee obligations which does not have the information necessary to meet its obligations pursuant to this Schedule must use its best endeavours to obtain such information.

(2) Where, despite having used its best endeavours, the FOS does not have such information it must produce a best estimate.

Interpretation

5. In this Schedule—

“agreement” means an agreement by which a franchisor grants a franchisee a licence that allows the use of a trade mark as the name under which the franchisee sells from premises goods that are associated with that trade mark, and includes an obligation (whether expressed as a positive or as a negative obligation) that relates to the presentation of those premises;

“franchise-related packaging or packaging materials” means—

- (a) packaging or packaging materials that bear a trade mark owned by it for which a licence to use such trade mark has been granted under the agreement;
- (b) packaging associated with goods that bear a trade mark owned by it for which a licence to use such trade mark has been granted under the agreement; and
- (c) packaging or packaging materials which the franchisee is obliged to purchase from the franchisor or, where it has negotiated some or all of the terms of the supply, a supplier nominated or authorised by the franchisor under the agreement—
 - (i) goods in packaging;
 - (ii) 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; or
 - (iii) 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;

“small franchisee” means a franchisee which does not satisfy the producer threshold test;

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

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

(a) 1994 c.26.

SCHEDULE 8

Regulation 8(c)

Pub businesses with small tenant obligations

Application

1.—(1) This Schedule applies to a pub business (a “POS”) where it has obligations relating to small tenants.

(2) A pub business has those obligations where—

- (a) in a year—
 - (i) it has an agreement with one or more small tenants; and
 - (ii) any two or more of the pub business and those small tenants each fall within a producer class;
- (b) the pub business satisfies the producer turnover test; and
- (c) the aggregate amount of the business-related packaging or packaging materials handled by the business and its tenants satisfies the producer amount test.

Obligations

2.—(1) A POS is a producer for the purposes of these Regulations for the obligation year in relation to—

- (a) the business-related packaging or packaging materials handled by the group; and
- (b) where the POS falls within a producer class and satisfies the producer threshold test, any other packaging or packaging materials it handled.

(2) In sub-paragraph (1)(a), “the group” means each of the tenants identified in paragraph 1(2)(a) falling within a producer class and, where the POS itself falls within a producer class, the POS.

Operations from abroad

3. Where the POS does not have a registered office or principal place of business in Great Britain, its obligations must be performed by a person who carries out or manages its functions in Great Britain and has a registered office or principal place of business there.

Information

4.—(1) A POS which does not have the information necessary to meet its obligations pursuant to this Schedule must use its best endeavours to obtain such information.

(2) Where despite having used its best endeavours the business does not have such information it must produce a best estimate.

Interpretation

5.—(1) In this Schedule—

“agreement” means an agreement by which the pub business grants a tenancy or lease of premises to a tenant that includes an obligation (whether expressed as a positive or as a negative obligation) to purchase some or all of the alcohol or alcoholic liquor, to be sold or supplied on or from the premises, from the pub business or from a person or persons nominated or authorised by or on behalf of that business;

“business-related packaging or packaging materials” means packaging or packaging materials that contain the goods that are the subject of the obligation to purchase from the business or

person nominated or authorised by that business under the agreement, whether or not the goods have been packed or filled in the packaging or packaging materials when they are purchased by the member;

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

“pub business” means a person who is a party to an agreement by which the person grants a lease or tenancy of premises to another in respect of which a premises licence is in force and those premises—

- (a) in England or Wales, are used by the tenant in order to carry on the licensable activity of—
 - (i) the sale by retail of alcohol for consumption on the premises or both on and off the premises; or
 - (ii) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club or both, for consumption on the premises or both on and off the premises;
- (b) 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 in respect of which a premises licence is in force;

“small tenant” means a tenant which does not satisfy the producer threshold test.

(2) In the definition of pub business in sub-paragraph (1)—

(a) in England and Wales—

“alcohol” has the same meaning as in section 191 of the Licensing Act 2003(a);

“premises licence” has the same meaning as in section 11 of the Licensing Act 2003;

“sale by retail” in relation to any alcohol has the same meaning as in section 192 of the Licensing Act 2003;

“supply of alcohol” has the same meaning as in section 14 of the Licensing Act 2003;

(b) in Scotland—

“alcohol” has the meaning given in section 2 of the Licensing (Scotland) Act 2005(b);

“premises licence” has the meaning given in section 17 of the Licensing (Scotland) Act 2005.

SCHEDULE 9

Regulation 12(3)

Cancellation of producer registration

1. Before cancellation of a registration under regulation 12, 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 12(1), the expiration of the time limit for an appeal against the notice provided for in paragraph 6 of Schedule 21;
 - (ii) in the case of cancellation under regulation 12(2), five days from the date of the notice;
- (d) the right of appeal under regulation 41(1)(b); and
- (e) where cancellation is under paragraph 12(1), a statement as to the offence in regulation 38(1)(a).

(a) 2003 c.17. Section 191 was amended by S.I. 2006/2407.

(b) 2005 asp 16.

SCHEDULE 10

Regulation 15(3)

Approval applications

1. An application for approval of a scheme by the appropriate Agency must be made in writing by the operator and must—

- (a) contain the following information—
 - (i) the name and address of the operator; and
 - (ii) information which demonstrates that—
 - (aa) the scheme is likely to subsist for a period of at least five years beginning with the date on which the approval would be granted; and
 - (bb) the operator is likely to be able to meet its expected recovery and recycling obligations for that period; and
- (b) be accompanied by the following documentation—
 - (i) a copy of the constitution of the scheme;
 - (ii) a copy of the rules with which a member of the scheme is obliged to comply; and
 - (iii) a copy of the procedures under which the operator of the scheme would enforce the rules against a member of the scheme.

2. Where an application for approval is granted, the appropriate Agency must within a period of 28 days beginning with the date of its decision notify the operator of the scheme of it.

3. Any decision of the appropriate Agency under regulation 15(1)(b) to refuse to grant approval of a scheme must within a period of 28 days beginning with the date of the decision be notified to the operator together with—

- (a) the reasons for the decision; and
- (b) a statement as to the right of appeal under regulation 41(2)(a).

SCHEDULE 11

Regulation 17(2)

Conditions in exceptional circumstances

1. The operator of a scheme approved in the circumstances in regulation 15(2) must in addition—

- (a) comply with 50% of the total recovery and recycling obligations of the scheme before 30th June of the obligation year;
- (b) comply with a further 50% of the remaining recovery and recycling obligations before 30th September of that year;
- (c) make returns to the appropriate Agency of information demonstrating compliance with the conditions in sub-paragraphs (a) and (b) on or before 15th July and 15th October of the year;
- (d) pay the fee in accordance with paragraph 2 of Schedule 2; and
- (e) not accept any new members into the scheme.

2. The conditions in paragraph 1 cease to apply beginning with the year following the year for which approval was granted pursuant to regulation 16(1) if the appropriate Agency is satisfied that in the approval year the operator complied with—

- (a) those conditions; and
- (b) the obligations in regulation 14.

3. If the conditions in paragraph 1 cease to apply by virtue of paragraph 2, the appropriate Agency must within a period of 28 days beginning with the date on which the appropriate Agency is satisfied in accordance with paragraph 2 serve written notice of the cessation.

4. In this Schedule, “approval year” means.

SCHEDULE 12

Regulation 18(2)

Withdrawal of approval

1. The appropriate Agency must, before withdrawing approval of a scheme under regulation 18, serve on the operator of the scheme written notice of—

- (a) its decision to withdraw approval;
- (b) the reasons for the decision;
- (c) the right of appeal under regulation 41(2)(b) and (c); and
- (d) the date when the withdrawal will take effect, not being earlier than the expiration of the time limit for an appeal against the notice provided for in paragraph 2 of Schedule 10.

2. Where an application which is required by regulation 16(1)(a) or (b) is not received by the due date, the appropriate Agency may decide to withdraw approval of the scheme and, if such a decision is taken, must serve written notice on the operator of the scheme of—

- (a) the decision to withdraw approval of the scheme;
- (b) the reasons for the decision; and
- (c) the date when the withdrawal will take effect, not being earlier than 28 days from the date of the notice.

3. Where an application which is required by regulation 16(1)(c) or (d) is not received by the due date, the appropriate Agency must serve written notice on the operator of the withdrawal of approval of the scheme, which takes effect from the date of the notice.

4. The appropriate Agency must consider any representations made by the operator of a scheme notice given under paragraph 2 takes effect, and may withdraw the notice under paragraph 2 at any time.

5. Where a scheme’s approval is withdrawn under regulation 18 or this Schedule, the operator of the scheme must within a period of 14 days beginning with the date on which the withdrawal takes effect 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 takes effect;
- (b) a copy of the notice of withdrawal;
- (c) the reasons for the withdrawal; and
- (d) the obligation of a producer under regulation 3.

6. Where a scheme’s approval is withdrawn under regulation 18 or this Schedule, the appropriate Agency must cancel any registration of the scheme under regulation 19 and such cancellation takes effect on the date the withdrawal of approval takes effect.

SCHEDULE 13

Regulation 19(2)

Scheme registration applications

1. An application for registration of a scheme in relation to a year must be made by the operator of the scheme, on or before 15th April in that year, to the appropriate Agency.

2. An application for registration of a scheme must—

- (a) be made in writing;
- (b) contain the information set out in paragraph 3;
- (c) be accompanied by the following further information, on a form supplied for that purpose by the appropriate Agency and signed in accordance with the requirement in paragraph 8, in relation to the obligation year—
 - (i) each producer which is a member of the scheme and each producer class to which each producer belongs;
 - (ii) if any producer belongs to more than one producer class, which of those classes constitutes the producer's main activity as a producer;
 - (iii) the relevant code in "Indexes to the UK Standard Industrial Classification of Economic Activities 2007" published by the Office for National Statistics in 2009^(a) for the activity or the main activity of each producer class in the scheme;
 - (iv) in relation to each producer the information referred to in paragraph 1(d) of Schedule 2;
 - (v) in relation to members which are producers using the allocation method, the aggregate amount of packaging waste which is required to be recycled by virtue of Part 3 of Schedule 3 by those members;
 - (vi) a statement of the turnover of each producer using the allocation method which is a member of the scheme; and
 - (vii) such other information as the appropriate Agency reasonably requires in order to determine the application and as is specified on the form;
- (d) be accompanied by a statement of the scheme's policies as provided in paragraph 4;
- (e) except where a scheme is registered in respect of the previous year, be accompanied by—
 - (i) evidence that the scheme has been approved by the appropriate Agency; or
 - (ii) a statement that such approval is pending;
- (f) be accompanied by a fee calculated in accordance with Schedule 14.

3. The information is—

- (a) the name of the scheme;
- (b) the name of the operator and, where the operator is a partnership, the names of all the partners;
- (c) the address and telephone number of the registered office of the operator or, if not a company, the principal place of business of the operator;
- (d) the address for service of notices if different from that given under sub-paragraph (c);
- (e) the names and addresses of the registered offices, or, where the members of the scheme are not companies, the principal places of business, of the scheme's members; and

(a) <http://webarchive.nationalarchives.gov.uk/20160105160709/http://www.ons.gov.uk/ons/guide-method/classifications/current-standard-classifications/standard-industrial-classification/index.html>. A copy may be obtained by writing to the Office for National Statistics, Classifications and Harmonisation Unit, Government Buildings, Cardiff Road, Newport, South Wales, NP10 8XG.

- (f) full particulars of the agreement for the constitution of the scheme including any rules or regulations to be observed by its members.
- 4.** The matters to be contained in the statement of the schemes policies are—
- (a) the steps intended to be taken through the scheme to increase the use of recycled packaging waste in the manufacture of packaging, packaging materials or other products or materials supplied by its members; and
 - (b) the principal methods by which packaging waste is to be recovered through the scheme, and by which it is to be recycled through the scheme, together with information about the steps the user or consumer may take to assist the scheme in applying these methods.
- 5.** Any information provided must be as accurate as reasonably possible.
- 6.** Where the operator of the scheme is a partnership, the application for registration must be made by any partner acting on behalf of the partnership.
- 7.** Where an operator relies on paragraph 2(e)(ii), the operator must supply evidence of approval to the appropriate Agency as soon as possible after receipt.
- 8.** The requirement referred to in paragraph 2(c) is that the form be signed by—
- (a) the approved person;
 - (b) in the case of a scheme that has not already been registered, anyone who is eligible to be an approved person under regulation 37(2).
- 9.** Where an application for registration of a scheme is granted—
- (a) the appropriate Agency must within a period of 28 days beginning with the date of the decision notify the operator of the scheme of it; and
 - (b) the scheme is to be treated as registered from the beginning of the year in relation to which the application is made until any cancellation of the scheme's registration in accordance with paragraph 6 of Schedule 12.
- 10.** The appropriate Agency must provide the form referred to in paragraph 2(c) free of charge to any person requesting one.
- 11.** Any decision of the appropriate Agency under regulation 19(1)(b) to refuse to register a scheme must within a period of 28 days beginning with the date of the decision be notified to the operator of the scheme together with—
- (a) the reasons for the decision;
 - (b) a statement as to the right of appeal under regulation 41(2)(d); and
 - (c) a statement as to the offence in regulation 38(1)(a).

SCHEDULE 14

Regulation 19(3)

Scheme registration fees

- 1.** The fee which is to be charged by the appropriate Agency on an application for registration of a scheme is—
- (a) £345 for each producer using the allocation method and which is on the date of the application a member of the scheme;
 - (b) £564 for each producer which is not a producer using the allocation method and is on the date of the application a member of the scheme.
- 2.** In the case of a scheme that has been granted approval pursuant to regulation 16(1), the fee which is to be charged by the appropriate Agency in addition to the fee in paragraph 1 is—

- (a) £1,540 where the operator of the scheme has an obligation to recover up to and including 24,999 tonnes of packaging waste;
- (b) £2,310 where the operator of the scheme has an obligation to recover between 25,000 and 249,999 tonnes of packaging waste;
- (c) £3,080 where the operator of the scheme has an obligation to recover over 250,000 tonnes of packaging waste.

3. In the case of a group of companies that is on the date of the application a member of a scheme, the fee to be charged by the appropriate Agency for that member is—

- (a) £345 where the holding company is a producer using the allocation method and the group of companies had an aggregate turnover of £5,000,000 or less in the previous year;
- (b) £564 where—
 - (i) the holding company is not a producer using the allocation method;
 - (ii) the holding company is a producer using the allocation method and the group of companies had an aggregate turnover of more than £5,000,000 in the previous year.

4. In addition to the fee payable under paragraph 3(a) or (b), in respect of each subsidiary included within that application which is not a producer using the allocation method, the appropriate Agency must charge a fee of—

- (a) £180 for each of the first 4 subsidiaries;
- (b) £90 for each of the 5th to 20th subsidiaries inclusive; and
- (c) £45 for each of the 21st and subsequent subsidiaries.

5. In the case where an application is required to be resubmitted as a result of a failure to meet the requirements of paragraph 2(c) of Schedule 13, the fee to be charged by the appropriate Agency in addition to any fee payable under this Schedule is £220 for each member of that scheme in respect of which the information resubmitted was different from that contained in the original application.

6. The additional fee which is to be paid by an operator of a scheme in compliance with the obligation in regulation 21 is calculated as follows—

$$(A \times B) + (C \times D) = AF$$

where—

- “A” is the number of new members of the scheme which are the subject of the notification and which are not producers using the allocation method;
- “B” is the fee in paragraph 1(b) plus the sum of £110;
- “C” is the number of new members of the scheme which are the subject of the notification and which are producers using the allocation method;
- “D” is the fee in paragraph 1(a) plus the sum of £110;
- “AF” is the additional fee.

Applications from Northern Ireland

- 1.** An operator may elect to make an application for approval by the Department of the Environment in Northern Ireland under regulation 15(1) where—
 - (a) the operator’s registered office or principal place of business is in Northern Ireland; and
 - (b) the operator proposes to apply to the Department in relation to the same year for approval of the scheme under regulation 15(1) of the Packaging Waste Regulations (Northern Ireland) 2016(a).

- 2.** An operator may elect to make an application to that Department for registration under regulation 19(1) where—
 - (a) the operator’s registered office or principal place of business is in Northern Ireland; and
 - (b) the operator proposes to apply to the Department in relation to the same year for registration of the scheme under regulation 19(1) of the Packaging Waste Regulations (Northern Ireland) 2016.

- 3.** Where an operator makes an election under paragraph 1—
 - (a) functions of the appropriate Agency in relation to the application under regulation 15 and Schedule 10 must be carried out by the Department on behalf of the appropriate Agency; and
 - (b) until the application has been determined, the operator may not make an application to the appropriate Agency under regulation 15(1) in relation to the same or substantially the same scheme.

- 4.** Where an operator makes an election under paragraph 2—
 - (a) functions of the appropriate Agency in relation to the application under regulation 19 and Schedules 11 and 12 must be carried out by the Department acting on behalf of the appropriate Agency; and
 - (b) until such time as the application has been determined, the operator may not make an application to the appropriate Agency under regulation 19(1) in relation to the same or substantially the same scheme.

- 5.** For the purposes of these Regulations, an act of the Department performing functions of the appropriate Agency pursuant to this Schedule is treated as an act of the appropriate Agency.

(a) TBC.

SCHEDULE 16

Regulation 27(2)

Accreditation applications

- 1.** An application for accreditation must be made to the appropriate Agency—
 - (a) in the case of a person wishing to be accredited—
 - (i) to issue PRNs, in respect of each site for which the person wishes to be accredited and stating which of the applicable recovery operations and which recyclable materials the person wishes that accreditation to cover; or
 - (ii) to issue PERNs, in respect of the export of one or more recyclable materials for recovery or recycling outside the United Kingdom;
 - (b) on a form made available by the appropriate Agency and including all the information specified on that form, being information which the appropriate Agency reasonably requires in order to determine the application;
 - (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 inFOStructure and the development of capacity for the collection, sorting, treatment and recovery or recycling of packaging waste;
 - (ii) funding provided to other persons involved in the collection of packaging waste;
 - (iii) reductions in the prices of, and the development of new markets for, materials or goods made from recycled packaging waste;
 - (iv) the costs of complying with obligations in these Regulations;
 - (v) funds retained for future investment in inFOStructure and the development of capacity for the collection, sorting, treatment and recovery or recycling of packaging waste;
 - (vi) the development of a communications strategy for consumers of packaging made from recyclable materials; and
 - (d) accompanied by a fee of—
 - (i) in the case of an applicant who undertakes to issue PRNs or PERNs for not more than 400 tonnes of packaging waste in the year to which the application relates, £505;
 - (ii) otherwise £2616.
- 2.** Where accreditation is granted under regulation 28(1)(a), it takes 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;
 - (ii) in all other cases, from the date of the decision;
 - (b) where the application is made during the year in which the person wishes to be accredited, from the date of the decision.
- 3.** Accreditation which takes effect under paragraph 2(a) remains in force until 31st December in the year for which the person has applied to be accredited.
- 4.** The appropriate Agency must notify the applicant of its decision under regulation 28 no later than 12 weeks after the application was made and, if the decision is a decision to refuse accreditation, such notification must include reasons for the decision and a statement of the right of appeal under regulation 41(3)(a).

5. Where a person who has given the undertaking and paid the fee specified in paragraph 1(d)(i) subsequently breaches that undertaking, they are from the date of that breach liable to pay to the appropriate Agency the sum of £2111 (being the balance of the fee which would have been payable under paragraph 1(d)(ii) had the undertaking not been given) within a period of 28 days beginning with the date of the breach.

6. An application to extend the accreditation of a person accredited to issue PERNs to include further sites to which they want to export packaging waste for recovery or recycling must be made to the appropriate Agency on the form specified in paragraph 1(b) and be accompanied by a fee of—

- (a) £85 for the first form submitted as part of the application;
- (b) £35 for each additional form submitted as part of the application.

7. An application to extend the accreditation of a person accredited to issue PERNs to include further sites located within the European Union must be granted by the appropriate Agency where it is satisfied that the application has been made in accordance with paragraph 6, or otherwise be refused.

8. An application to extend the accreditation of a person accredited to issue PERNs to include further sites located outside the European Union must be granted by the appropriate Agency where it is satisfied that each of those sites meets the requirements of Article 6(2) of the Packaging Directive and is satisfied that the application was made in accordance with paragraph 6, or otherwise be refused.

SCHEDULE 17

Regulation 29

Conditions of accreditation

1. A person accredited to issue PRNs or PERNs must—
 - (a) where an amount of packaging waste received for recovery or recycling or exporting has been received in a year but a PRN or PERN has not been issued in relation to that amount by 31st January of the following year (“year 2”)—
 - (i) issue to the appropriate Agency a PRN or PERN for that amount by 28th February in year 2; and
 - (ii) not issue a PRN or PERN for that amount to producers or operators of schemes;
 - (b) other than in the circumstances in sub-paragraph (a), only issue a PRN or PERN to a producer or operator of a scheme;
 - (c) record the rounded amount in tonnes of packaging waste in a PRN or PERN;
 - (d) maintain for each quarter year records on a form made available for the purpose by the appropriate Agency, retain these for at least four years after the end of the year in which the record is made and make these available to the appropriate Agency on demand;
 - (e) provide a report on a form provided by the appropriate Agency to the appropriate Agency before each of 21st April, 21st July, 21st October and 28th February in respect of the quarter year preceding each of those dates which sets out—
 - (i) the tonnage of packaging waste received or exported for recovery or recycling in the quarter;
 - (ii) the tonnage of packaging waste recovered and recycled in the quarter;
 - (iii) the number of PRNs or PERNs issued in the quarter; and
 - (iv) a list of all PRNs or PERNs issued;
 - (f) provide a report to the appropriate Agency before 28th February in each year which is in the form prescribed by the appropriate Agency for this purpose and which sets out—

- (i) all the information provided in the quarterly reports which relate to the whole of the previous year;
- (ii) the amount of revenue received in the previous year from the sale of PRNs or PERNs;
- (iii) how the whole of that amount has been used, including information on the matters in paragraph 1(c)(i) to (vi) of Schedule 16;
- (iv) an explanation of any deviation during the previous year from the business plan referred to in paragraph 1(c) of Schedule 16;
- (g) implement as far as possible the business plan referred to in 1(c) of Schedule 16;
- (h) carry out sampling and inspection of packaging waste received or exported for recovery or recycling in accordance with a plan approved by the appropriate Agency;
- (i) where applicable, comply with paragraph 5 of Schedule 16;
- (j) not issue PRNs or PERNs in respect of waste received during a period of suspension of accreditation in accordance with regulation 30 after the period of suspension has ended;
- (k) not issue PRNs for more than the total amount of packaging waste which—
 - (i) is received at the site at which recovery or recycling takes place in the year or the part of the year for which the person is accredited; and
 - (ii) will be capable of being recovered or recycled on the site no later than 31st December of the following year;
- (l) issue a PRN only in respect of packaging waste once that waste has been received for recovery or recycling on the site at which recovery or recycling takes place;
- (m) specify in a PRN which refers to packaging waste received on the site at which recovery or recycling takes place in December of a year for recovery or recycling the fact that the waste was received in December of the year;
- (n) not issue PERNs for more than the total amount of packaging waste which the person exports for recovery or recycling in the year or part of the year for which the person is accredited;
- (o) issue a PERN only once the packaging waste that it refers to has been exported for recovery or recycling;
- (p) specify in a PERN which refers to packaging waste exported in December of a year the fact that it was exported in December of the year;
- (q) issue a PERN in respect of packaging waste that is exported only in accordance with—
 - (i) Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste^(a); and
 - (ii) Commission Regulation (EC) No 1418/2007 concerning the export for recovery of certain waste^(b); and
- (r) comply with such other conditions as the appropriate Agency may specify in the notification of a grant of accreditation.

General

2.—(1) For the purposes of this Schedule, persons accredited to issue PRNs or PERNs may issue them to themselves.

(2) In this Schedule, “quarter year” means the period of—

- (a) January, February and March;
- (b) April, May and June;

(a) OJ L 190, 12.7.06, p.1, as last amended by Commission Regulation (EU) 2015/02 (OJ L 294, 11.11.15, p.1).

(b) OJ L 316, 4.12.07, p.6, as last amended by Commission Regulation (EU) No 733/2014 (OJ L 197, 4.7.14, p.10).

- (c) July, August and September; or
- (d) October, November and December.

SCHEDULE 18

Regulation 30(4)

Suspension etc. of accreditation

1. Where the appropriate Agency suspends or cancels the accreditation of a person in accordance with regulation 30, it must serve on the person concerned written notice of—

- (a) its decision to suspend or cancel the accreditation;
- (b) the reasons for the decision;
- (c) the right of appeal under regulation 41(3)(c);
- (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—
 - (i) the period of the suspension or any steps which are required to be taken in order to bring the suspension to an end;
 - (ii) the fact that the person may not, after the period of suspension has ended, issue PRNs or PERNs which refer to waste received during the period of suspension.

2. The accreditation of a person to issue PRNs or PERNs 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 a person who—
 - (aa) holds a permit granted under regulation 13(1) of the Environmental Permitting (England and Wales) Regulations 2010(a) or under the Pollution Prevention and Control (Scotland) Regulations 2012(b);
 - (bb) is an exempt waste operation under the Environmental Permitting (England and Wales) Regulations 2010 or any other operation exempt from the requirements of section 33(1)(a) and (b) of the Environmental Protection Act 1990(c) under those Regulations;
 - (cc) holds a waste management licence granted under section 35(1) of the Environmental Protection Act 1990;
 - (dd) is exempt from the requirements of section 33(1)(a) and (b) of the Environmental Protection Act 1990 in accordance with regulation 17 of the Waste Management Licensing (Scotland) Regulations 2011(d); or
 - (ii) the person who is accredited ceases to carry out the activity of recovery or recycling or of exporting waste for recovery or recycling;
- (b) in a case where the person who is accredited requests that the person's accreditation should be cancelled, with effect from the date for cancellation specified by the person.

(a) S.I. 2010/675, to which there are amendments not relevant to these Regulations.

(b) S.S.I. 2012/360, to which there are amendments not relevant to these Regulations.

(c) 1990 c.43.

(d) S.S.I. 2011/228, to which there are amendments not relevant to these Regulations.

SCHEDULE 19

Regulation 33(2)

Information in public register

1. The register must contain the following information—
 - (a) the name and address of the registered office or principal place of business of—
 - (i) each registered producer;
 - (ii) each registered operator of a scheme and each member of the scheme; and
 - (iii) each person accredited to issue PRNs or PERNs;
 - (b) in relation to a person accredited to issue PRNs or PERNs—
 - (i) each material type accepted;
 - (ii) in relation to any recovery operation to be used, the appropriate classification of the applicable operation provided for in Annex II of Directive 2008/98/EC of the European Parliament and of the Council on waste;
 - (iii) in relation to the incineration at waste incineration plants with energy recovery within the meaning of Article 3(8) of the Packaging Directive, the appropriate classification of the applicable operation under Annex I or II of the Directive referred to in paragraph (ii);
 - (iv) whether the person is accredited to issue PRNs or PERNs for either 400 tonnes or less, or more than 400 tonnes of packaging waste;
 - (v) the trading name, address and telephone number of the person;
 - (vi) the sites of recovery or recycling for a person accredited to issue PRNs;
 - (vii) the reference number supplied by the appropriate Agency;
 - (viii) whether or not quarterly returns and annual returns have been provided in accordance with the conditions in paragraph 1(e) and (f) of Schedule 17;
 - (ix) whether the appropriate Agency has served a notice to suspend or cancel accreditation; and
 - (x) whether accreditation has been suspended or cancelled;
 - (c) a statement in relation to each registered producer as to whether a satisfactory certificate of compliance has been furnished;
 - (d) a statement in relation to each registered operator of a scheme as to whether each has complied with its obligations under regulation 14.
2. The appropriate Agency must—
 - (a) secure that the register is open for inspection at its principal office by members of the public free of charge at all reasonable working hours; and
 - (b) permit members of the public to obtain copies of entries in the register on payment of reasonable charges.
3. The register may be kept in any form but must be indexed and arranged so that members of the public can readily trace information contained in it.
4. The appropriate Agency must within a period of seven days beginning with the date of receipt of any information amend the relevant entry in the register.
5. Nothing in these Regulations requires a register maintained by the appropriate Agency to contain information—
 - (a) 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;

- (b) which has been superseded by later information after four years have elapsed from that later information being entered in the register.

SCHEDULE 20

Regulation 37(3)

Delegation of functions

1. The appropriate Agency may approve the delegation by an approved person of the functions in regulation 37(1)(a) and (b) to any other person.

2. An approved person who proposes to delegate those functions must apply for approval to the appropriate Agency on a form supplied for that purpose by the Agency and signed by the approved person.

3. An application for approval under paragraph 2 must within a period of 28 days beginning with the date of receipt—

- (a) be granted where the appropriate Agency is satisfied that the proposed delegate, taking into account the factors in paragraph 4, is capable of carrying out the functions on behalf of the approved person;
- (b) otherwise be refused.

4. The factors are—

- (a) if the proposed delegate is an employee of the producer or the operator of the scheme, the proposed delegate's level of seniority;
- (b) if the proposed delegate is not an employee of the producer or the operator of the scheme, 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 relevant.

5. An approval granted in accordance with paragraph 3(a) may be for such period, or subject to such other conditions, as the appropriate Agency may specify.

6. Where an application for approval is granted in accordance with paragraph 3(a), the appropriate Agency must within a period of 28 days beginning with the date of the decision notify the approved person of it and of any conditions it has imposed pursuant to paragraph 5.

7. The appropriate Agency may decide to withdraw an approval granted under paragraph 3(a) and, if such a decision is taken, must notify the approved person of this and of—

- (a) the reasons for the decision; and
- (b) the date when the withdrawal takes effect, not being earlier than 28 days from the date of the notice.

8. If an approved person proposes to revoke a delegation granted under paragraph 3(a), the person must serve written notice of this on the appropriate Agency and of the date when the revocation takes effect, not being earlier than 28 days from the date of the notice.

9. For the purposes of these Regulations—

- (a) an approved person who has delegated functions may continue to perform the functions;
- (b) an act of a delegate performing the functions of an approved person on that person's behalf is treated as an act of the approved person.

Appeals

- 1.** Where an appeal is made to the appropriate authority it may—
 - (a) appoint any person to exercise on its behalf, with or without payment, the function of determining the appeal;
 - (b) refer any matter involved in the appeal to such person as the appropriate authority may appoint for the purpose, with or without payment.
- 2.** If the appellant so requests, or the appropriate authority so decides, the appeal must be or continue in the form of a hearing.
- 3.** A person wishing to appeal to the appropriate authority must do so by notice to the appropriate authority.
- 4.** The notice must be accompanied by—
 - (a) a statement of the grounds of appeal;
 - (b) a copy of any correspondence or document relevant to the appeal disclosable under Part 31 of the Civil Procedure Rules 1998(a); 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.
- 5.** The appellant must serve a copy of the notice of appeal on the appropriate Agency together with a copy of each of the documents mentioned in paragraph 4.
- 6.** The notice of appeal must be given before the expiry of the period of two months beginning with the date of the decision which is the subject of the appeal.
- 7.** The appropriate authority may at any time allow notice of an appeal to be given after the expiry of the period mentioned in paragraph 6.
- 8.** Where under paragraph 2 the appeal is by way of a hearing, the person hearing the appeal must, unless the person has been appointed to determine the appeal under paragraph 1(a), make a written report to the appropriate authority including the person's conclusions and recommendations or the reasons for not making any recommendations.
- 9.** The appropriate authority or other person determining an appeal must notify the appellant of the decision and the reasons for the decision.
- 10.** If the appropriate authority determines an appeal after a hearing under paragraph 2, it must provide the appellant with a copy of any report made under paragraph 8.
- 11.** The appropriate authority or other person determining an appeal must, at the same time as notifying the appellant of the decision, send the appropriate Agency a copy of any document sent to the appellant under paragraphs 9 and 10.
- 12.** Where the appropriate authority determines that the decision of the appropriate Agency is to be altered, the appropriate Agency must give effect to the determination.
- 13.** In a case falling within regulations 12(1) or 18(1), or paragraphs 2 or 3 of Schedule 12, the decision appealed against is ineffective until the appeal is disposed of; 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.

(a) S.I. 1998/3132, to which there are amendments not relevant to these Regulations.

Appropriate Agency etc.

1. The appropriate Agency is—
 - (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, the Scottish Environment Protection Agency;
 - (c) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate Agency in Wales, the Natural Resources Body for Wales; or
 - (d) for the purposes of any provision of these Regulations relating to the obligations of any other person—
 - (i) the Environment Agency, where at the beginning of the obligation year the person's registered office or principal place of business is in England;
 - (ii) the Scottish Environment Protection Agency, where at the beginning of the obligation year the person's registered office or principal place of business is in Scotland;
 - (iii) the Natural Resources Body for Wales, where at the beginning of the obligation year the person's registered office or principal place of business is in Wales;
 - (iv) at the election of the person, the Environment Agency, the Scottish Environment Protection Agency or the Natural Resources Body for Wales, where at the beginning of the obligation year the person does not have a registered office or principal place of business in Great Britain.
2. The appropriate authority is—
 - (a) for the purposes of regulation 36—
 - (i) the Secretary of State in relation to England;
 - (ii) the Welsh Ministers in relation to Wales; or
 - (iii) the Scottish Ministers in relation to Scotland;
 - (b) for the purposes of any provision in these Regulations relating to the exercise of functions in respect of determining appeals against decisions of the Environment Agency, the Secretary of State;
 - (c) for the purposes of any provision in these Regulations relating to the exercise of functions in respect of determining appeals against decisions of the Natural Resources Body for Wales, the Welsh Ministers; or
 - (d) for the purposes of any provision in these Regulations relating to the exercise of functions in respect of determining appeals against decisions of the Scottish Environment Protection Agency, the Scottish Ministers.

Amendments, revocations and transition

PART 1

Amendments

The Waste Batteries and Accumulators Regulations 2009

1. In regulation 52(2)(e)(iii)(cc) of, and paragraph 7(1)(c) of Schedule 3 to, the Waste Batteries and Accumulators Regulations 2009(a), for each “the Producer Responsibility Obligations (Packaging Waste) Regulations 2007”, substitute “the Packaging Waste Regulations 2016”.

The Waste (England and Wales) Regulations 2011

2. For regulation 5A(t) of the Waste (England and Wales) Regulations 2011(b), substitute—
“(t) the Packaging Waste Regulations 2016”.

The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

3. For paragraph (g) of Part 2 of the Schedule to the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013(c), substitute “Any offence under the Packaging Waste Regulations 2016”.

The Environmental Regulation (Relevant Offences) (Scotland) Order 2014

4.—(1) For each paragraph 9 of Schedules 1 and 3 to the Environmental Regulation (Relevant Offences) (Scotland) Order 2014(d), substitute—

“The Packaging Waste Regulations 2016

9. An offence under any of the following provisions of the Packaging Waste Regulations 2016—

- (a) regulation 38(1) (breaching the obligation to register, the producer recovery and recycling obligations or the obligation to be certified);
- (b) regulation 38(3) (breaching operator recovery and recycling obligations);
- (c) regulation 38(4) (contravening requirements or conditions of accreditation);
- (d) regulation 38(5) (false or misleading information);
- (e) regulation 38(6) (failure to comply with notice requirements).”.

(2) For paragraph 14 of Schedule 2 of that Order, substitute the quoted text in sub-paragraph (1).

(a) S.I. 2009/890, to which there are amendments not relevant to these Regulations.
(b) S.I. 2011/988, amended by S.I. 2014/656; there are other amending instruments but none is relevant.
(c) S.I. 2013/2258.
(d) S.S.I. 2014/319.

The Environmental Regulation (Enforcement Measures) (Scotland) Order 2015

5. In the table in Schedule 4 to the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015(a), for the heading “The Producer Responsibility Obligations (Packaging Waste) Regulations 2007” and the entries relating to that heading, substitute—

“The Packaging Waste Regulations 2016				
Regulation 38(1)(a) (breaching the obligation to register)	YES	YES	YES	MEDIUM
38(1)(b) (breaching the producer recovery and recycling obligations)	YES	YES	YES	MEDIUM
38(1)(c) (breaching the obligation to be certified)	YES	YES	YES	LOW
38(3) (breaching operator recovery and recycling obligations)	YES	YES	YES	MEDIUM
38(4) (contravening requirements or conditions of accreditation)	YES	YES	YES	MEDIUM
38(5) (false or misleading information)	YES	YES	YES	HIGH
38(6) (failure to comply with notice requirements)	YES	YES	YES	MEDIUM
38(7) (obstruction)	YES	NO	NO	LOW”

PART 2

Revocations

6. The following instruments are revoked—

- (a) the Producer Responsibility Obligations (Packaging Waste) Regulations 2007(b);
- (b) the Producer Responsibility Obligations (Packaging Waste) (Amendment No. 2) Regulations 2008(c);
- (c) the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2010(d);
- (d) the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2012(e);
- (e) the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2013(f);
- (f) the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2014(g);
- (g) the Producer Responsibility Obligations (Packaging Waste) (Miscellaneous Amendments) Regulations 2016(h).

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- (a) S.S.I. 2015/383.
 (b) S.I. 2007/871.
 (c) S.I. 2008/1941.
 (d) S.I. 2010/2849.
 (e) S.I. 2012/3082.
 (f) S.I. 2013/1857.
 (g) S.I. 2014/2890.
 (h) TBC.

PART 3

Transition

7. Any step taken before commencement of these Regulations which has effect under any provision of the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 is treated on or after [x] 2016 as having effect under the equivalent provision of these Regulations.

8. Where the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 specified a time period and part of that period had elapsed before [x] 2016, that part of the period is treated on [x] 2016 as having elapsed under the equivalent provision of these Regulations.

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations impose on producers the obligation to secure the recovery and recycling of amounts of packaging waste. The purpose of this is to ensure that targets in Article 6(1) Council Directive 94/62/EC (OJ L 365, 31.12.94, p.10) as last amended by Directive (EU) 2015/720 (OJ L 115, 6.5.2015, p.11).

Regulations 3 to 7 set out the obligations of producers. The obligations must be performed in respect of the year in which the person is a producer.

Regulation 3 contains the obligation to secure the recovery and recycling of amounts of packaging waste. It also contains the obligation to demonstrate compliance with this only by acquiring written evidence. Regulation 4 contains the obligation to be registered. Regulations 5 to 7 contain respectively the obligation to certify, the obligation to keep records and the obligation to provide information to consumers.

Schedules 5 to 7 set out how those obligations apply respectively to groups of companies, franchisors, and pub businesses. Regulation 9 makes provision for certain persons to be excluded from the obligations.

Schedules 2 to 6 make further provision about the obligations of producers. Part 3 (producers' obligations) and Schedule 9 makes further provision about the procedure for registration.

Part 4 makes provision for schemes to carry out obligations on behalf of producers. It also contains provisions about the approval and registration of such schemes.

Part 5 makes provision about the evidence which must be acquired by producers or schemes to demonstrate compliance with recovery and recycling obligations. It also makes provision about the accreditation of persons to issue such evidence. Schedules 14 to 15 make further provision about this.

Part 6 contains provision about monitoring and enforcement. Regulation 34 confers powers of entry and inspection.

Part 7 contains provision about sanctions and appeals. Regulation 38 sets out offences and regulations 38 to 39 set out in which circumstances a civil sanction may be imposed.

The Environment Agency (in relation to England), the Natural Resources Body for Wales (in relation to Wales) and the Scottish Environment Protection Agency (in relation to Scotland) administer the scheme. This is set out in Schedule 22.

An impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Producer Responsibility Unit at the Department for Environment, Food and Rural Affairs, Level 2, Nobel House, 17 Smith Square, London SW1P 3JR and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.