

SCHEDULE 1

Regulation 3(2) and (3)

Producers

Column 1 <i>Relevant function performed in Years 1 and 2</i>	Column 2 <i>Subject matter of supply in Year 1</i>	Column 3 <i>Class of supply in Year 1</i>	Column 4 <i>Class of producer in Year 2</i>
Manufacturer	Packaging materials	A B or C	Manufacturer
Convertor, subject to paragraph 1(2)	Packaging or packaging materials	A B or C	Convertor
Packer/filler	Packaging or packaging materials	A B or C	Packer/filler
Importer	Packaging or packaging materials	A B or C	Importer
Wholesaler	Packaging	D	Wholesaler
Seller	Packaging	E	Seller
Manufacturer, Convertor, Packer/filler, Wholesaler or Importer	Transit packaging	B or F	Secondary provider

1.—(1) For the purposes of Column 1 in the Table—

- (a) “relevant function” means the performance by a person of the functions of one of the following—
- (i) manufacturer,
 - (ii) convertor,
 - (iii) packer/filler,
 - (iv) importer,
 - (v) wholesaler, or
 - (vi) seller,
- either himself or through an agent acting on his behalf, and in the course of business;
- (b) “convertor” means a person who uses or modifies packaging materials in the production or formation packaging;
- (c) “importer” means a person who imports packaging or packaging materials into the United Kingdom;
- (d) “manufacturer” means a person who manufactures raw materials for packaging;
- (e) “packer/filler” means a person who puts goods into packaging;
- (f) “seller” means any person who 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;
- (g) “wholesaler” means a person who supplies packaging to a seller but who does not carry out the functions of a packer/filler in relation to that packaging;
- (h) “Year 1” means the preceding year; and
- (i) “Year 2” means the relevant year.

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(2) Where a person performs the functions of a convertor and a packer/filler at the same time, and as part of the same packing/filling process, and in relation to the same packaging, as regards supplies of packaging or packaging materials made to or by him in connection with those functions, or that process, he is treated for the purposes of these regulations as a producer of the class of packer/filler only.

(3) For the purposes of this Schedule a person acts “in the course of business” if he acts in the ordinary course of conduct of a trade, occupation or profession.

2. For the purposes of Column 3 of the Table, and Schedule 2—

- (a) “Class A supply” means a deemed supply;
- (b) “Class B supply” means a supply, other than solely for the purpose of transport, to a person who acts as a distributor, that is to say who, in relation to the packaging or packaging material supplied, neither performed the functions of one of the classes of producer, nor was the user or consumer;
- (c) “Class C supply” means a supply, other than a Class F supply, to a person for the application by that person of a relevant function other than that of an importer;
- (d) “Class D supply” means a supply to a seller who, at the time of supply, was not a producer;
- (e) “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 other than a person who performed a relevant function;
- (f) “Class F supply” means a supply—
 - (i) to a person who performed a relevant function,
 - (ii) to a user or consumer, or
 - (iii) to a person who acts as a distributor,
 using the transit packaging supplied to perform the functions of a packer/filler and seller; and
- (g) “supply” means doing any of the following, either himself or through an agent acting on his behalf, in relation to packaging or packaging materials owned by the supplier—
 - (i) selling, hiring out or lending;
 - (ii) providing in exchange for any consideration (including trading stamps within the meaning of section 9 of the Trading Stamps Act (Northern Ireland) 1965⁽¹⁾) other than money,
 - (iii) providing in or in connection with the performance of any statutory function, or
 - (iv) giving as a prize or otherwise making a gift,
 and “deemed supply” means a supply which is deemed to occur when a person who has carried out a relevant function then performs another such function to the same packaging or packaging materials.

3. A person satisfies the threshold tests if—

- (a) his turnover—
 - (i) where the obligation year is 1999, in the last financial year in respect of which audited accounts are available before the relevant date, was more than £5,000,000, and
 - (ii) where the obligation year is the year 2000 or any subsequent year, in the last financial year in respect of which audited accounts are available before the relevant date, was more than £1,000,000; and

(1) 1965 c. 6 (N.I.)

- (b) in the calculation year the person handled in aggregate more than 50 tonnes of packaging or packaging materials.

4.—(1) For the purposes of paragraph 3—

- (a) “financial year” in relation to a person—
 - (i) where the person is a company is determined as provided in Article 231(1) to (3) of the Companies (Northern Ireland) Order 1986(2), and
 - (ii) in any other case has the meaning given in Article 231(4) of the Companies Order (Northern Ireland) 1986, but as if the reference there to an undertaking were a reference to that person;
- (b) “obligation year” means a year in respect of which it is being considered whether a person is a producer and “calculation year” means a year immediately before an obligation year;
- (c) “relevant date” means—
 - (i) subject to sub-paragraph (iii), where the obligation year is 1999, 30th September 1999,
 - (ii) subject to sub-paragraph (iii), where the obligation year is 2000 or any subsequent year, 1st April in the year, and
 - (iii) where an application for registration is made in a circumstance set out in regulation 6(3), or as required by paragraph 11 of Schedule 10, the date of the application;
- (d) a persons “turnover” means his turnover as defined in Article 270(1) of the Companies (Northern Ireland) Order 1986 but as if the references to a company were references to that person; and
- (e) the references to audited accounts being available are, where the person is a company, the annual accounts delivered to the registrar under Article 249 of the Companies (Northern Ireland) Order 1986.

(2) For the purposes of paragraph 3, and Schedule 2, the amount of packaging or packaging materials handled is the amount in respect of which the producer made a supply referred to in Column 3 of the Table, other than a Class A supply, calculated in tonnes to the nearest tonne by—

- (a) including packaging or packaging materials so supplied which were imported into the United Kingdom by the producer, either himself or through an agent acting on his behalf; and
- (b) excluding—
 - (i) any packaging or packaging materials so supplied which were exported from the United Kingdom by the producer, either himself or through an agent acting on his behalf, or which to the producer’s reasonable knowledge were otherwise exported from the United Kingdom,
 - (ii) production residues, and
 - (iii) reused packaging.

SCHEDULE 2

Regulation 3(5)(b)(i)

Recovery and Recycling Obligations

1. A producer's obligations to recover and recycle packaging waste in a relevant year are, in relation to each class of producer to which he belongs—

- (a) to recover an amount of packaging waste as provided in paragraph 2(1);
- (b) to recover by recycling a proportion of that packaging waste, as provided in paragraph 2(2); and
- (c) as part of the obligation to recover packaging waste as provided in sub-paragraph (a), to recover by recycling an amount of packaging materials which is packaging waste, as provided in paragraph 2(3),

and are calculated by aggregating his obligations in relation to each class of producer to which he belongs in respect of that year.

2.—(1) The amount of packaging waste to be recovered by a producer in relation to a class of producer to which he belongs is calculated as follows—

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

where—

P is the amount in tonnes to the nearest tonne of packaging and packaging materials handled by the producer in the preceding year,

C is the percentage prescribed in paragraph 3 in relation to the class of producer,

X is the percentage prescribed in paragraph 4 as the recovery target for the relevant year, and

Z is the amount by tonnage of packaging waste which is to be recovered within the relevant year.

(2) The proportion of the packaging waste referred to in sub-paragraph (1) which is to be recovered by recycling is, for the year 2001 and subsequent years, in relation to a class of producer to which the producer belongs, not less than 50% of the amount by tonnage of packaging waste represented by "Z" in sub-paragraph (1).

(3) The obligations of a producer to recover by recycling an amount of packaging materials which is packaging waste in relation to a class of producer to which he belongs are calculated in relation to each packaging material which he handled in the preceding year, as follows—

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

where—

M is the amount in tonnes to the nearest tonne of the packaging material handled by the producer in the preceding year,

C is the percentage prescribed in paragraph 3 in relation to the class of producer,

Y is the percentage prescribed in paragraph 5 as the recycling target for the relevant year, and

Q is the amount by tonnage of packaging waste of that packaging material which is to be recycled in the relevant year.

3.—(1) The following percentages are prescribed as the percentages for the following classes of producer—

- (a) manufacturer 6%;
- (b) convertor 11%;
- (c) packer/filler 36%;

- (d) seller or wholesaler 47%; and
 - (e) secondary provider 83%.
- (2) The following percentages are prescribed for the class of importer—
- (a) the manufacturer's percentage, that is 6%—
 - (i) on Class A supplies, where the importer also carries out the functions of a convertor,
 - (ii) on Class B supplies, where the relevant packaging or packaging materials are supplied, by the distributor who receives them, to a convertor, and
 - (iii) on Class C supplies to a convertor;
 - (b) the manufacturer's and the convertor's percentages aggregated, that is 6% & 11% & 17%—
 - (i) on Class A supplies, where the importer also carries out the functions of a packer/filler,
 - (ii) on Class B supplies, where the relevant packaging or packaging materials are supplied, by the distributor who receives them, to a packer/filler, and
 - (iii) on Class C supplies to a packer/filler;
 - (c) the manufacturer's, the convertor's and packer/filler's percentages aggregated, that is $6\% + 11\% + 36\% = 53\%$ —
 - (i) on Class A supplies, where the importer also carries out the functions of a seller,
 - (ii) on Class B supplies, where the relevant packaging or packaging materials are supplied, by the distributor who receives them, to a seller, and
 - (iii) on Class C supplies to a seller; and
 - (d) the manufacturer's, the convertor's, packer/filler's and the seller's percentages aggregated, that is $6\% + 11\% + 36\% + 47\% = 100\%$ —
 - (i) on Class F supplies,
 - (ii) on Class A supplies, where the importer is also the final user or consumer.
4. The following is prescribed as the recovery target "X"—
- (a) for the year 2000, 43%; and
 - (b) for any subsequent year, 52%.
5. The following is prescribed as the recycling target "Y"—
- (a) for the year 2000, 11%; and
 - (b) for any subsequent year, 16%.
- 6.—(1) In this Schedule—
- (a) for the purposes of paragraph 2(1) and for the year 1999 "packaging materials" means any of the following—
 - (i) glass,
 - (ii) aluminium,
 - (iii) steel,
 - (iv) paper/fibreboard, or
 - (v) plastic;
 - (b) for the purposes of paragraph 2(1), and for the year 2000 and subsequent years, "packaging materials" means any of the materials referred to in sub-paragraph (a) together with wood and other packaging materials; and

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(c) for the purposes of paragraph 2(3) “packaging materials” means any of the materials referred to in sub-paragraph (a).

(2) For the purposes of sub-paragraph (1), packaging materials composed of a combination of the materials there referred to are to be treated as made of the material which is predominant by weight.

SCHEDULE 3

Regulation 2

PART I

DEFINITION OF WASTE — ARTICLE 1 OF AND ANNEX 1 TO THE WASTE DIRECTIVE

Article 1

1. “Waste” shall mean any substance or object in the categories set out in Annex 1 which the holder discards or intends or is required to discard.

Annex 1

CATEGORIES OF WASTE

- Q1. production or consumption residues not otherwise specified below;
- Q2. off-specification products;
- Q3. products whose date for appropriate use has expired;
- Q4. materials spilled, lost or having undergone other mishap, including any materials, equipment, etc. contaminated as a result of the mishap;
- Q5. materials contaminated or soiled as a result of planned actions (for example, residues from cleaning operations, packing materials, containers, etc.);
- Q6. unusable parts (for example, reject batteries, exhausted catalysts, etc.);
- Q7. substances which no longer perform satisfactorily (for example, contaminated acids, contaminated solvents, exhausted tempering salts, etc.);
- Q8. residues of industrial processes (for example, slags, still bottoms, etc.);
- Q9. residues from pollution abatement processes (for example, scrubber sludges, baghouse dusts, spent filters, etc.);
- Q10. machining/finishing residues (for example, lathe turnings, mill scales, etc.);
- Q11. residues from raw materials extraction and processing (for example, mining residues, oil filed slops, etc.);
- Q12. adulterated materials (for example, oils contaminated with polychlorinated biphenyls, etc.);
- Q13. any materials, substances or products whose use has been banned by law;
- Q14. products for which the holder has no further use (for example, agricultural, household, office, commercial and shop discards, etc.);

Q15. contaminated materials, substances or products resulting from remedial action with respect to land; and

Q16. any materials, substances or products which are not contained in the above categories.
Regulation 2

PART II

DEFINITION OF RECOVERY — ANNEX IIB TO THE WASTE DIRECTORY

2. This Part is intended to list recovery operations as they are carried out in practice; in accordance with Article 4 of the Waste Directive, waste must be recovered without endangering human health and without the use of processes or methods likely to harm the environment—

R1. solvent reclamation/regeneration;

R2. recycling/reclamation of organic substances which are not used as solvents;

R3. recycling/reclamation of metals and metal compounds;

R4. recycling/reclamation of other inorganic materials;

R5. regeneration of acids or bases;

R6. recovery of components used for pollution abatements;

R7. recovery of components from catalysts;

R8. oil re-finishing or other re-uses of oil;

R9. use principally as a fuel or other means to generate energy;

R10. spreading on land resulting in benefit to agriculture or ecological improvement, including composting and other biological transformation processes, except in the case of waste excluded under Article 2(1)(b)(iii), of the Waste Directive;

R11. use of wastes obtained from any of the operations numbered R1-R10;

R12. exchange of wastes for submission of any of the operations numbered R1-R11; and

R13. storage of materials intended for submission to any operation in this Part, excluding temporary storage, pending collection, on the site where it is produced.
Regulation 4(4)

PART III

DEFINITION OF SPECIAL PRODUCERS

3. A special producer is a producer who in the preceding year handled—

(a) primary packaging, that is to say packaging within part (a) of the definition of packaging in regulation 2, any of which, in his reasonable opinion, when discarded was—

(i) likely to be special waste as defined in regulation 2 of the Special Waste Regulations (Northern Ireland) 1998(3); or

(ii) likely to have been used to contain or used in connection with the containment of such waste; or

(3) [S.R. 1998 No. 289](#)

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- (b) packaging which is a package within the meaning given in regulation 2 of the Carriage of Dangerous Goods (Classification, Packaging and Labelling) and Use of Transportable Pressure Receptacles Regulations (Northern Ireland) 1997⁽⁴⁾ and which in his reasonable opinion was likely to be subject to the requirements of regulations 8 to 10 of those regulations (particulars to be shown on packages containing dangerous goods) other than any package referred to in regulation 8(5) of those Regulations.

Regulation 4(4)

PART IV

SPECIAL PRODUCERS — OBLIGATIONS

4. For the purposes of the provision of further information by a special producer under paragraphs (4) or (8) of regulation 6, if applicable, and 8, such information shall only be in respect of packaging or packaging materials other than packaging referred to in Part III.

5. For the purposes of the calculation of the recovery and recycling obligations of a special producer, Schedule 2 shall apply and item “P” in that Schedule shall be the amount by tonnage of packaging and packaging materials handled by the producer in the preceding year other than packaging referred to in Part III.

Regulation 4(4)

PART V

SPECIAL PRODUCERS — RECORDS AND RETURNS

- 6. A special producer shall, in relation to any relevant year—
 - (a) maintain records and furnish returns as required under regulation 22 in relation to the packaging and packaging materials referred to in paragraph 4, and in relation to such packaging and packaging materials when it becomes waste; and
 - (b) in addition to any records and returns he is required to make under regulation 22 maintain for at least four years after the record is made, records of the information referred to in paragraph 7 in respect of each relevant year, and shall make a return to the Department of that information on or before 31st January in the year immediately following the relevant year.
- 7. The information is—
 - (a) the amount in tonnes to the nearest tonne of packaging handled by the producer in the preceding year;
 - (b) the amount in tonnes to the nearest tonne of the packaging referred to in sub-paragraph (a) which was the packaging referred to in Part III; and
 - (c) any steps taken by the producer to promote or increase the recovery of the packaging referred to in sub-paragraph (b) when it becomes waste.

8. In relation to a special producer the reference in regulation 7(c) to regulation 22 shall be read as a reference to regulation 22 and this Part.

(4) [S.R. 1997 No. 247](#)

SCHEDULE 4

Regulation 6(4)

Information

PART I

**INFORMATION TO BE CONTAINED IN
APPLICATION FOR PRODUCER REGISTRATION**

1. 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.
 2. The business name of the producer if different from that referred to in paragraph 1.
 3. The address for service of notices on the producer if different from that referred to in paragraph 1.
- Regulations 6, 8, 12 and 14

PART II

PRODUCER AND SCHEME REGISTRATION

Further Information

FOR PROVISION OF FURTHER INFORMATION BY OBLIGATED PRODUCERS AND ON BEHALF OF SCHEMES AS REQUIRED UNDER REGULATIONS 6, 8, 12 AND 14 OF THE PRODUCER RESPONSIBILITY OBLIGATIONS (PACKAGING WASTE) REGULATIONS (NORTHERN IRELAND) 1999.

Reference Number:

Please complete in black ink. 'Producers' are obligated businesses, that is companies, partnerships, sole traders etc.

As indicated below part of the form are optional but will assist in any future review of your sector's obligations.

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Please supply DATA IN METRIC TONNES and for PREVIOUS YEAR

SECTION 1

Name of Business: _____

Address of registered office or principal place of business: _____

Post Code: _____

Telephone number: _____

Fax number: _____

Name and position of Contact: _____

Where a group registration, name of group to which companies belong, if any: _____

Tick main activity performed with regard to packaging:

Manufacturing of packaging raw materials	
Conversion	
Packaging/filling	
Wholesaling*	
Selling	
Importing	

* Wholesalers who perform no other activity are obliged with effect from 1st January 2000 only.

SECTION 2

1. In accordance with regulations 6(7) and 12(7) you are required in 1999 to give reasonable estimates in tonnes per annum and in subsequent years to give information which is as accurate as reasonably possible in terms of the activities and materials set out in the following tables. You should attach a short description of how the data was obtained (Section 4). Tables 1-5 are (where applicable) required under regulations 6 and 12. Tables 6-8 are optional but will assist in any future review of your sector's obligations.

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2. Schedule 1 paragraph 2(f) and Schedule 2 paragraph 3(1)(e) apply on obligations of 83% to transit or “secondary provider” packaging. This is the sum of the packer/filler and seller obligations on the transit packaging you use to pack and sell goods to customers (36% + 47% = 83%). Transit packaging should therefore be included in Tables 1 and 2a according to the activities performed on it.

3. Imports carry a cumulative or “rolled up” obligation depending on the stage at which they are imported (see Schedules 1 and 2).

4. Composite packaging should be included according to the predominant material by total weight.

5. Where an entry amounts to less than 1 tonne, it does not need to be recorded separately but should be aggregated with the principal packaging material handled by the business.

6. In calculating tonnages of packaging handled you may use your information or any ready reckoner or guidance published by or in association with the Department.

Table 1: Packaging/Packaging Materials Supplied

	Paper	Glass	Metals		Plastic	Wood	Other
			A1	Steel			
Raw material manufacturing							
Conversion							
Pack/filling							
Selling							

Table 2(a): [Where applicable] Packaging/Packaging Materials exported by the Producer

	Paper	Glass	Metals		Plastic	Wood	Other
			A1	Steel			
Raw material manufacturing							
Conversion							
Pack/filling							
Selling							

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Table 2(b): [Where applicable and if known] Packaging/Packaging Materials exported by a Third Party

	Paper	Glass	Metals		Plastic	Wood	Other
			Al	Steel			
Raw material manufacturing							
Conversion							
Pack/filling							
Selling							

Table 3: [Where applicable] Tonnage of Packaging/Packaging Materials imported for the purpose of the named activity

	Paper	Glass	Metals		Plastic	Wood	Other
			Al	Steel			
Conversion							
Pack/filling							
Selling							
Transit Packaging round imports							

As of 1st January 2000 and in subsequent years (see below for 1999), you will be required to calculate and declare your obligation to recover and recycle, and fill in Table 4 below. IT SHOWS YOUR OBLIGATION. IT IS FOR THE CURRENT YEAR AND IS BASED ON DATA FROM THE PREVIOUS YEAR.

Summary Table 4: Statement of Obligations

Recovery Obligation			
Of which, Recycling Obligation for	Paper		
	Glass		
	Metals	Aluminium	
		Steel	
Plastic			

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SECTION 3

Table 5 Optional: Re-use

You do not have to answer this question, but if you can, please note below the tonnage of reused packaging excluded by material.

Paper		
Glass		
Metals	Aluminium	
	Steel	
Plastics		
Wood from 1.1.2000		
Other from 1.1.2000		

Table 6 Optional: Composites

You do not have to answer this question, but if you can, please note the tonnage of packaging included in your obligated tonnages that was composite packaging, for each material

Paper		
Glass		
Metals	Aluminium	
	Steel	
Plastics		
Wood from 1.1.2000		
Other from 1.1.2000		

Table 7 Optional IN 1999 ONLY: please provide an assessment of your levels of recovery and recycling (by material) of packaging waste in the year 1998:

Recovery			
Recycling	Paper		
	Glass		
	Metals	Aluminium	
		Steel	
	Plastic		

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SECTION 4

Basis of Assessment

How did you arrive at this assessment? Data from your own systems? Data from a Materials Organisation, from a Trade Association or Guidance from the Department of the Environment? Data from your suppliers? Other source?—please specify, using a separate sheet if necessary.

Please return completed form by [] 1999 to the Department.

Regulations 12(3)(b) and 31(2)

PART III

INFORMATION TO BE INCLUDED IN APPLICATION FOR REGISTRATION OF A SCHEME OR COMPETITION SCRUTINY

4. The name of the scheme.
 5. The name of the operator, and where the operator is a partnership, the names of all the partners.
 6. 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, and, if more than one, all the operators.
 7. The address for service of notices if different from that referred to in paragraph 6.
 8. The names and addresses of the registered offices, or, if not companies, the principal places of business, of the schemes members.
 9. Full particulars of the agreement for the constitution of the scheme including any rules or regulations to be observed by its members.
- Regulations 12(3)(d) and (e)

PART IV

STATEMENT OF THE SCHEMES POLICIES AND SCHEMES OPERATIONAL PLAN

10. The matters to be contained in the statement with regard to the schemes policies referred to in regulation 12(3)(d) 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 and recycled through the scheme, together with information about the steps the user or consumer may take to assist the scheme in applying these methods.

11. The matters to be contained in the schemes operational plan referred to in regulation 12(3) (e) are matters which demonstrate—

- (a) that sufficient financial resources and technical expertise will be available to enable the recovery and recycling obligations of the schemes members referred to in regulation 4(1)(b) to be discharged through the scheme;
- (b) that the arrangements for recovery and recycling through a scheme take account of any statement which, where the scheme is to be registered with the Department, contains the Department's policies in relation to the recovery and disposal of waste in Northern Ireland, and which is made under Article 19 of the Waste and Contaminated Land (Northern Ireland) Order 1997(5);
- (c) that there are arrangements in place to enable the operator to supply further information as required under regulation 14;
- (d) how the recovery and recycling obligations of its members referred to in regulation 4(1)(b) will be performed as regards each of the packaging materials relevant to those obligations including—
 - (i) the names and addresses of the reprocessors it is intended to use,
 - (ii) the names of any district councils from whom packaging waste is intended to be obtained,
 - (iii) the proportions in which the packaging waste which is to be recovered and recycled is to be obtained from the waste of a producer who is a member of the scheme, other industrial or commercial waste, household waste or other waste,
 - (iv) the amounts to the nearest tonne of packaging waste it is proposed to recover in the three years immediately following registration, and
 - (v) the amounts to the nearest tonne of each such packaging material which it is proposed to recycle in the three years immediately following registration; and
- (e) the steps it is proposed to take to recover and recycle any of the packaging materials relevant to the recovery and recycling obligations of the schemes members in order not to adversely affect the interests of any member of the scheme, or any other producer, whose recovery and recycling obligations are predominantly in relation to another such packaging material.

12. For the purposes of paragraph 11(d)(iii) “household waste”, “industrial waste” and “commercial waste” shall have the same meaning as in Article 2(2) of the Waste and Contaminated Land (Northern Ireland) Order 1997.

SCHEDULE 5

Regulation 19

Procedure on Appeals

1.—(1) An operator of a scheme who wishes to appeal to the Planning Appeals Commission under regulation 18 shall do so by notice in writing given or sent to the Planning Appeals Commission.

(2) The notice shall be accompanied by—

- (a) a statement of the grounds of appeal;
- (b) where the appeal relates to refusal of registration under regulation 16, a copy of the appellant's application and any supporting documents;

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- (c) where the appeal relates to cancellation of registration under regulation 17(1), a copy of the notification of the decision and any supporting documents;
 - (d) a copy of any correspondence relevant to the appeal;
 - (e) a copy of any other document relevant to the appeal; and
 - (f) 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.
- (3) The appellant shall serve a copy of his notice of appeal on the Department together with copies of the documents mentioned in sub-paragraph (2).
2. Notice of appeal shall be given before the expiry of the period of six months beginning with the date of the decision which is the subject of the appeal.
3. Where under regulation 19(1) the appeal is by way of a hearing, the person hearing the appeal shall make a written report to the Planning Appeals Commission which shall include his conclusions and recommendations or his reasons for not making any recommendations.
- 4.—(1) The Planning Appeals Commission upon determining an appeal shall notify the appellant in writing of its decisions and of its reasons.
- (2) If the Planning Appeals Commission determines an appeal after a hearing under regulation 19(1) it shall provide the appellant with a copy of any report made to it under paragraph 3.
- (3) The Planning Appeals Commission upon determining an appeal shall, at the same time as notifying the appellant of its decision, send the Department a copy of any document sent to the appellant.

SCHEDULE 6

Regulation 23

Information in Certificate of Compliance

The information to be contained in a certificate of compliance is as follows—

- (a) the name and address of the approved person who is issuing the certificate;
- (b) the date of the certificate;
- (c) the producer in respect of whom the approved person is issuing the certificate (“the relevant producer”);
- (d) the initial and further information provided by the relevant producer to the Department in accordance with regulations 6(4)(b), 6(4)(c) or (8), as the case may be, and regulation 8, together with any changes made to such information and provided to the Department in accordance with the undertakings referred to in regulations 7(a)(iii) and (iv);
- (e) a statement by the approved person that the certificate has been issued in accordance with any guidance issued by the Department under Article 4(3) of the Order; and
- (f) certification by the approved person as to whether the relevant producer has complied with his recovery and recycling obligations.

SCHEDULE 7

Regulation 26

Public Register

Information regarding producer registration

1. The information to be contained in the register shall be—
 - (a) for the years 1999 and 2000, the name and address of the registered office or principal place of business of the producer registered; and
 - (b) for the year 2001 and subsequent years, the information referred to in sub-paragraph (a) together with a statement in relation to each producer registered and each relevant year as to whether a certificate of compliance has been furnished.

Information regarding scheme registration

2. The information to be contained in the register shall be—
 - (a) for the years 1999 and 2000—
 - (i) the name of the scheme,
 - (ii) the name and address of the registered office or principal place of business of each operator of the scheme, and
 - (iii) the name and address of the registered office or principal place of business of the members of the scheme;
 - (b) for the year 2001 and subsequent years, the information referred to in sub-paragraph (a) together with a statement in relation to each scheme member and each year as to whether the scheme has discharged the recovery and recycling obligations of its members referred to in regulation 4(1)(b).

SCHEDULE 8

Regulation 28

Supplemental Provisions with regard to powers of entry

Issue of warrants

- 1.—(1) If it is shown to the satisfaction of a justice of the peace on complaint on oath—
 - (a) that there are reasonable grounds for the exercise in relation to any premises of a relevant power conferred by regulation 28; and
 - (b) that one or more of the conditions specified in sub-paragraph (2) is fulfilled in relation to those premises,

the justice may by warrant authorise an authorised person to exercise the power in relation to those premises, in accordance with the warrant and, if need be, by force.

- (2) The conditions mentioned in sub-paragraph (1)(b) are—
 - (a) that the exercise of the power in relation to the premises has been refused;
 - (b) that such a refusal is reasonably apprehended;
 - (c) that the premises are unoccupied;
 - (d) that the occupier is temporarily absent from the premises and the case is one of urgency; or

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(e) that an application for admission to the premises would defeat the object of the proposed entry.

(3) In a case where paragraph (3) of regulation 28, applies, a justice of the peace shall not issue a warrant under this Schedule by virtue only of being satisfied that the exercise of a power in relation to any premises has been refused, or that a refusal is reasonably apprehended; unless he is also satisfied that the notice required by that paragraph has been given and that the period of that notice has expired.

(4) Every warrant under this Schedule shall continue in force until the purposes for which the warrant was issued have been fulfilled.

Manner of exercise of powers

2. An authorised person shall produce evidence of his designation and other authority before he exercises the power.

Information obtained to be admissible in evidence

3.—(1) Subject to paragraph (5) of regulation 28, information obtained in consequence of the exercise of relevant power, with or without the consent of any person, shall be admissible in evidence against that or any other person.

(2) Without prejudice to the generality of sub-paragraph (1), information obtained by means of monitoring or other apparatus installed on any premises in the exercise of a relevant power, with or without the consent of any person in occupation of the premises, shall be admissible in evidence in any proceedings against that or any other person.

Duty to secure premises

4. A person who, in the exercise of a relevant power, enters on any premises which are unoccupied or whose occupier is temporarily absent shall leave the premises as effectually secured against trespassers as he found them.

Compensations

5.—(1) Where an authorised person exercises any power conferred by sub-paragraph 2(a) of regulation 28, it shall be the duty of the Department to make full compensation to any person who has sustained loss or damage by reason of—

- (a) the exercise by the authorised person of that power; or
- (b) the performance of, or failure of the authorised person to perform, the duty imposed by paragraph (4).

(2) Compensation shall not be payable by virtue of sub-paragraph (1) in respect of any loss or damage if the loss or damage—

- (a) is attributable to the default of the person who sustained it; or
- (b) is loss or damage in respect of which compensation is payable by virtue of any other provision of the Order.

(3) Any dispute as to a person's entitlement to compensation under this paragraph, or as to the amount of any such compensation, shall be referred to and determined by the Lands Tribunal; and Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982⁽⁶⁾ shall apply to any such determination.

(6) S.I. 1982/712 (N.I. 9)

(4) An authorised person shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of any relevant power if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Relevant power

6. In this Schedule “relevant power” means a power conferred by regulation 28 including a power exercisable by virtue of a warrant under this Schedule.

SCHEDULE 9

Regulation 29

Groups of Companies

1. This Schedule applies in relation to a relevant year—
 - (a) where a holding company and one or more of its subsidiaries, or two or more subsidiary companies of the same holding company (in either case referred to in this Schedule and Schedule 10 as “a group of companies”) each satisfies the provisions of Columns 1 to 3 of that Table in Schedule 1 in relation to a class or classes of producer; and
 - (b) where the aggregate of the turnovers, and the aggregate of the amounts of packaging or packaging materials handled by each such company, are sufficient to satisfy the threshold tests as provided by paragraph 3 of Schedule 1.
2. Subject to regulation 4, in respect of a year each company referred to in paragraph 1 is a producer of a class specified in an entry in Column 4 of the Table set out in Schedule 1 if—
 - (a) in that year and the preceding year he performs the relevant functions specified in Column 1 of that Table in relation to that entry; and
 - (b) in the preceding year he made supplies of the materials or products specified in Column 2 of that Table in relation to that entry of a class specified in Column 3 of that Table in relation to that entry;and the other provisions of that Schedule, other than paragraph 3, shall also have effect for the purposes of determining to which class of producer such a company belongs.
3. For the purpose of this Schedule and Schedule 10 “subsidiary” and “holding company” have the same meanings as they have in Article 4 of the Companies (Northern Ireland) Order 1986(7).
4. Subject to regulation 4, companies who are producers and are in a group of companies shall comply with their producer registration obligations for a relevant year by either—
 - (a) being registered for that year with the Department as required by regulation 5, in which case each company so registered has its own recovery, recycling and certifying obligations; or
 - (b) the holding company and one or more of the subsidiaries being registered together for that year with the Department, (in this Schedule and Schedule 10 referred to as a “group registration”) in which case paragraphs 5 and 6 shall apply.
5. Where there is a group registration—
 - (a) the subsidiary companies in the group registration are exempt from complying with their producer responsibility obligations for the relevant year;

(7) S.I. 1986/1032 (N.I. 6); Article 4 was substituted by Article 62 of S.I. 1990/1504 (N.I. 10)

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- (b) the holding company has a producer registration obligation for the relevant year which is an obligation to make the group registration and for this purpose regulations 5 to 11, and Parts I and II of Schedule 4, shall be read as if—
 - (i) references to the applicant or the producer were references to the holding company,
 - (ii) references to information to be provided regarding the producer were to information to be provided regarding each company in the group registration, and
 - (iii) the references in regulations 6(4)(d) and 9(2) to a fee for producer registration were read as references to a fee for a group registration;
 - (c) the holding company has recovery and recycling obligations for the relevant year which are the aggregate of its own obligations in respect of that year, if any, and the obligations which the subsidiary companies in the group registration would have had but for the group registration;
 - (d) the holding company shall furnish records and returns and provide a certificate of compliance, and references in regulations 23 and Schedule 6—
 - (i) to a producer shall be read as references to the holding company, and
 - (ii) to information shall be read as references to information regarding each company in the group registration; and
 - (e) regulation 34(1) (offences) shall not apply to the companies in the group and paragraphs 6 and 7 shall apply instead.
6. Where in accordance with this Schedule there is a group registration the holding company is guilty of an offence if—
- (a) it does not comply with its recovery and recycling obligations referred to in paragraph 5(c); or
 - (b) it does not furnish a certificate of compliance in accordance with paragraph 5(d).
7. A person guilty of an offence under paragraph 6 shall be liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to a fine.
8. This Schedule is subject to the provisions of Schedule 10.

SCHEDULE 10

Regulation 30

Mid-year Changes

PART I

SCHEME MEMBERSHIP

1. Subject to paragraph 4, where a person who is a producer in respect of a year becomes a member of a registered scheme during that year, the recovery and recycling obligations of the producer for that year, referred to in regulation 4(1)(b), shall be performed through the scheme.
2. Subject to paragraph 3, where a person who is a producer in respect of a year ceases to be a member of a registered scheme during that year, he shall comply with his recovery and recycling obligations for that year, calculated as provided in regulation 3 and Schedule 2.

3. Where a person who is a producer in respect of a year ceases to be a member of a registered scheme, because the registration of the scheme has been cancelled in accordance with regulation 17, during that year he shall comply with a proportion of his recovery and recycling obligations for the year, calculated as follows—

$$\frac{D}{E}$$

where

D is the number of days in the relevant year from the date when such membership ceased, and

E is the number of days in the relevant year.

4. Where a person who is a producer in respect of a year ceases to be a member of one registered scheme (“the first scheme”) and becomes a member of another registered scheme (“the second scheme”) during that year, the first scheme shall not be required to perform any of the producers recovery and recycling obligations, referred to in regulation 4(1)(b), and all such obligations shall be performed through the second scheme.

PART II

GROUP MEMBERSHIP

5. This Part applies where—

- (a) a company joins a group of companies and becomes a company to which paragraph 1 of Schedule 9 applies; or
- (b) a holding company or subsidiary company to which paragraph 1 of Schedule 9 applies ceases to belong to a group of companies.

6. Where paragraph 5(a) applies the company shall either—

- (a) be registered separately with the Department as required by regulation 5; or
- (b) be registered with the Department as part of a group registration under Schedule 9 and for the purposes of this paragraph—
 - (i) such registration is effected upon notice being given by the holding company to the Department of the change in the group registration, and
 - (ii) where prior to joining the group of companies the company was registered with the Department, the Department shall cancel the company’s registration on receipt of that notice and paragraphs (2) and (3) of regulation 11 shall apply to that cancellation.

7. Where—

- (a) paragraph 5(a) applies;
- (b) in relation to the obligation year the company itself satisfies the threshold tests; and
- (c) the company is registered as part of a group registration;

the holding company shall comply with the requirements of the company’s recovery and recycling obligations for the year in which it joins the group.

8. Where—

- (a) paragraph 5(a) applies;
- (b) in relation to the obligation year the company itself satisfies the threshold tests; and
- (c) the company is registered separately with the Department;

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the company shall comply with the recovery and recycling obligations for the year in which it joins the group.

9. Where—

- (a) paragraph 5(a) applies;
- (b) in relation to the obligation year the company itself does not satisfy the threshold tests; and
- (c) the company is registered as part of a group registration;

the holding company shall comply with a proportion of the requirements of the company's recovery and recycling obligations for the year in which it joins the group, such proportion being calculated as provided in paragraph 17(1).

10. Where—

- (a) paragraph 5(a) applies;
- (b) in relation to the obligation year the company itself does not satisfy the threshold tests; and
- (c) the company is registered separately with the Department;

the company shall comply with a proportion of its recovery and recycling obligations for the year in which it joins the group, such proportion being calculated as provided in paragraph 17(1).

11. Where—

- (a) paragraph 5(b) applies; and
- (b) in relation to the obligation year the company itself satisfies the threshold tests;

it shall register with the Department as required by regulation 5 within 28 days of ceasing to be a member of the group and regulations 6 to 11 shall apply as if this were an occurrence specified in regulation 6(3).

12. Where—

- (a) paragraph 5(b) applies;
- (b) in relation to the obligation year the company itself satisfies the threshold tests; and
- (c) the company was registered as part of a group registration; the following shall apply—
 - (i) the holding company shall comply with a proportion, calculated as provided in paragraph 17(1), of the requirements of the company's recovery and recycling obligations for the year in which it ceases to be a member of the group, and
 - (ii) the company shall comply with the proportion of its recovery and recycling obligations for that year, such proportion being calculated as provided in paragraph 17(1), except that for this purpose G is the number of days in the relevant year during which the company was not a member of the group.

13. Where—

- (a) paragraph 5(b) applies;
- (b) in relation to the obligation year the company itself satisfies the threshold tests; and
- (c) the company is registered separately with the Department;

the company shall comply with the recovery and recycling obligations for the year which ceases to be a member of the group.

14. Where—

- (a) paragraph 5(b) applies;
- (b) in relation to the obligation year the company itself does not satisfy the threshold tests; and

- (c) the company was registered as part of a group registration;

the holding company shall comply with a proportion of the requirements of the company's recovery and recycling obligations for the year in which it ceases to be a member of the group, such proportion being calculated as provided in paragraph 17(1).

15. Where—

- (a) paragraph 5(b) applies;
- (b) in relation to the obligation year the company itself does not satisfy the threshold tests; and
- (c) the company was registered separately with the Department;

the holding company shall comply with a proportion of the requirements of the company's recovery and recycling obligations for the year in which it ceases to be a member of the group, such proportion being calculated as provided in paragraph 17(1).

16. Where in a relevant year paragraph 5 above applies to a company as a result of that company ceasing to be a member of one group ("the first group") and becoming a member of another group ("the second group")—

- (a) where in relation to each group the company is registered as part of a group registration, each holding company shall comply with the requirements of a proportion of the company's recovery and recycling obligations, such proportion being calculated as provided in paragraph 17(2);
- (b) where in relation to each group the company is registered separately with the Department, the company shall comply with its recovery and recycling obligations for the year;
- (c) where in relation to the first group the company was registered as part of a group registration and in relation to the second group the company is registered separately with the Department, the holding company in relation to the first group, and the company, shall each comply with a proportion of the company's recovery and recycling obligations, such proportions being calculated as provided in paragraph 17(2); or
- (d) where in relation to the first group the company was registered separately with the Department and in relation to the second group the company is registered as part of a group registration, the company, and the holding company in relation to the second group, shall each comply with a proportion of the company's recovery and recycling obligations, such proportion being calculated as provided in paragraph 17(2).

17.—(1) The proportion referred to in paragraphs 9, 10, 12(c)(i) and (ii), 14 and 15 shall be calculated as follows—

G

H

where—

G is the number of days in the relevant year during which the company was a member of the group, and

H is the number of days in the relevant year.

(2) The proportion referred to in paragraph 16(a), (c) and (d) shall be calculated as provided in sub-paragraph (1) except that for this purpose G is the number of days in the relevant year during which the company was a member of the group in relation to which the calculation is being made.

18. For the purposes of this Part—

- (a) the "threshold tests" means the threshold tests provided in paragraph 3 of Schedule 1; and

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- (b) “obligation year” has the meaning given in that Schedule for the purposes of the definition of the threshold tests.

PART III

INCAPACITY

19. Where in a relevant year a producer dies or becomes bankrupt or incapacitated (“the first producer”) that person shall cease to have any producer responsibility obligations for that year and any person who carries on the activities of the first producer following that event shall be treated as a producer and shall have the producer responsibility obligations of the producer for that year.

20. Any person carrying on the activities of the first producer referred to in paragraph 19 shall within 28 days of commencing to do so—

- (a) inform the Department in writing of that fact and the date of the death, the date of bankruptcy or the nature of the incapacity and the date on which it began; and
- (b) apply to be registered as required by regulation 5 and for this purpose the requirement in regulation 6(4)(d) (payment of a fee) shall not apply.

21. In relation to a producer which is a company, the references to a person becoming bankrupt or incapacitated in paragraph 19 shall be construed as references to it going into liquidation or receivership or to an administration order being made in relation to it.

SCHEDULE 11

Regulation 3(6)

United Kingdom’s Recovery and Recycling Targets

The United Kingdom’s recovery and recycling targets are—

- (a) no later than the year 2001 between 50% as a minimum and 65% as a maximum by weight of the packaging waste is to be recovered; and
- (b) within this general target and with the same time limit between 25% as a minimum and 45% as a maximum by weight of the totality of packaging materials contained in packaging waste are to be recycled with a minimum of 15% by weight for each packaging material.