
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 496

PUBLIC HEALTH

**The Producer Responsibility Obligations (Packaging Waste)
(Amendment) Regulations (Northern Ireland) 1999**

Made 17th December 1999

*Coming into operation in accordance with regulation 1(2)
and (3)*

The Department of the Environment—

- (a) in exercise of the powers conferred on it by Articles 3 to 5 and 7(2) of the Producer Responsibility Obligations (Northern Ireland) Order 1998(a), for the implementation of Articles 6(1) and 13 of Directive 94/62/EC(b) on packaging and packaging waste, after consultation in accordance with Article 3(2) of that Order, and after having regard to the matters specified in Article 3(6) as required by Article 3(5) of that Order;
- (b) being a Department designated for the purposes of section 2(2) of the European Communities Act 1972(c) in relation to the management of packaging and packaging waste(d), in exercise of the powers conferred by that section; and
- (c) in exercise of every other power enabling it in that behalf,

hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 1999.

(2) Except as provided by paragraph (3) these Regulations shall come into operation on 21st February 2000.

(3) Regulation 4 shall come into operation on 1st March 2000.

Interpretation

2.—(1) In these Regulations, “the principal Regulations” means the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 1999(e).

(2) The Interpretation Act (Northern Ireland) 1954(f) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(a) S.I. 1998/1762 (N.I. 16)
(b) O.J. No. L365, 31.12.94, p. 10
(c) 1972 c. 68
(d) S.I. 1996/266
(e) S.R. 1999 No. 115
(f) 1954 c. 33 (N.I.)

Amendment of the principal Regulations

3.—(1) The principal Regulations shall be amended in accordance with paragraphs (2) to (19).

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “packaging waste” there shall be substituted—

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

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

(c) after the definition of “recovery” there shall be inserted—

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

(d) after the definition of “scheme” there shall be inserted—

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

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

(e) after the definition of “transit packaging” there shall be inserted—

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

(a) production residues; or

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

“the Waste Directive” means Directive 75/442/EEC on waste, as amended by Directive 91/156/EEC(b);”.

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

(a) in paragraph (5)(a) at the end “and” shall be omitted; and

(b) after paragraph (5)(b), there shall be added—

“and

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

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

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

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

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(b) O.J. No. L194, 25.7.75, p. 39; articles 1 to 12 and Annexes I and IB were amended by Directive 91/156/EEC (O.J. No. L78, 26.3.91, p. 32)

(iv) the appropriate elements dealing with the management of packaging and packaging waste in any strategy prepared under Article 19 of the Waste and Contaminated Land (Northern Ireland) Order 1997^(a) (waste strategy);

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

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

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

(a) in paragraph (1)(b), after “obligations” there shall be inserted “and, where applicable, consumer information obligations”; and

(b) paragraph 4(3) shall be omitted.

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

(a) in paragraph (1), for “1st April” there shall be substituted “7th April”;

(b) for paragraph (4)(c) there shall be substituted—

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

(i) each class of producer to which the applicant belongs;

(ii) whether or not he is a special producer;

(iii) if he belongs to more than one class of producer, which of those classes constitutes his main activity as a producer;

(iv) the relevant SIC code for the class of producer to which the applicant belongs or, as the case may be, for the applicant’s main activity;

(v) in relation to each such class of producer (excluding special producer)—

(a) the amount of packaging waste which he is required to recover by virtue of paragraph 2(1) of Schedule 2;

(b) the amount of packaging waste which he is required to recycle for each kind of recyclable material by virtue of paragraph 2(3) of Schedule 2;

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

(c) at the end of paragraph (4)(d) “and” shall be omitted, and there shall be inserted—

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

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

- (d) in paragraph (5)(a), after “(d)” there shall be inserted “, “(dd)”;
- (e) in paragraph (6)(b), for the words “from the beginning” to the end of that paragraph there shall be substituted—
“—
- (i) where the application was made within the time limit specified in regulation 6(1), from the beginning of the relevant year;
 - (ii) where the application was made within the time limit specified in regulation 6(3)(b), from the date of the relevant occurrence;
 - (iii) in any other case, from the date specified in the confirmation, until any cancellation of the producer’s registration in accordance with regulation 11.”; and
- (f) in paragraph (8), for “56 days” there shall be substituted “28 days”.
- (6) In regulation 8 (continuation of producer registration)—
- (a) at the beginning there shall be inserted “(1)”;
 - (b) for “1st April” there shall be substituted “7th April”; and
 - (c) at the end there shall be inserted—
“(2) On or before 30th June in a relevant year, the producer shall provide to the Department a revised version of the plan referred to in regulation 6(4)(dd).”.
- (7) In regulation 9 (forms and fees for producer registration)—
- (a) in paragraph (1), for “a copy of any form” there shall be substituted “the form”; and
 - (b) in paragraph (2), for “£750” there shall be substituted “£950”.
- (8) In regulation 12 (application for registration of a scheme)—
- (a) in paragraph (1), for “1st April” there shall be substituted “7th April”;
 - (b) for paragraph (3)(c) there shall be substituted—
“(c) subject to paragraph (7), be accompanied by the following further information, on a form supplied for that purpose by the Department, in relation to the relevant year—
 - (i) each class of producer in the scheme;
 - (ii) whether any of the producers is a special producer, and if so how many;
 - (iii) if any producer belongs to more than one class of producer, which of those classes constitutes his main activity as a producer;
 - (iv) the relevant SIC code for the activity or, as the case may be, the main activity of each class of producer in the scheme;
 - (v) in relation to each such class of producer (excluding special producer)—
 - (a) the amount of packaging waste which is required to be recovered by virtue of paragraph 2(1) of Schedule 2; and

- (b) the amount of packaging waste which is required to be recycled for each kind of recyclable material by virtue of paragraph 2(3) of Schedule 2; aggregated in relation to all of the scheme's members who belong to that class;
- (vi) the basis on which the amounts referred to in paragraph (v) were calculated;";
- (c) in paragraph (6)(b), for "of application" there shall be substituted "in relation to which the application is made"; and
- (d) in paragraph 7, after "shall" there shall be inserted "; if it does not accompany the application, be provided not later than 15th April in the year of application and shall—".
- (9) In regulation 14 (continuation of registration of a scheme),—
 - (a) at the beginning there shall be inserted "(1)";
 - (b) for "1st April" there shall be substituted "7th April"; and
 - (c) at the end there shall be inserted—
 - "(2) On or before 30th June in a relevant year and in respect of a scheme that is registered, the operator of the scheme shall provide to the Department a revised version of the operational plan for the scheme.".
- (10) In regulation 15 (forms and fees for registration of a scheme)—
 - (a) in paragraph (1), for "a copy of any form" there shall be substituted "the form"; and
 - (b) in paragraph (2)—
 - (i) for "£600" there shall be substituted "£760";
 - (ii) for "£450" there shall be substituted "£570";
 - (iii) for "£300" there shall be substituted "£380"; and
 - (iv) for "£100" there shall be substituted "£126".
- (11) In regulation 22(2)(b) (producers — records and returns), for "packaging material" there shall be substituted "recyclable material".
- (12) In regulation 24 (schemes — records and returns)—
 - (a) in paragraph (1), for "upon request" there shall be substituted—
 - "—
 - (a) where the information is in respect of 1999, upon request;
 - (b) where the information is in respect of any later year, on or before 31st January in the year immediately following that year.";
 - (b) in paragraph (3)(b), at the end "and" shall be omitted; and
 - (c) after paragraph (3)(c), there shall be added—
 - "and
 - (d) for each member of the scheme who is a special producer, the information referred to in Part V of Schedule 3.".
- (13) In regulation 25 (monitoring), after paragraph (2) there shall be inserted—

“(3) For the purposes of the discharge of its functions, the Department may, by notice in writing served on—

(a) any person who has, or who the Department has reason to believe has, producer responsibility obligations under regulation 3, or

(b) any person who is a member of a registered scheme,

require him to maintain such records, and furnish such returns to the Department, of such information specified in the notice as the Department reasonably considers it needs for those purposes, in such form and within such period following service of the notice, or at such time, as is so specified.”.

(14) After regulation 25 (monitoring) there shall be inserted—

“*Monitoring — publication*

25A. The Department shall take such steps as seem to it appropriate to publish, in relation to each year commencing with 2000, the following details of the monitoring carried out under regulation 25—

(a) the Department’s policy in relation to monitoring and enforcement of producer responsibility obligations; and

(b) an indication of the minimum number of persons which it proposes to monitor in the course of that year.”

(15) In regulation 34 (offences and penalties), in paragraph (3) after subparagraph (a) there shall be inserted—

“(aa) fails without reasonable excuse to maintain any record or furnish any return required by the Department in accordance with regulation 25(3);”.

(16) In Schedule 1 (producers)—

(a) in the Table, the entry “Wholesaler” in Column 1 and the entries relating to it in the other three Columns shall be omitted, and “Wholesaler” from the entry in Column 1 beginning “Manufacturer, Convertor” shall be omitted;

(b) paragraphs 1(1)(a)(v), (g) and 2(d) shall be omitted;

(c) in paragraph 1(1)(b), after “formation” there shall be inserted “of”;

(d) for paragraph 2(c) there shall be substituted—

“(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 which—

(i) is different from the function carried out by his immediate supplier; and

(ii) is not that of an importer;”;

(e) in paragraph 3(a)(ii) for “£1,000,000” there shall be substituted “£2,000,000”; and

(f) in paragraph 4(2) “and Schedule 2” shall be omitted.

(17) In Schedule 2 (recovery and recycling obligations)—

(a) for paragraph 2(3) there shall be substituted—

“(3) Where in the preceding year the producer has handled any recyclable material (whether in the form of packaging or packaging materials), the producer shall recover by recycling an amount of packaging waste consisting of that material calculated as follows—

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

where—

M is the amount in tonnes to the nearest tonne of the recyclable material (whether in the form of packaging or packaging materials), handled by the producer in the preceding year;

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

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

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

(b) in paragraph 3—

(i) in sub-paragraph (1)(b), for “11%” there shall be substituted “9%”;

(ii) in sub-paragraph (1)(c), for “36%” there shall be substituted “37%”;

(iii) in sub-paragraph (1)(d), for “seller or wholesaler 47%” there shall be substituted “seller 48%”;

(iv) in sub-paragraph (1)(e), for “83%” there shall be substituted “85%”;

(v) in sub-paragraph (2)(b), for “6% + 11% = 17%” there shall be substituted “6% + 9% = 15%”;

(vi) in sub-paragraph (2)(c), for “6% + 11% + 36% = 53%” there shall be substituted “6% + 9% + 37% = 52%”;

(vii) in sub-paragraph (2)(d), for “6% + 11% + 36% + 47% = 100%” there shall be substituted “6% + 9% + 37% + 48% = 100%”;

(c) in paragraph 4(a), for “43%” there shall be substituted “45%”;

(d) in paragraph 5(a), for “11%” there shall be substituted “13%”;

(e) for paragraph 6 there shall be substituted—

“6.—(1) In this Schedule “recyclable material” means—

(i) glass;

(ii) aluminium;

(iii) steel;

(iv) paper/fibreboard; or

(v) plastic,

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.

(2) Paragraph 4(2) of Schedule 1 applies for the purposes of this Schedule as it applies for the purposes of that Schedule, but as though the words “, other than a Class A supply” were omitted.

(3) For the year 1999 (but not for later years) paragraph 2(1) shall only apply to packaging and packaging materials which are recyclable materials.”; and

(f) at the end there shall be inserted—

“7. Where the Department is satisfied that the producer has instituted a system of using reusable packaging which has a life of at least four years, the producer’s obligations under this Schedule in relation to that packaging may be discharged by equal instalments over four years commencing with the year in which that packaging is first used.”.

(18) In Schedule 3 (special producers)—

(a) in Part I, for everything preceding the words “Categories of Waste” there shall be substituted—

“DEFINITION OF WASTE — ARTICLES 1(a) AND 2 OF AND ANNEX 1 TO THE WASTE DIRECTIVE

Article 1

(a) “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.

Article 2

1. The following shall be excluded from the scope of this Directive—

(a) gaseous effluents emitted into the atmosphere;

(b) where they are already covered by other legislation—

(i) radioactive waste;

(ii) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries;

(iii) animal carcasses and the following agricultural waste: faecal matter and other natural, non-dangerous substances used in farming;

(iv) waste waters, with the exception of waste in liquid form;

(v) decommissioned explosives.

2. Specific rules for particular instances or supplementing those of this Directive on the management of particular categories of waste may be laid down by means of individual Directives.

Annex 1”;

(b) in Part III (definition of special producers)—

- (i) at the end of paragraph 3(a), “or” shall be omitted; and
 - (ii) after paragraph 3(b) there shall be inserted—
 - “or
 - (c) packaging used to contain, or used in connection with the containment of—
 - (i) an explosive within the meaning of the Explosives Act 1875(a); or
 - (ii) decommissioned explosives for the purposes of Article 2 of the Waste Directive.”
- (19) In Schedule 4 (information), Part II shall be omitted.

Competition scrutiny: revocations

4. The provisions of the principal Regulations referred to in Column (1) of the Schedule (which relate to competition scrutiny) are revoked to the extent specified in Column 2 of that Schedule.

Sealed with the Official Seal of the Department of the Environment on
17th December 1999.

(L.S.)

F. A. Dillon
A senior officer of the Department
of the Environment

SCHEDULE

Regulation 4

<i>Column (1)</i>	<i>Column (2)</i>
Regulation 2 (interpretation and notices)	The definition of “the Director”.
Regulation 12 (application for registration of a scheme)	Paragraph (4)
Regulation 13 (conditions of registration of a scheme)	Paragraph (g)
Regulation 17 (cancellation of registration of a scheme)	Paragraph (2)
Regulation 31 (competition scrutiny)	The whole regulation.
Regulation 32 (the 1976 Act)	The whole regulation.
Regulation 33 (agreements to which the 1976 Act applies)	The whole regulation.
Regulation 34 (offences and penalties)	(a) paragraph (3)(b); (b) in paragraph (3)(c), the words “or to the Secretary of State” to “Part VIII”.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 1999 (“the principal Regulations”) which impose on producers obligations to recover and recycle packaging waste, and related obligations. They are made in implementation of Articles 6(1) and 13 of Directive 94/62/EC.

Regulation 3 makes a number of amendments to the principal Regulations, including in particular—

- (a) amending the definitions of “packaging waste” and “producer responsibility obligations” and inserting definitions of “recyclable material”, “SIC code”, “special producer” and “waste”;
- (b) increasing the turnover threshold for 2000 and later years to £2,000,000;
- (c) changing the percentage activity obligations for three of the four sectors of the packaging chain — the convertor obligation is reduced from 11% to 9%, the packer/filler obligation is increased from 36% to 37% and the seller obligation is increased from 47% to 48%;
- (d) increasing for the year 2000 the recovery target used to calculate recovery obligations, from 43% to 45% and the recycling target, used to calculate recycling obligations, from 11% to 13%;
- (e) requiring producers applying for registration, with a specified turnover of over £5,000,000, to include an operational plan showing the steps to be taken to comply with their obligations, and requiring operators of registered schemes to revise their operational plans yearly;
- (f) removing the category of “wholesaler” from those on whom producer responsibility obligations are imposed;
- (g) increasing the fees for registering producers and schemes by 27%;
- (h) imposing obligations on the Department and sellers to provide the necessary information to users of packaging about methods of reuse, recovery and recycling of packaging and packaging waste, in accordance with Article 13 of the Directive;
- (i) providing for data to be supplied on a form provided by the Department;
- (j) permitting producers using reusable packaging to spread their obligations over four years; and
- (k) requiring the Department to publish details of its monitoring policy from 2000 onwards.

Regulation 4 revokes certain provisions of the principal Regulations in consequence of the coming into force of the Competition Act 1998.

The volume entitled "Indexes to the United Kingdom Standard Industrial Classification of Economic Activities 1992", referred to in the definition of "SIC code", is available from the Stationery Office Bookshop (telephone (028) 90238451), price £22.50.

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