

2020 No. 387

ENVIRONMENTAL PROTECTION

**The Producer Responsibility Obligations (Packaging Waste)
Amendment (Scotland) Regulations 2020**

Made - - - - *18th November 2020*
Laid before the Scottish Parliament *20th November 2020*
Coming into force - - *1st January 2021*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 93(1) and (8) and 94(1)(b), (c) and (d) and (7) of the Environment Act 1995 (“the Act”)(a) and all other powers enabling them to do so.

The Scottish Ministers have consulted in accordance with section 93(2) of the Act and are satisfied as to the matters specified in section 93(6).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations 2020 and come into force on 1 January 2021.

(2) These Regulations extend to Scotland only.

Amendment of the Producer Responsibility Obligations (Packaging Waste) Regulations 2007

2.—(1) The Producer Responsibility Obligations (Packaging Waste) Regulations 2007(b) are amended as follows.

(2) For “recovery and recycling obligations” in every place that it occurs, except in the definition of that expression in regulation 2(2), substitute “recycling obligations”.

(3) In regulation 2(2)—

- (a) omit the definition of “energy recovery”,
- (b) in the definitions of “PERN” and “PRN”, for “recovery” substitute “recycling”,
- (c) in the definition of “producer responsibility obligations” omit “, recovery and”,
- (d) in the definition of “recovery” omit the words from “and for the purposes of” to the end,
- (e) omit the definition of “recovery and recycling obligations”,
- (f) for the definition of “recycling obligations” substitute—
“recycling obligations” has the meaning given in regulation 4(4)(b);”.

(a) 1995 c.25. The functions of the Secretary of State, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.I. 2007/871; the relevant amending instruments are S.I. 2008/1941, S.I. 2010/2849, S.I. 2012/3082, S.I. 2013/1857, S.I. 2016/241, S.I. 2016/1146, S.I. 2017/1221, S.I. 2019/188 and S.I. 2020/904 and S.I. 2011/226.

- (4) In regulation 4(4)(b)(i), omit “recover and”.
- (5) In regulation 7(4)(ca)(i)(aa)—
- (a) for “recover” substitute “recycle”,
 - (b) omit the words “and of this” to the end.
- (6) In regulation 16(3), for “recover” in every place it occurs substitute “recycle”.
- (7) In regulation 20(3)(a), omit “respectively for recovery and”.
- (8) In regulation 22(2)—
- (a) in sub-paragraph (a), omit “respectively for recovery and”,
 - (b) in sub-paragraph (c), omit “recover and”.
- (9) In regulation 24—
- (a) in paragraph (1)(a)(i), for “recovery” substitute “recycling”,
 - (b) in paragraph (2), for “recovery” in both places that it occurs substitute “recycling”.
- (10) In schedule 2—
- (a) in the heading omit “Recovery and”,
 - (b) in paragraph 1(1)—
 - (i) in the words before sub-paragraph (a)—
 - (aa) after “allocation method”, insert “and subject to paragraph 1A”,
 - (bb) omit “recover and”,
 - (ii) in sub-paragraph (a), for “recover” substitute “recycle”,
 - (iii) omit sub-paragraph (b),
 - (iv) in sub-paragraph (c)—
 - (aa) for “recover” in the first place that it occurs, substitute “recycle”,
 - (bb) for “recover by recycling” substitute “recycle”,
 - (c) after paragraph 1, insert—

“**1A.**—(1) For the purposes of paragraph 1(1)(a), where $\sum Q$ is higher than $\sum Z$, a producer’s obligation is to recycle an amount of packaging waste equal to $\sum Q$.

(2) In this paragraph—

 - (a) “ $\sum Q$ ” means the sum of Q, as calculated in accordance with paragraph 3(3), for each recyclable material handled by the producer in the preceding year and for each class of producer to which the producer belongs,
 - (b) “ $\sum Z$ ” means the sum of Z, as calculated in accordance with paragraph 3(1), for each class of producer to which the producer belongs.”,
 - (d) in paragraph 3—
 - (i) in sub-paragraph (1)—
 - (aa) for “recovered”, substitute “recycled”,
 - (bb) in the definition of “X”, for “recovery” substitute “recycling”,
 - (cc) in the definition of “Z”, for “recovered” substitute “recycled”,
 - (ii) omit sub-paragraph (2),
 - (iii) in sub-paragraph (3) for “recover by recycling” substitute “recycle”,
 - (iv) in sub-paragraph (4), in the formula, for “67” substitute “72”,
 - (e) for paragraph 5, substitute—

“**5.** The following is prescribed as the recycling target “X”—

 - (a) for the year 2021, 76%,
 - (b) for the year 2022, 77%.”,

(f) in paragraph 6, for Table 2 substitute—

“Table 2

Recycling targets

| <i>Materials</i> | <i>2021</i> | <i>2022</i> |
|------------------|-------------|-------------|
| Glass | 81 | 82 |
| Plastic | 59 | 61 |
| Aluminium | 66 | 69 |
| Steel | 86 | 87 |
| Paper/Board | 79 | 83 |
| Wood | 35 | 35” |

(g) For paragraph 8 substitute—

“8. The recycling allocation “B” is 35 for each of the years 2021 and 2022.”.

(11) In schedule 3, in Part III, in paragraph 11(b), omit “is to be recovered through the scheme and by which it”.

(12) In schedule 7, in paragraph 2, omit sub-paragraph (c).

MAIRI GOUGEON

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
18th November 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (S.I. 2007/871). Those Regulations impose on producers the obligation to recover and recycle packaging waste in order to attain the recovery and recycling targets set out in Article 6(1) of the European Parliament and Council Directive 94/62/EC on packaging and packaging waste (OJ No L 365, 31.12.94, p.10).

These Regulations replace the EU recovery and recycling targets with recycling targets on producers. They also vary the material specific recycling targets on obligated producers for paper, aluminium, steel and wood as well as the specific re-melt target for glass. The recycling allocation for small producers for 2018 to 2020 is changed for 2021 and 2022.

A full impact assessment of the effect that this instrument (in combination with similar instruments in England and Wales) will have on the costs of business, the voluntary sector and public sector across the UK 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.

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