
STATUTORY INSTRUMENTS

1997 No. 648

**The Producer Responsibility Obligations
(Packaging Waste) Regulations 1997**

PART VIII

COMPETITION SCRUTINY

Competition scrutiny

31.—(1) For the purposes of this regulation, the requirements of competition scrutiny in relation to a scheme are that—

(a) the scheme does not have, and is not likely to have, the effect of restricting, distorting or preventing competition or, where it appears to the Secretary of State that the scheme has or is likely to have any such effect, the effect is or is likely to be no greater than is necessary for achieving the environmental or economic benefits mentioned in section 93(6) of the Act; and

(b) the scheme does not lead, and is not likely to lead, to an abuse of market power.

(2) An operator who intends to apply for registration of a scheme under regulation 12 shall apply to the Director for the purpose of competition scrutiny, and shall submit with the application the information referred to in regulation 12(3)(h) and the information set out in Part III of Schedule 4.

(3) The Director shall advise the Secretary of State whether, in the Director's opinion, the Secretary of State may be satisfied that the scheme meets the requirements of competition scrutiny.

(4) For the purpose of the Director's advice under paragraph (3) above or (8) below as to whether, in his opinion, a scheme may meet or no longer meets the requirements of competition scrutiny, the words "where it appears to the Director" shall be substituted for the words "where it appears to the Secretary of State" in paragraph (1)(a) above.

(5) If, after considering the advice of the Director, the Secretary of State decides that he is satisfied that the scheme meets the requirements of competition scrutiny, he shall give notice in writing to the appropriate Agency, and to the operator of the scheme to that effect.

(6) The Secretary of State shall send a copy of any notice given under paragraph (5) above to the Director.

(7) The Director shall keep under review the operation of—

(a) any registered scheme; and

(b) any scheme in respect of which an application for registration is pending and the Secretary of State has given notice under paragraph (5) above.

(8) Subject to paragraph (9) below, if at any time the Director is of the opinion that any scheme whose operation he is keeping under review no longer meets the requirements of competition scrutiny, he shall advise the Secretary of State of his opinion and the reasons therefor.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(9) Paragraph (8) above shall not require the Director to repeat advice in respect of any scheme which he has previously given under paragraphs (3) or (8) above in respect of that scheme unless there has been a material change of circumstances since the advice was given.

(10) If at any time after giving a notice under paragraph (5) above the Secretary of State decides, after considering any advice on the matter from the Director, that he has ceased to be satisfied that the scheme meets the requirements of competition scrutiny, he shall give notice to the appropriate Agency and to the operator of the scheme to that effect.

(11) The Secretary of State shall send a copy of any notice given under paragraph (10) above to the Director.

(12) For the purposes of, or otherwise in connection with, competition scrutiny, the Director may, by notice in writing, require any person to provide within a specified time such information as may be specified or described in the notice and which that person has, or which he may at any future time acquire, relating to any scheme or to any acts or omissions of an operator of such a scheme or of any person dealing with such an operator.