

SCHEDULE 8

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 9 as “a group of companies”) each satisfies the provisions of Columns 1 to 3 of the 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 above 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 purposes of this Schedule and Schedule 9 “subsidiary” and “holding company” have the same meanings as they have in section 736(1) of the Companies Act 1985⁽¹⁾.

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 appropriate Agency 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 appropriate Agency, (in this Schedule and Schedule 9 referred to as a “group registration”) in which case paragraphs 5 and 6 below 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;
- (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 to a fee for producer registration were read as references to a fee for 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

⁽¹⁾ Section 736 was substituted by section 144(1) of the Companies Act 1989.

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- 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 regulation 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 below 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) above; or
 - (b) it does not furnish a certificate of compliance in accordance with paragraph 5(d) above.
- 7.** A person guilty of an offence under paragraph 6 above 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 9.