

ATODLEN

Amendment of Part III (Registration)

- 3.—(1) In regulation 5 omit “4(3) and (4),”.
- (2) In regulation 6—
 - (a) in paragraph (1)—
 - (i) omit “and who is not registered”;
 - (ii) for “Agency, being-” substitute “Agency.”; and
 - (iii) omit sub-paragraphs (a), (b) and (c);
 - (b) omit paragraph (3)(a);
 - (c) in paragraph (4)(c) after “appropriate Agency” insert “and signed by the approved person”;
 - (d) omit paragraph (4)(c)(ii);
 - (e) in paragraph (4)(c)(v) omit “(excluding special producer)”;
 - (f) at the end of paragraph (4)(c)(vi) insert “and”, and after paragraph (4)(c)(vi) insert—

“(vii) such other information as the appropriate Agency reasonably requires in order to determine the application and as is specified on the form.”;
 - (g) in paragraph (4)(dd)—
 - (i) at the start of the sub-paragraph insert “on a first application for registration”; and
 - (ii) for “a plan setting out the steps intended to be taken to comply with the producer’s recovery and recycling obligations” substitute “an operational plan complying with Part IV of Schedule 4”;
 - (h) in paragraph (5) —
 - (i) at the end of sub-paragraph (a) insert “and”;
 - (ii) at the end of sub-paragraph (b) omit “and”; and
 - (iii) omit sub-paragraph (c); and
 - (i) for paragraph (7) substitute —

“(7) The further information provided shall be as accurate as reasonably possible.”.
- (3) For regulation 7 substitute—

“Conditions of registration of a producer

7. Registration of a producer shall be subject to the conditions that the producer will—
 - (a) inform the appropriate Agency of—
 - (i) any change in the circumstances of the producer which relate to the registration of the producer, and where the producer is a partnership, any change of partners;
 - (ii) any change in the person who is the partner who is able to accept notices and act on behalf of the partnership as stated as required in regulation 6(4)(e);
 - (iii) any material change in the initial information provided in accordance with regulation 6(4)(b); or
 - (iv) any material change in the further information provided in accordance with regulation 6(4)(c), or (8), as the case may be, within 28 days of the occurrence of any such change;

- (b) provide records and returns to the appropriate Agency as required by regulation 22;
 - (c) apply to the appropriate Agency to cancel his registration where he has become a member of a registered scheme or has ceased to be a producer in respect of a year;
 - (d) comply with the operational plan submitted under regulation 6 or, if a revised plan has been submitted under paragraph (e), with the most recent version so submitted; and
 - (e) on or before 31st January in a relevant year, provide to the appropriate Agency a revised version of the operational plan.”.
- (4) Omit regulation 8.
- (5) In regulation 9, for paragraph (2) substitute—
- “(2) The fee which is to be charged by the appropriate Agency on an application for producer registration shall be £768 and in addition—
- (a) in the case of an application where the fee is to be treated as a fee for group registration by virtue of paragraph 5(b)(iii) of Schedule 8, in respect of the subsidiaries included within that application, a fee of—
 - (i) £180 for each of the first 4 subsidiaries;
 - (ii) £90 for each of the 5th to the 20th subsidiaries inclusive; and
 - (iii) £45 for each of the 21st and subsequent subsidiaries; and
 - (b) on each resubmission of an application which is required by reason of its having failed to meet the requirements of regulation 6(4) or (7) on its previous submission, £220.”.
- (6) In regulation 11—
- (a) omit paragraph (1)(a);
 - (b) in paragraph (1)(b)(i) for “undertakings referred to in regulation 7 and given to him by that Agency,” substitute “conditions specified in regulation 7; or”;
 - (c) in paragraph (1)(b)(ii) for “undertaking referred to in regulation 7, or with regulation 8” substitute “conditions specified in regulation 7”;
 - (d) omit paragraph (1)(b)(iii); and
 - (e) in paragraph (3)—
 - (i) at the end of sub-paragraph (c), omit “and”;
 - (ii) at the end of sub-paragraph (c), for the full stop substitute “; and” and
 - (iii) after sub paragraph (c), insert —
 - “(d) the right of appeal under Part IV of these Regulations.”.
- (7) In regulation 12—
- (a) in paragraph (1)—
 - (i) omit “Subject to paragraph (8) below,”;
 - (ii) for “Agency, being-” substitute “Agency.”; and
 - (iii) omit sub-paragraphs (a), (b) and (c);
 - (b) in paragraph (3)(c)(i) omit “class of”;
 - (c) omit paragraph (3)(c)(ii);
 - (d) in paragraph (3)(c)(v) omit “(excluding special producer)”;
 - (e) after paragraph (3)(c)(vi) insert—

- “(vii) such other information as the appropriate Agency reasonably requires in order to determine the application and as is specified on the form;”;
- (f) at the start of paragraph (3)(e) insert “on a first application for registration” and for “as provided in” substitute “complying with”;
- (g) omit paragraph (3)(f);
- (h) in paragraph (g) omit “and”, and at the end of paragraph (h) insert “and”;
- (i) after paragraph (3)(h) insert—
 - “(i) be accompanied by a monitoring plan which demonstrates how information to which regulation 17A applies is to be monitored so that the operator of the scheme can meet his obligation under paragraph (7).”;
- (j) after paragraph (4) insert—
 - “(4A) An application for approval of a scheme by the Secretary of State shall be made in writing by the operator of the scheme and shall—
 - (a) contain the following information —
 - (i) the name and address of the person who proposes to operate the scheme; and
 - (ii) any other information which demonstrates that the scheme is likely to subsist for a period of at least 5 years and will assist the objectives of the United Kingdom in relation to the recovery and recycling of packaging waste; and
 - (b) be accompanied by the following documentation —
 - (i) a copy of the constitution of the scheme;
 - (ii) a copy of the rules with which a member of the scheme is obliged to comply; and
 - (iii) a copy of the procedures under which the operator of the scheme would enforce the rules against a member of the scheme.
 - (4B) An application for approval of a scheme by the Secretary of State shall be granted where the Secretary of State is satisfied that the scheme is likely to subsist for a period of at least 5 years and will assist the objectives of the United Kingdom in relation to the recovery and recycling of packaging waste, and shall otherwise be refused.
 - (4C) A further application for approval in accordance with paragraph (4A) shall be made within 28 days of the occurrence of any of the following—
 - (a) a change in the person who is the operator of the scheme;
 - (b) a conviction of the operator of the scheme for an offence under these Regulations; or
 - (c) a failure by the operator of the scheme to comply with the obligation referred to in regulation 3(5B).
 - (4D) Where an application which is required by paragraph (4C) is not received by the due date, the Secretary of State may decide to withdraw approval of the scheme, and if he so decides shall serve written notice on the operator of the scheme of—
 - (a) his decision to withdraw approval of the scheme;
 - (b) the reasons for the decision;
 - (c) the date when the withdrawal will take effect, not being earlier than 28 days from the date of the notice.

Statws This is the original version (as it was originally made).

- (4E) The Secretary of State shall consider any representations made before the notice takes effect by the operator of the scheme, and may withdraw the notice under paragraph (4D) at any time.”;
- (k) in paragraph (5)(a) for “and (h),” substitute “(h) and (i),”;
- (l) in paragraph (6)(a) omit “, except that for the purposes of regulations 32 and 33 the scheme shall be treated as registered from the date of confirmation until any such cancellation.”;
- (m) in paragraph (7), for sub-paragraphs (a) and (b) substitute “be as accurate as reasonably possible”;
- (n) omit paragraph (8).
- (8) In regulation 13—
- (a) for paragraph (a) substitute—
- “(a) that the obligation in regulation 3(5B) is complied with;”;
- (b) in paragraph (d)(iv) for “regulations 12(3)(c) or 14” substitute “regulation 12(3)(c)”;
- (c) omit paragraphs (e) and (g); and
- (d) in paragraph (f) omit “and” where it appears for the second time, and insert after paragraph (f)—
- “(g) that the operator of the scheme will comply with the operational plan submitted under regulation 12(3)(e) or, if a revised plan has been submitted under sub-paragraph (h), with the most recent version so submitted; and
- (h) that the operator of the scheme will; on or before 31st January in a relevant year; provide to the appropriate Agency a revised version of the operational plan for the scheme.”.
- (9) Omit regulation 14.
- (10) For regulation 15(2) substitute—
- “(2) The fee which is to be charged by the appropriate Agency on an application for registration of a scheme shall be £558 for each producer (or group of producers where the group is a group of companies within the meaning of Schedule 8) who is on the date of the application a member of the scheme and in addition—
- (a) in a case where part of the fee is calculated on the basis of a group of companies, a fee of the following amount for each subsidiary within that group apart from the holding company—
- (i) £180 for each of the first 4 subsidiaries;
- (ii) £90 for each of the 5th to 20th subsidiaries inclusive; and
- (iii) £45 for each of the 21st and subsequent subsidiaries;”;
- (b) in the case of an application which is received after 7th April in any year, £110; and
- (c) on each resubmission of an application which is required by reason of its having failed to meet the requirements of regulation 12(3) and (7) on its previous submission, £220.”.
- (11) In regulation 17(1)—
- (a) omit sub-paragraph (a);
- (b) at the end of sub-paragraph (b)(i) insert “or”;
- (c) in sub-paragraph (b)(ii) omit “, or with regulation 14, or”;
- (d) omit sub-paragraph (b)(iii).

(12) Insert after regulation 17—

“Information provided to scheme operators

17A.—(1) This regulation applies to information which —

- (a) is provided to the operator of the scheme by a producer who is a member of that scheme at the time the information is provided; and
- (b) is information which the operator of the scheme will need to rely upon for the purposes of his application for registration of a scheme under regulation 12.

(2) A producer who provides to the operator of the scheme information to which this regulation applies shall—

- (a) provide that information on a form supplied for the purpose by the appropriate Agency;
- (b) ensure that the form is signed by the approved person; and
- (c) ensure that the information is as accurate as reasonably possible.”.