OFFERYNNAU STATUDOL CYMRU

2003 Rhif 3238 (Cy.318)

DIOGELU'R AMGYLCHEDD, CYMRU

Rheoliadau Rhwymedigaethau Cyfrifoldeb Cynhyrchwyr (Gwastraff Deunudd Pacio) (Diwygio) (Cymru) 2003

Wedi'u gwneud - -	*9 Rhagfyr 2003*
Yn dod i rym - -	*1 Ionawr 2004*

Mae Cynulliad Cenedlaethol Cymru ("y Cynulliad Cenedlaethol"), drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 93, 94 a 95 o Ddeddf yr Amgylchedd 1995(**1**) ("y Ddeddf"), ac sydd bellach yn arferadwy gan y Cynulliad Cenedlaethol(**2**), er mwyn gweithredu Erthygl 6(1) o Gyfarwyddeb 94/62/EC(**3**), ar ôl ymgynghori yn unol ag adran 93(2) o'r Ddeddf, ac ar ôl rhoi sylw i'r materion a bennir yn 93(6) o'r Ddeddf, fel sy'n ofynnol o dan adran 93(5), a'r materion a bennir yn adran 94(5), ac yn unol â'i ddyletswydd o dan adran 93(7), drwy hyn yn gwneud y Rheoliadau canlynol:

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Rhwymedigaethau Cyfrifoldeb Cynhyrchwyr (Gwastraff Deunydd Pacio) (Diwygio) (Cymru) 2003 a deuant i rym ar 1 Ionawr 2004.

(2) Mae'r Rheoliadau hyn yn gymwys i Gymru.

Dehongli

2. Yn y Rheoliadau hyn, ystyr "Rheoliadau 1997" ("*the 1997 Regulations*") yw Rheoliadau Rhwymedigaethau Cyfrifoldeb Cynhyrchwyr (Gwastraff Deunydd Pacio) 1997(**4**)).

Diwygio Rheoliadau 1997

3. Mae Rheoliadau 1997 yn cael eu diwygio, mewn perthynas â Chymru, yn unol â'r Atodlen.

(**1**) 1995 p.25. *Gweler* adran 93(8) i gael diffiniadau "prescribed" a "regulations".

(**2**) Trosglwyddwyd pwerau'r Ysgrifennydd Gwladol, i'r graddau eu bod yn arferadwy mewn perthynas â Chymru, i Gynulliad Cenedlaethol Cymru: gweler Erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac Atodlen 1 iddo.

(**3**) O.J. Rhif L365, 31.12.94, t.10.

(**4**) O.S. 1997/646, fel y'i diwygiwyd mewn perthynas â Chymru a Lloegr gan O.S. 1999/1361, O.S. 1999/3447 ac O.S. 2000/3775, ac mewn perthynas â Chymru gan O.S. 2002/813 (Cy.93). Diwygiwyd Rheoliadau 1997 hefyd, mewn perthynas â Lloegr, gan O.S. 2002/732.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(**5**)

D. Elis-Thomas
9 Rhagfyr 2003 Llywydd y Cynulliad Cenedlaethol

(**5**) 1998 p.38.

Amendment of Part I (General)

1.—(1) In regulation 2(1)—

(a) insert at the appropriate alphabetical places—

""accredited exporter" means an exporter who is accredited by the appropriate Agency under regulation 21B;";

""accredited reprocessor" means a reprocessor who is accredited by the appropriate Agency under regulation 21B;";

""appropriate Agency" means—

(a) for the purposes of any provision of these Regulations relating to the exercise of the functions of the appropriate Agency in Wales, the Environment Agency;

(b) for the purposes of any provision of these Regulations relating to the obligations of any other person —

(i) the Environment Agency, where at the beginning of the relevant year the person's registered office or principal place of business is in England or Wales;

(ii) SEPA, where at the beginning of the relevant year the person's registered office or principal place of business is in Scotland; or

(iii) at the election of the person, either the Agency or SEPA, where at the beginning of the relevant year the person does not have a registered office or principal place of business in Great Britain, or there is more than one operator of the scheme and such operators have registered offices or principal places of business in either England or Wales and in Scotland;";

""approved person" means the person for the time being approved under regulation 27 for the purpose of issuing certificates of compliance under regulation 23 and signing the form referred to in regulation 6(4)(c) or 17A(2) in relation to a particular producer;";

""exporter" means a person who, in the ordinary course of a trade, occupation or profession, owns and exports packaging waste for reprocessing outside the United Kingdom;";

""PERN" means a packaging waste export recovery note issued by an accredited exporter for the purposes of Part IVA of these Regulations, on a form supplied to him by the appropriate Agency, as evidence of the export of the tonnage of packaging waste specified in the note for reprocessing outside the United Kingdom;";

""PRN" means a packaging waste recovery note issued by an accredited reprocessor for the purposes of Part IVA of these Regulations, on a form supplied to him by the appropriate Agency, as evidence of the receipt of the tonnage of packaging waste specified in the note for reprocessing within the United Kingdom;"; and

""Secretary of State" means, in relation to Wales, the National Assembly for Wales;";

(b) for the definition of "recyclable material" substitute—

""recyclable material" means—

(a) glass;

(b) aluminium;

(c) steel;

(d) paper/fibreboard;

(e) plastic; or

(f) wood;

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;";

(c) at the end of the definition of "reprocessor" insert "and "reprocessing" shall be construed accordingly";

(d) in the definition of "SIC Code" for the references to "1992" and "1997", in each case substitute "2003"; and

(e) omit the definition of "special producer".

(2) In regulation 2(2)(a) for "undertaking" substitute "condition".

(3) In regulation 2(3)(a) for "17(3), 31(5) and (10)" substitute "and 17(3)".

Amendment of Part II (Producers and Obligations)

2.—(1) In regulation 3—

(a) in paragraph (5)(b) for "for the year 1998 and subsequent years" substitute "for each year";

(b) after paragraph (5A) insert—

"(5B) The operator of the scheme shall take reasonable steps to carry out the recovery and recycling obligations that every producer who is a member of the scheme that he operates would have had, but for their membership of that scheme."; and

(c) omit paragraph (6).

(2) In regulation 4 omit paragraph (4).

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