Draft Regulations laid before Parliament under section 93(10) of the Environment Act 1995, for approval by a resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. [XXXX]

ENVIRONMENTAL PROTECTION

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2012

Made - - - - ***
Coming into force in accordance with regulation 1(1)(b).

These Regulations are made by the Secretary of State as respects England, Scotland(**1**) and Wales(**2**) in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(**3**) and sections 93 to 95 of the Environment Act 1995(**4**).

These Regulations implement Article 6(1) of Council Directive 94/62/EC on packaging and packaging waste(**5**) ("Packaging Waste Directive") and section 93(3)(a) of the Environment Act 1995 applies.

The Secretary of State is a Minister designated(**6**) for the purposes of section 2(2) of the European Communities Act 1972 in relation to the environment.

It appears to the Secretary of State that it is expedient for the reference to Article 6(1) of the Packaging Waste Directive to be construed as a reference to that provision as amended from time to time.

The Secretary of State makes these Regulations—

(a) after consultation in accordance with section 93(2) of the Environment Act 1995;

(**1**) Under section 57 of the Scotland Act 1998 (c. 46), despite the transfer to Scottish Ministers of functions in relation to implementing obligations under European Union law in respect of devolved matters, the Secretary of State's function in relation to implementing those obligations continues to be exercisable as regards Scotland. Section 57 is amended by S.I. 2011/1043.

(**2**) Under paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c. 32), despite the transfer of the relevant functions of the Secretary of State so far as they are exercisable in relation to Wales to the Welsh Ministers by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006, the Secretary of State's function in relation to implementing obligations under European Union law continues to be exercisable as regards Wales. Paragraph 5 of Schedule 3 to the Government of Wales Act 2006 is amended by S.I. 2011/1043.

(**3**) 1972 c. 68. Section 2(2) is amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 to the European Communities Act 1972 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006.

(**4**) 1995 c. 25. Section 94 is amended by section 3(1)(b) of, and paragraph 6 of Schedule 2 to, the Competition Act 1998 (c. 41) and by S.I. 2000/311, 2004/1261 and 2011/1043.

(**5**) OJ No L 365, 31.12.1994, p 10, as amended by Directive 2004/12/EC of the European Parliament and of the Council (OJ No L 47, 18.2.2004, p 26).

(**6**) S.I. 2008/301.

(b) having regard to the matters specified in section 93(6), as required by section 93(5) of that Act; and

(c) in accordance with the duty in section 93(7) of that Act.

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with section 93(10) of the Environment Act 1995.

Citation, commencement and extent

1.—(1) These Regulations—

(a) may be cited as the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations 2012; and

(b) come into force on the day after the day on which they are made.

(2) Regulation 3 extends to England and Wales only.

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

2. The Producer Responsibility Obligations (Packaging Waste) Regulations 2007(**7**) are amended in accordance with regulations 3 and 4.

New Part 11

3. After Part 10 (revocation and transitional provision) insert—

"PART 11

Review

Review

42.—(1) The Secretary of State must from time to time—

(a) carry out a review of regulations 2 to 40 in relation to England and Wales;

(b) set out the conclusions of the review in a report; and

(c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how Article 6(1) of the Packaging Waste Directive (which is implemented by means of regulations 2 to 40), as amended from time to time, is implemented in other member States.

(3) The report must in particular—

(a) set out the objectives intended to be achieved by the regulatory system established by regulations 2 to 40;

(b) assess the extent to which the objectives are achieved; and

(c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(**7**) S.I. 2007/871, amended by S.I. 2010/2849; there are other amending instruments but none is relevant.