STATUTORY RULES OF NORTHERN IRELAND

# 2016 No. 79

# ENVIRONMENTAL PROTECTION

## The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016

*Made - - - - 26th February 2016*

*Coming into operation 21st March 2016*

The Department of the Environment makes the following Regulations in exercise of the powers conferred by Article 3(1) and Article 4(1) of the Producer Responsibility Obligations (Northern Ireland) Order 1998(**1**).

The Department makes the following Regulations—

(a) after consultation in accordance with Article 3(2) of the Producer Responsibility Obligations (Northern Ireland) Order 1998;

(b) being satisfied as to the matters specified in Article 3(6) of that Order ; and

(b) in accordance with the duty in Article 3(7) of that Order.

## PART 1

## Introduction

### Citation and commencement

**1.** These Regulations may be cited as the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 2016 and shall come into operation on 21st March 2016.

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

**2.** The 2007 Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 2007(**2**) are amended in accordance with regulations 3 to 21.

(**1**) S.I. 1998/1762 (N.I. 16) as relevantly amended by 2011 c.5(N.I.)
(**2**) S.R. 2007 No. 198 relevant amending Regulations are S.R.2008 No. 77, S.R.2008 No. 373, S.R 2010 No. 396 and S.R 2013 No. 262.

# PART 2

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

### Amendment of regulation 2

**3.** In regulation 2(4)(a) (Interpretation and notices), for "regulations 14(5), 17, 18(3) or 36(3)" substitute "regulations 13, 13A, 13B, 13C, 14 or 17".

### Amendment of regulation 7

**4.** In regulation 7 (Application for producer registration)(**3**)—

(a) at the end of paragraph (4)(d) omit ";" and insert ".";

(b) in paragraph (4) omit sub-paragraph (f); and

(c) omit paragraph (10).

### Amendment of regulation 8

**5.** In regulation 8 (Conditions of registration of a producer)(**4**)—

(a) at the end of sub-paragraph (d), insert "and";

(b) at the end of sub-paragraph (e) omit ";" and insert ".";

(c) omit sub-paragraph (f); and

(d) omit sub-paragraph (g).

### Amendment of regulation 12

**6.**—(1) In regulation 12 (Schemes: general provisions), for paragraph (2) substitute—

"(2) The operator of a scheme shall inform the members of the scheme by notice in writing immediately if—

(a) the operator receives a notice of withdrawal of the scheme's approval in accordance with regulation 13C(3); or

(b) the scheme is approved pursuant to regulation 13(4).".

(2) After paragraph (2) insert—

"(2A) The operator shall provide a copy of the notice of withdrawal of the scheme's approval in accordance with regulation 13C(3) with the notice in writing provided in accordance with paragraph (2).".

### Amendment of regulation 13

**7.** In regulation 13 (Application for approval of a scheme)(**5**)—

(a) in paragraph (2) omit "unconditionally";

(b) after paragraph (2), insert—

(**3**) Regulation 7 as relevantly amended by S.R. 2010 No. 396
(**4**) Regulation 8 as relevantly amended by S.R. 2010 No.396
(**5**) Regulation 13 as amended by S.R. 2010 No.396 to which there are amendments not relevant to these Regulations

"(2A) Where an application for approval is granted in accordance with paragraph (2), the Department shall by notice in writing inform the operator of the scheme of its decision within 28 days of making that decision.";

(c) in paragraph (3)(d), for "at paragraph (5) below", substitute "in regulation 13A(2)"; and

(d) in paragraph (4) for "paragraph (5)", substitute "regulation 13A(2)".

**Insertion of regulations 13A, 13B and 13C**

**8.** After regulation 13 (Application for approval of a scheme), insert—

"**Conditions of approval of a scheme**

**13A.**—(1) Approval of a scheme in accordance with regulation 13 is subject to the following conditions—

(a) the operator of the scheme complies with the obligations set out in regulation 12(1);

(b) the operator of the scheme monitors the accuracy of information to which regulation 19 applies, so that the operator may reasonably discover when a scheme member has not complied with regulation 19(2)(c);

(c) the operator of the scheme acquires PRNs or PERNs in a manner which least hinders the ability of any other operator to acquire PRNs or PERNs in accordance with regulation 12(3);

(d) the operator of the scheme maintains sufficient financial resources to acquire PRNs or PERNs in accordance with regulation 12(3);

(e) the operator of the scheme maintains access to, and sufficient financial resources to pay for, the expertise necessary for the purposes of calculating the recovery and recycling obligations referred to in regulation 12(1);

(f) the operator of the scheme provides any information reasonably requested by the Department for the purposes of monitoring compliance in accordance with regulation 31(1)(b) or (c);

(g) in relation to any year in which the scheme is registered in accordance with regulation 14—

(i) the operator of the scheme informs the Department in writing of—

(aa) any change in the person who is the operator of the scheme and, in the case where the operator of the scheme is a partnership or where there is more than one operator of the scheme, any change of partners or operators;

(bb) any material change in the information provided in accordance with regulation 14(3)(b);

(cc) any material change in the further information provided in accordance with regulation 14(3)(c);

(dd) any change in the operator stated in accordance with regulation 14(3)(h),

within 28 days of the occurrence of any such change; and

(ii) the operator of the scheme complies with the requirement set out in regulation 15A; and

(h) the operator of the scheme provides records and returns to the Department in accordance with regulation 22.

(2) Approval of a scheme in accordance with regulation 13(4) is subject to the following additional conditions in relation to any year in which the scheme is registered in accordance with regulation 14—

(a) the operator of the scheme complies with 50% of the total recovery and recycling obligations of the scheme before 30th June;

(b) the operator of the scheme complies with a further 50% of the remaining recovery and recycling obligations before 30thSeptember;

(c) the operator of the scheme makes returns to the Department of information demonstrating compliance with the conditions set out at sub-paragraphs (a) and (b) on or before 15th July and 15th October respectively;

(d) the operator pays the fee in accordance with regulation 16(3) to the Department; and

(e) the operator of the scheme does not accept any new members into the scheme.

(3) The additional conditions set out in paragraph (2) cease to apply at the beginning of the year following the approval year if the Department is satisfied that in the approval year the operator complied with—

(a) the obligations in accordance with regulation 12(1); and

(b) the additional conditions set out in paragraph (2).

(4) If the additional conditions set out in paragraph (2) cease to apply by virtue of paragraph (3), the Department shall serve written notice of the cessation within 28 days of the day on which the Department is satisfied in accordance with paragraph (3).

(5) In paragraph (3), "approval year" means the year for which approval was granted pursuant to regulation 13(4).

**Refusal to grant approval of a scheme**

**13B.** Where the Department decides in accordance with regulation 13(2) to refuse to grant approval of a scheme, it shall serve on the operator of the scheme, within 28 days of making the decision, written notice of—

(a) the decision in accordance with regulation 13(2);

(b) the reasons for the decision; and

(c) a statement of the right of appeal in accordance with regulation 27(2)(a).

**Withdrawal of approval of a scheme**

**13C.**—(1) The Department may withdraw approval of a scheme where it appears to it that—

(a) the operator of the scheme is in breach of any of the conditions referred to in regulation 13A(1) or (2); or

(b) the operator knowingly or recklessly supplies false information in connection with the application for registration, or in connection with compliance with the conditions referred to in regulation 13A(1) or (2).

(2) The Department shall cancel any registration of a scheme granted in accordance with regulation 14 if it withdraws approval of the scheme and such cancellation shall take effect on the date on which the withdrawal of approval takes effect.