STATUTORY RULES OF NORTHERN IRELAND

1999 No. 496

PUBLIC HEALTH

The Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 1999

Made - - - - 17th December 1999
Coming into operation in accordance with regulation 1(2) and (3)

The Department of the Environment—

(a) in exercise of the powers conferred on it by Articles 3 to 5 and 7(2) of the Producer Responsibility Obligations (Northern Ireland) Order 1998(**1**), for the implementation of Articles 6(1) and 13 of Directive 94/62/EC(**2**) on packaging and packaging waste, after consultation in accordance with Article 3(2) of that Order, and after having regard to the matters specified in Article 3(6) as required by Article 3(5) of that Order;

(b) being a Department designated for the purposes of section 2(2) of the European Communities Act 1972(**3**) in relation to the management of packaging and packaging waste(**4**), in exercise of the powers conferred by that section; and

(c) in exercise of every other power enabling it in that behalf,

hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Producer Responsibility Obligations (Packaging Waste) (Amendment) Regulations (Northern Ireland) 1999.

(2) Except as provided by paragraph (3) these Regulations shall come into operation on 21st February 2000.

(3) Regulation 4 shall come into operation on 1st March 2000.

(**1**) S.I.1998/1762 (N.I. 16)
(**2**) O.J. No. L365, 31.12.94, p. 10
(**3**) 1972 c. 68
(**4**) S.I. 1996/266

Interpretation

2.—(1) In these Regulations, "the principal Regulations" means the Producer Responsibility Obligations (Packaging Waste) Regulations (Northern Ireland) 1999(**5**).

(2) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of the principal Regulations

3.—(1) The principal Regulations shall be amended in accordance with paragraphs (2) to (19).

(2) In regulation 2(1) (interpretation)—

(a) for the definition of "packaging waste" there shall be substituted—

> ""packaging waste" means waste from packaging or packaging materials which became waste in the United Kingdom;";

(b) in the definition of "producer responsibility obligations", for the words "and certifying obligations" there shall be substituted "certifying and consumer information obligations";

(c) after the definition of "recovery" there shall be inserted—

> ""recyclable material" has the meaning given by paragraph 6(1) of Schedule 2;";

(d) after the definition of "scheme" there shall be inserted—

> ""SIC code" means a code included in "Indexes to the United Kingdom Standard Industrial Classification of Economic Activities 1992", published by the Office for National Statistics in 1997(**7**);
>
> "special producer" has the meaning given by regulation 4(4);";

(e) after the definition of "transit packaging" there shall be inserted—

> ""waste" has the same meaning as in Article 1(*a*) of the Waste Directive except that it does not include—
>
> (a) production residues; or
>
> (b) waste excluded from the scope of that Directive by Article 2,
>
> and Articles 1(*a*) and 2 of, and Annex I to, that Directive are reproduced in Part I of Schedule 3;
>
> "the Waste Directive" means Directive 75/442/EEC on waste, as amended by Directive 91/156/EEC(**8**);".

(3) In regulation 3 (producers and producer responsibility obligations)—

(a) in paragraph (5)(*a*) at the end "and" shall be omitted; and

(b) after paragraph (5)(*b*), there shall be added—

> "and
>
> (c) if his main activity is that of seller, provide the necessary information to consumers of the goods sold by him about—
>
> (i) the return, collection and recovery systems available to them;
>
> (ii) their role in contributing to reuse, recovery and recycling of packaging and packaging waste;

(**5**) S.R. 1999 No. 115
(**6**) 1954 c. 33 (N.I.)
(**7**) ISBN 0-11-620-923-2
(**8**) O.J. No. L194, 25.7.75, p. 39; articles 1 to 12 and Annexes I and IB were amended by Directive 91/156/EEC (O.J. No. L78, 26.3.91, p. 32)

(iii) the meaning of markings on packaging existing on the market; and

(iv) the appropriate elements dealing with the management of packaging and packaging waste in any strategy prepared under Article 19 of the Waste and Contaminated Land (Northern Ireland) Order 1997(**9**) (waste strategy);

(in these Regulations referred to as the "consumer information obligations").

(5A) The Department shall take such steps as may be appropriate to ensure that users of packaging, including in particular consumers, obtain the necessary information about the matters referred to in paragraph (5)(*c*)".

(4) In regulation 4 (exclusions and limitations)—

(a) in paragraph (1)(*b*), after "obligations" there shall be inserted "and, where applicable, consumer information obligations"; and

(b) paragraph 4(3) shall be omitted.

(5) In regulation 6 (application for producer registration)—

(a) in paragraph (1), for "1st April" there shall be substituted "7th April";

(b) for paragraph (4)(*c*) there shall be substituted—

"(c) subject to paragraph (8), be accompanied by the following further information on a form supplied for that purpose by the Department, in relation to the relevant year—

(i) each class of producer to which the applicant belongs;

(ii) whether or not he is a special producer;

(iii) if he belongs to more than one class of producer, which of those classes constitutes his main activity as a producer;

(iv) the relevant SIC code for the class of producer to which the applicant belongs or, as the case may be, for the applicant's main activity;

(v) in relation to each such class of producer (excluding special producer)—

(a) the amount of packaging waste which he is required to recover by virtue of paragraph 2(1) of Schedule 2;

(b) the amount of packaging waste which he is required to recycle for each kind of recyclable material by virtue of paragraph 2(3) of Schedule 2;

(vi) the basis on which the amounts referred to in paragraph (v) were calculated;";

(c) at the end of paragraph (4)(*d*) "and" shall be omitted, and there shall be inserted—

"(dd) where the applicant is a person whose turnover for the purposes of paragraph 3 of Schedule 1 was more than £5,000,000, be accompanied by a plan setting out the steps intended to be taken to comply with the producer's recovery and recycling obligations; and";

(d) in paragraph (5)(*a*), after "(*d*)" there shall be inserted ", "(*dd*)";"

(e) in paragraph (6)(*b*), for the words "from the beginning" to the end of that paragraph there shall be substituted—

"—

(**9**) S.I. 1997/2778 (N.I. 19)

(i) where the application was made within the time limit specified in regulation 6(1), from the beginning of the relevant year;

(ii) where the application was made within the time limit specified in regulation 6(3)(*b*), from the date of the relevant occurrence;

(iii) in any other case, from the date specified in the confirmation,

until any cancellation of the producer's registration in accordance with regulation 11."; and

(f) in paragraph (8), for "56 days" there shall be substituted "28 days".

(6) In regulation 8 (continuation of producer registration)—

(a) at the beginning there shall be inserted "(1)";

(b) for "1st April" there shall be substituted "7th April"; and

(c) at the end there shall be inserted—

"(2) On or before 30th June in a relevant year, the producer shall provide to the Department a revised version of the plan referred to in regulation 6(4)(*dd*).".

(7) In regulation 9 (forms and fees for producer registration)—

(a) in paragraph (1), for "a copy of any form" there shall be substituted "the form"; and

(b) in paragraph (2), for "£750" there shall be substituted "£950".

(8) In regulation 12 (application for registration of a scheme)—

(a) in paragraph (1), for "1st April" there shall be substituted "7th April";

(b) for paragraph (3)(*c*) there shall be substituted—

"(c) subject to paragraph (7), be accompanied by the following further information, on a form supplied for that purpose by the Department, in relation to the relevant year—

(i) each class of producer in the scheme;

(ii) whether any of the producers is a special producer, and if so how many;

(iii) if any producer belongs to more than one class of producer, which of those classes constitutes his main activity as a producer;

(iv) the relevant SIC code for the activity or, as the case may be, the main activity of each class of producer in the scheme;

(v) in relation to each such class of producer (excluding special producer)—

(a) the amount of packaging waste which is required to be recovered by virtue of paragraph 2(1) of Schedule 2; and

(b) the amount of packaging waste which is required to be recycled for each kind of recyclable material by virtue of paragraph 2(3) of Schedule 2;

aggregated in relation to all of the scheme's members who belong to that class;

(vi) the basis on which the amounts referred to in paragraph (v) were calculated;";

(c) in paragraph (6)(*b*), for "of application" there shall be substituted "in relation to which the application is made"; and

(d) in paragraph 7, after "shall" there shall be inserted "; if it does not accompany the application, be provided not later than 15th April in the year of application and shall—".

(9) In regulation 14 (continuation of registration of a scheme),—

(a) at the beginning there shall be inserted "(1)";

(b) for "1st April" there shall be substituted "7th April"; and

(c) at the end there shall be inserted—

"(2) On or before 30th June in a relevant year and in respect of a scheme that is registered, the operator of the scheme shall provide to the Department a revised version of the operational plan for the scheme.".

(10) In regulation 15 (forms and fees for registration of a scheme)—

(a) in paragraph (1), for "a copy of any form" there shall be substituted "the form"; and

(b) in paragraph (2)—

(i) for "£600" there shall be substituted "£760";

(ii) for "£450" there shall be substituted "£570";

(iii) for "£300" there shall be substituted "£380"; and

(iv) for "£100" there shall be substituted "£126".

(11) In regulation 22(2)(*b*) (producers — records and returns), for "packaging material" there shall be substituted "recyclable material".

(12) In regulation 24 (schemes — records and returns)—

(a) in paragraph (1), for "upon request" there shall be substituted—

"—

(a) where the information is in respect of 1999, upon request;

(b) where the information is in respect of any later year, on or before 31st January in the year immediately following that year.";

(b) in paragraph (3)(*b*), at the end "and" shall be omitted; and

(c) after paragraph (3)(*c*), there shall be added—

"and

(d) for each member of the scheme who is a special producer, the information referred to in Part V of Schedule 3.".

(13) In regulation 25 (monitoring), after paragraph (2) there shall be inserted—

"(3) For the purposes of the discharge of its functions, the Department may, by notice in writing served on—

(a) any person who has, or who the Department has reason to believe has, producer responsibility obligations under regulation 3, or

(b) any person who is a member of a registered scheme,

require him to maintain such records, and furnish such returns to the Department, of such information specified in the notice as the Department reasonably considers it needs for those purposes, in such form and within such period following service of the notice, or at such time, as is so specified.".

(14) After regulation 25 (monitoring) there shall be inserted—