

S.I. No. 798/2007 — Waste Management (Packaging) Regulations 2007

S.I. No. 798 of 2007

WASTE MANAGEMENT (PACKAGING) REGULATIONS 2007

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S.I. No. 798 of 2007

WASTE MANAGEMENT (PACKAGING) REGULATIONS 2007

Notice of the making of this Statutory Instrument was published in

“Iris Oifigiúil” of 14th December, 2007.

The Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on him by sections 2, 7, 18, 19, 27, 28, 29, 32, 34, 36 and 39 of the Waste Management Acts 1996 to 2007 and by section 3 of the European Communities Acts 1972 to 2007, hereby makes the following Regulations:—

PART I PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the Waste Management (Packaging) Regulations 2007.

Purpose of Regulations

2. The purposes for which these Regulations are made include the purpose of giving effect to European Parliament and Council Directive 94/62/EC ¹ of 20 December 1994 on packaging and packaging waste as amended by European Parliament and Council Directive 2004/12/EC ² of 11 February 2004 amending Directive 94/62/EC on packaging and packaging waste.

Commencement

3. (1) Articles 19 and 33(1) of these Regulations shall come into operation on the day after the date on which notice of their making is published in the *Iris Oifigiúil*.

(2) Articles 1 to 18, 20 to 32, 33(2), 34 and 35 of these Regulations shall come into operation on the 31st day of March 2008.

Interpretation generally

4. (1) In these Regulations, any reference to a Schedule, Part or article which is not otherwise identified, is a reference to a Schedule, Part or article of these Regulations.

(2) In these Regulations, any reference to a sub-article or paragraph which is not otherwise identified, is a reference to the sub-article or paragraph of the provision in which the reference occurs.

(3) In these Regulations, save where the context otherwise requires:—

“the Act” means the Waste Management Acts 1996 to 2007;

“the Agency” means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Acts 1992 and 2003;

“approved body” means a body corporate or association approved by the Minister in accordance with article 19 of these Regulations;

“back-door waste” means waste arising from secondary and tertiary packaging which is received by a producer but is not thereafter used in the supply of products;

“broker” means, in relation to waste, any person who on behalf of or as a service to any other person buys, sells or arranges for the purchase, sale or transfer from one person to another of waste or for the collection, recovery or disposal of waste;

“Central Statistics Office” means the Office established under section 8(1) of the Statistics Act 1993 ;

“competent person” in relation to these Regulations means—

(a) an independent person who is qualified to be appointed, or as the case may be continues to be, the auditor of the producer, or

(b) a director of the producer, designated by that producer and approved by the relevant local authority, where the producer is a company registered under the Companies Acts 1963 to 2001, or

(c) the manager of the producer, designated by that producer and approved by the relevant local authority, where the producer is any other body corporate or unincorporated body, or

(d) an independent person designated by the producer and approved by the relevant local authority;

“dealer” means, in relation to waste, any person who buys or sells waste on his or her own behalf or arranges on behalf of or as a service to any other person for the purchase, sale or transfer from one person to another of waste or for the collection, recovery or disposal of waste;

“European Communities Acts 1972 to 2007” means the European Communities Act 1972 (No. 27 of 1972) as amended by the European Communities Act 2007 (No. 18 of 2007);

“European standard” means a standard the reference number of which is published in the Official Journal of the European Communities in pursuance of article 9(2)(a) of European Parliament and Council Directive 94/62/EC;

“household packaging waste” means packaging waste produced within the curtilage

of a building or self-contained part of a building used for the purposes of living accommodation;

“intentionally introduced” means, in relation to article 29 of these Regulations, deliberately utilised in the formulation of a packaging material or packaging where its continued presence is desired in the final packaging material or packaging to provide a specific characteristic, appearance or quality, save that the use of recycled materials as feedstock for the manufacture of new packaging material or packaging, where some portion of the recycled materials may contain amounts of regulated materials, shall not be considered as intentionally introduced;

“organic recycling” means the aerobic (composting) or anaerobic (biomethanization) treatment, under controlled conditions and using micro-organisms, of the biodegradable parts of packaging waste, which produces stabilised organic residues or methane. The landfill of the biodegradable parts of packaging waste shall not be considered a form of organic recycling;

“packaging” has the meaning assigned to it by section 5 of the Act and shall be read in accordance with the criteria set out hereunder so that—

(i) items shall be considered to be packaging if they fulfil the definition set out in section 5 of the Act without prejudice to other functions which the packaging might also perform, unless the item is an integral part of a product and it is necessary to contain, support or preserve that product throughout its lifetime and all elements are intended to be used, consumed or disposed of together (and illustrative examples of this criterion are provided in Part 1 of the First Schedule which from time to time may be subject to review and subsequent amendment by the Commission, as appropriate), or as appropriate,

(ii) items designed and intended to be filled at the point of sale and disposable items sold, filled or designed and intended to be filled at the point of sale shall be considered to be packaging provided they fulfil a packaging function (and illustrative examples of this criterion are provided in Part 2 of the First Schedule which from time to time may be subject to review and subsequent amendment by the Commission, as appropriate), or as appropriate,

(iii) packaging components and ancillary elements integrated into packaging shall be considered to be part of the packaging into which they are integrated. Ancillary elements hung directly on, or attached to, a product and which perform a packaging function shall be considered to be packaging unless they are an integral part of that product and all elements are intended to be consumed or disposed of together (and illustrative examples of this criterion are provided in Part 3 of the First Schedule which from time to time may be subject to review and subsequent amendment by the Commission, as appropriate), and

packaging constituted within the meaning assigned to it by section 5 of the Act and in accordance with the aforementioned criteria may only consist of—

(a) sales or primary packaging, that is to say packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase, or

(b) grouped or secondary packaging, that is to say packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units (whether the latter are sold as such to the final user or consumer or whether the packaging serves only as a means to replenish shelves at the point of sale), and which can be removed from a product without affecting the product's characteristics, or

(c) transport or tertiary packaging, that is to say packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packaging in order to prevent damage from physical handling and transport (but not including road, rail, ship and air containers);

“packaging destined for reuse” means packaging which has been conceived and designed to accomplish within its life cycle a minimum of two trips or rotations, and which is subject to operations by which it is refilled or used for the same purpose for which it was conceived, with or without the support of auxiliary products present on the market enabling the packaging to be refilled;

“packaging material” means material used in the manufacture of packaging that is placed on the market and includes raw materials prior to their conversion into packaging, excluding any kind of production residue from the production of packaging or packaging materials or from any other production process;

“packaging report” means a report, compiled on behalf of a producer by a competent person, certifying in respect of a specified period and in respect of all premises involved in the supply of packaging material, packaging or packaged products and operated by that producer in the State, the nature and weight of—

(a) packaging material and packaging received and supplied by the producer concerned, and

(b) packaging destined for reuse where such packaging destined for reuse is subject to operations by which it is returned to the producer for the purpose of it being refilled or used for the same purpose for which it was conceived, and

(c) packaging waste—

(i) produced or received by the producer concerned,

(ii) taken back by other producers,

(iii) recovered by or on behalf of the producer concerned, and

(iv) collected for recovery by recovery operators;

“packaging waste” means any packaging or packaging material, excluding production residues, which is discarded or is intended to be discarded or is required to be discarded as waste and shall be read in accordance with the meaning of section 4(1)(a) of the Act and article 1(a) of European Parliament and Council Directive 2006/12/EC³ of 5 April 2006 on waste;

“packer/filler” means a producer who puts products into packaging for the purpose of supply;

“plastic sheeting” means plastic film used in secondary and tertiary packaging which is received by a producer but is not thereafter used in the supply of products;

“principal office” in relation to a local authority means the central office of the local authority, or such other office of the local authority which may be designated by that local authority for the purposes of dealing with matters covered by these Regulations;

“product” means any naturally occurring or manufactured thing;

“purchase” in relation to packaging waste means acquiring packaging waste in the course of business in exchange for any consideration including money, or in exchange for a prize, or otherwise in exchange for a gift;

“quarterly period” means each period of three months beginning on the first day of January, April, July and October;

“recovery” has the meaning assigned to it by section 4(4) of the Act and shall be read in accordance with article 1(f) of European Parliament and Council Directive 2006/12/EC of 5 April 2006 on waste;

“recovery operator” means—

(a) a local authority or other person engaged in waste recovery or waste collection for the purposes of recovery, subject to that person having obtained all necessary licences or permits required under the Act and any regulations made thereunder, or

(b) a major producer when acting in accordance with the exemption from the requirement to hold a permit when collecting packaging waste in accordance with article 22(e) of the Waste Management (Collection Permit) Regulations 2001 (S.I. No. 402 of 2001), subject to any amendment that may be made to those Regulations from time to time, but, if those regulations should be revoked, shall be subject to such regulations corresponding to those regulations as may be for the time being in force;

“recycling” means, in relation to packaging waste, the reprocessing in a production process of the waste materials for their original purpose or for other purposes including organic recycling but excluding energy recovery. Energy recovery means the use of combustible packaging waste as a means to generate energy through direct incineration with or without other waste but with the recovery of heat;

“the Regulations of 1997” means the Waste Management (Packaging) Regulations 1997 (S.I. No. 242 of 1997) as amended by the Waste Management (Packaging) (Amendment) Regulations 1998 (S.I. No. 382 of 1998);

“the Regulations of 2003” means the Waste Management (Packaging) Regulations 2003 (S.I. No. 61 of 2003) as amended by the Waste Management (Packaging) (Amendment) Regulations 2004 (S.I. No. 871 of 2004) and the Waste Management (Packaging) (Amendment) Regulations 2006 ([S.I. No. 308 of 2006](#));

“specified packaging waste” means waste aluminium, fibreboard, glass, paper, plastic sheeting, steel and wood;

“supply” in relation to packaging material, packaging and packaged products means providing packaging material, packaging or, as appropriate, packaged products in the course of business, or in exchange for any consideration including money, or giving as a prize, or otherwise making a gift, and packaging removed from a product by or on behalf of the producer—

(a) at the point of sale, or as appropriate,

(b) at the point of delivery, or as appropriate,

(c) immediately preceding the point of sale, or as appropriate,

(d) immediately preceding the point of delivery

shall be deemed to be supplied accordingly;

“turnover”, in relation to any producer, means the amounts derived from the provision (including the export) of goods and services falling within the producer’s ordinary activities, after deduction of—

(a) trade discounts, and

(b) value-added tax;

“the Waste Management Acts 1996 to 2007” means the Waste Management Act 1996 (No. 10 of 1996) as amended by the Waste Management (Amendment) Act 2001 (No. 36 of 2001), by Part 3 of the Protection of the Environment Act 2003 (No. 27 of 2003), by Part 2 of the Waste Management (Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 290 of 2005) and by the Waste Management (Environmental Levy) (Plastic Bag) Order 2007 (S.I. No. 62 of 2007).

(4) For the purpose of these Regulations, “producer” is hereby specified, under and in accordance with section 27 of the Act, to mean a person who, for the purpose of trade or otherwise in the course of business, sells or otherwise supplies to other persons packaging material, packaging or packaged products, and “produce” shall be construed accordingly.

(5) (a) For the purposes of these Regulations, “major producer” means a producer who—

(i) for the purpose of trade or otherwise in the course of business, sells or otherwise supplies to other persons packaging material, packaging or packaged products, where the aggregate weight of packaging material and packaging supplied by such major producer exceeds or may be expected to exceed 10 tonnes in a calendar year, and

(ii) has an annual turnover of more than €1million;

(b) For the purpose of determining whether or not a producer is a major producer—

(i) the aggregate weight of packaging material and packaging concerned shall, subject to paragraph (c), be the aggregate weight arising from all relevant activities of the producer within the State, and

(ii) the turnover of the producer concerned shall be the turnover derived from the producer’s activities within the State (including the export of goods and services);

(c) For the purpose of determining whether or not a producer is a major producer—

(i) account shall be taken of packaging (not being packaging destined for reuse)—

(I) supplied to consumers in association with products sold and consumed, or intended for consumption, on a producer's premises, and

(II) in the form of multi-unit containers which are used to facilitate the sale and consumption of products on a producer's premises, and

(ii) account shall not be taken of—

(I) packaging destined for reuse, where such packaging destined for reuse is subject to operations by which it is returned to the producer for the purpose of it being refilled or used for the same purpose for which it was conceived, and

(II) packaging material and packaging where such material or packaging is supplied by, or used in the supply of products by, that producer to persons outside of the State, and

(III) packaging waste supplied by a recovery operator (who is not the producer if the producer is a major producer) to the producer for the purposes of treatment, recovery or disposal.

PART II PRIMARY OBLIGATIONS ON ALL PRODUCERS

Packaging waste arising on a producer's premises

5. (1) A producer shall ensure that packaging waste arising on the producer's premises, (including back-door waste) is—

(a) (i) in the case of specified packaging waste—

(I) transferred, for the purposes of recovery, to a producer of packaging material, packaging or packaged products of a type or brand, to which the packaging waste in question relates, or

(II) separated at source by material type and collected by, or on behalf of, the producer, or by a recovery operator, for the purposes of recovery, and

(ii) in the case of all other packaging waste—

(I) transferred, for the purposes of treatment, recovery or disposal, to a producer of packaging material, packaging or packaged products of a type or brand, to which the packaging waste in question relates, or

(II) collected by, or on behalf of, the producer, or by a recovery operator, for the purposes of treatment, recovery or disposal, or

(b) separated at source by material type for the purpose of facilitating the recovery of said waste on-site, principally as a fuel or other means, to generate energy effectively in accordance with a licence or permit required under the Act.

(2) Waste collected by a recovery operator, or transferred to a producer, for the purposes of recovery in accordance with sub-article (1)(a)(i) shall not be disposed of by that recovery operator, or as appropriate by that producer, or as appropriate by any other person.

(3) Sub-article (2) shall not prejudice the disposal of residual waste arising out of any recovery operation.

(4) The requirements of sub-article (1)(a)(i) shall not apply to specified packaging waste which is contaminated so as to pose a risk to the health of any person.

(5) A person shall not contaminate specified packaging waste.

(6) For the purposes of this article a local authority may give a direction in writing to a producer in relation to the separation at source of packaging waste, for the purpose of avoiding contamination or to facilitate the recovery or disposal of that waste, and a producer shall comply with such a direction.

Information on packaging destined for reuse

6. A producer shall, where packaging destined for reuse is subject to operations by which it is returned to the producer for the purpose of it being refilled or used for the same purpose for which it was conceived, compile and maintain records for each trip or rotation of the packaging destined for reuse which will at least provide for—

(a) a description of the packaging destined for reuse;

(b) the material type of the packaging destined for reuse;

(c) the aggregate weight of the packaging destined for reuse;

(d) the number of units of the packaging destined for reuse;

(e) the date on which the packaging destined for reuse, or products in packaging destined for reuse, was sold or otherwise supplied to the customer;

(f) the date on which the packaging destined for reuse was returned by the customer to the producer for the purpose of it being refilled or used for the same purpose for which it was conceived;

(g) the date on which the packaging destined for reuse was refilled or used for the same purpose for which it was conceived by the producer; and

(h) all supporting information used for, or in conjunction with, the preparation, compilation and maintenance of such records.

Information on the weight of packaging

7. A producer who supplies to another producer packaging material, packaging or packaged products shall comply with any reasonable request from the latter producer for data on the weight of the material or packaging concerned sufficient to enable the latter producer to comply with these Regulations.

Obligation regarding recovery operators

8. (1) For the purposes of articles 5 and 10, a producer shall ensure that a person purporting to be a recovery operator holds all necessary licences or permits required under the Act, or is otherwise exempt from the requirement to hold a permit or licence.

(2) In a prosecution for a contravention of sub-article (1), it shall be a good defence to prove that the producer took all reasonable steps, including the making of reasonable enquiries, to establish that a person held all necessary licences or permits required under the Act, or was otherwise exempt from the requirement to hold a permit or licence.

PART III ADDITIONAL OBLIGATIONS ON MAJOR PRODUCERS

Application of Part III and article 25

9. The provisions of articles 10 to 16 and article 25 shall apply to all major producers unless such producers are exempt in accordance with article 17.

Requirements on major producers to recover and recycle packaging waste

10. (1) A major producer shall—

(a) fix and maintain in a conspicuous position, and in such manner as to be clearly visible to members of the public, at or near each entrance to each premises at or from which such major producer supplies packaging material, packaging or packaged products, a notice complying with the requirements specified in Part 1 of the Second Schedule;

(b) subject to sub-article (4), provide adequate facilities at each premises specified in paragraph (a) for the acceptance, segregation and storage of packaging waste in accordance with these Regulations;

(c) subject to sub-article (4), provide facilities at each premises specified in paragraph (a) whereby customers may remove, segregate and deposit packaging from products or substances purchased at that premises;

(d) subject to sub-article (4), accept from any person, free of charge and at all reasonable times, at any premises specified in paragraph (a), any packaging waste relating to packaging material, packaging or packaged products of a type or brand supplied by that major producer; and

(e) within a week of being requested so to do, collect, or arrange for the collection of, from any producer to whom the major producer supplies packaging material, packaging or packaged products, any packaging waste relating to packaging material, packaging or packaged products of a type or brand supplied by the major producer.

(2) The purpose, location and availability of facilities to be provided for the purpose of sub-articles (1)(b) and (1)(c) shall be notified or advertised in a conspicuous position, and in such manner as to be clearly visible to members of the public, at or near each entrance to each premises.

(3) A major producer who supplies packaging material, packaging or packaged products otherwise than from a premises shall, in order to fulfil the obligations set out in sub-article (1), acquire or otherwise obtain the use of a premises located in the functional area of each local authority in which such major producer carries on business, which premises shall, in relation to the functional area of a local authority, be deemed for the purposes of these Regulations (save where the context otherwise requires) to be premises specified in sub-article (1)(a) at which the major producer carries on business in that functional area.

(4) (a) A major producer may fulfil the requirements of sub-articles (1)(b), (1)(c), (1)(d), (3) and article 11 either individually, or collectively with other major producers located within the functional area of the local authority concerned, and those sub-articles shall be construed accordingly;

(b) Where major producers intend to fulfil the requirements of sub-articles (1)(b), (1)(c), (1)(d), (3) and article 11 collectively, they shall notify the relevant local authority of such intention when applying for registration in accordance with article 13, or where it is decided to act collectively at a later date, at least

four weeks before any agreement to act collectively is intended to come into effect;

(c) Notification in accordance with paragraph (b) shall identify the major producers proposing to act collectively and any nominated major producer acting in accordance with article 12(4);

(d) The number of major producers acting collectively for the purposes of this article shall be limited to a maximum of ten participants, and the group facilities used for the acceptance, segregation and storage of packaging waste in accordance with sub-articles (1)(b), (1)(c) and (1)(d) shall not be more than 250 metres from the premises of any major producers participating in a collective scheme.

(5) During the months of March and September in each calendar year, a major producer shall—

(a) publish in one or more newspapers circulating in the functional area of the local authority in which its premises is situate a notice complying with the requirements of Part 5 of the Second Schedule; and

(b) provide copies of all notices published to the local authority within ten days of the date of publication of such notices.

Recovery and recycling targets for major producers

11. (1) Without prejudice to sub-article (2), on and from the date of commencement of these Regulations, a major producer who is an importer of packaged products or is a packer/filler shall take such steps as are necessary to ensure that in any quarterly period, the aggregate weight of packaging waste which is accepted or, as appropriate, collected by that major producer for the purposes of recovery—

(a) is not less than 55% of the aggregate weight of packaging material and packaging imported or packed/filled and supplied by that major producer in the preceding quarterly period, and

(b) that a minimum 50% of the aggregate weight of packaging material and packaging imported or packed/filled and supplied by that major producer in the preceding quarterly period is recovered by way of recycling,

until the 30th day of December 2008.

(2) On and from the 31st day of December 2008, a major producer who is an importer of packaged products or is a packer/filler shall take such steps as are necessary to ensure that in any quarterly period, the aggregate weight of packaging

waste which is accepted or, as appropriate, collected by that major producer for the purposes of recovery—

(a) is not less than 60% of the aggregate weight of packaging material and packaging imported or packed/filled and supplied by that major producer in the preceding quarterly period, and

(b) that a minimum 55% of the aggregate weight of packaging material and packaging imported or packed/filled and supplied by that major producer in the preceding quarterly period is recovered by way of recycling, and, where appropriate,

(c) that a minimum—

(i) 60% by weight for glass, and as appropriate,

(ii) 60% by weight for paper and board, and as appropriate,

(iii) 50% by weight for metals, and as appropriate,

(iv) 22.5% by weight for plastics, and as appropriate,

(v) 15% by weight for wood,

supplied by that major producer in the preceding quarterly period is recovered by way of recycling.

(3) Without prejudice to the generality of sub-articles (1) and (2), such steps as are necessary to ensure compliance with the recovery and recycling targets may include —

(a) accepting or collecting packaging waste from customers of the major producer, or from any other person,

(b) placing a notice in one or more newspapers circulating in the functional area of the local authority in which the premises of the major producer is situate stating that the major producer will accept or collect packaging waste,

(c) giving the notice referred to in paragraph (b) or drawing the attention of the public, or of business, to the notice, through other forms of broadcast or electronic media.

Purchase of packaging waste

12. (1) A major producer shall not purchase packaging waste, either directly or indirectly, from any other major producer, whether that major producer is a member of an approved body or otherwise for the purposes of fulfilling its obligations under article 11.

(2) Where a major producer purchases packaging waste for the purpose of fulfilling its obligations under article 11, that major producer shall—

(a) keep a record of the type, amount and source of such packaging waste, and

(b) provide a declaration, signed by a competent person, that the packaging waste purchased, either in whole or in part, has not previously been the subject of any subsidy payments or, as appropriate, subventions from an approved body, and

shall include the aforementioned information in the quarterly report to each relevant local authority required under the provisions of article 15.

(3) Notwithstanding sub-article (2), where a major producer purchases packaging waste for the purpose of fulfilling its obligations under article 11, that major producer shall—

(a) purchase an amount of packaging waste in respect of each material type, in direct proportion to the aggregate weight of each material type of packaging material and packaging imported or packed/filled and supplied by that major producer in the preceding quarterly period, and

(b) source a minimum 20% of the aggregate weight of any packaging waste purchased from household packaging waste.

(4) Where major producers intend to act collectively in accordance with the provisions of article 10(4) and where such major producers purchase packaging waste for the purpose of fulfilling their obligations under article 11, they may nominate one of the major producers concerned for the purpose of complying with the provisions of this article.

Registration and certification of major producers

13. (1) Subject to article 17, a major producer shall, in respect of each premises specified in article 10(1)(a)—

(a) apply for registration to the local authority in whose functional area the premises is situate not later than the 31st day of March 2008 or the date of commencement of business, whichever is the later, and

(b) apply for renewal of such registration to the relevant local authority, not later than the 31st day of January in each year following initial registration, subject only that a major producer shall not be required to make such application within four months of initial registration.

(2) A major producer who makes an application to a local authority under sub-article (1) shall be registered by that authority provided that the requirements of article 14 are complied with.

(3) A major producer shall not be deemed to be registered until a Certificate of Registration has issued by the local authority to which the application for registration was submitted.

(4) A major producer shall not be deemed to have renewed his or her registration until a Certificate of Renewal of Registration has issued by the local authority to which the application for renewal of registration was submitted.

(5) A local authority shall issue a Certificate of Registration or a Certificate of Renewal of Registration as expeditiously as possible and, in any event, within—

(a) six weeks of the date of receipt of an application for registration or renewal of registration, or

(b) two weeks after the date of receipt of further information or particulars requested by a local authority in connection with such an application,

whichever is the later.

(6) Notwithstanding sub-article (5), a local authority may refuse an application for renewal of registration under this article where it considers that a major producer has, in the preceding twelve month period, failed to satisfactorily implement the three-year implementation plan submitted for the purposes of article 15 or, as the case may be, failed to comply, in whole or in part, with the provisions of articles 5, 6, 7, 8, 10, 11, 12, 13, 14, 15 and 25 of these Regulations.

(7) A major producer who supplies packaging material, packaging or packaged products from premises in the functional area of more than one local authority shall designate its main branch or another nominated branch as having responsibility for the purposes of sub-article (1).

(8) The branch designated by a major producer for the purposes of sub-article (1) shall be obliged to apply for registration or renewal of such registration to all local authorities in whose functional areas such major producer operates premises involved in the supply of packaging material, packaging or packaged products.

Application for registration or renewal of registration

14. (1) An application for registration under article 13 shall be made in writing, shall contain at least the information set out in Part 1 of the Third Schedule and shall be accompanied by a copy of the three-year implementation plan required to be prepared under article 15(1)(a).

(2) An application for renewal of registration under article 13 shall be made in writing, shall contain at least the information set out in Part 2 of the Third Schedule, and shall be accompanied by a copy of the annual report required to be prepared under article 15(2)(a), and where appropriate, by a copy of a new three-year implementation plan prepared in accordance with article 15(2)(b).

(3) Notwithstanding sub-articles (1) and (2), where a major producer fails or refuses to supply a complete application, which shall include—

(a) the information set out in Part 1 of the Third Schedule in the case of an application for registration, or as appropriate,

(b) the information set out in Part 2 of the Third Schedule in the case of an application for renewal of registration, or as appropriate,

(c) any further information or particulars requested by a local authority in connection with such application for registration or, as appropriate, renewal of registration,

within four weeks of the date of a request by the local authority for a completed application or, as appropriate, further information, the local authority may, if it thinks fit, return such incomplete application to the major producer.

(4) A major producer shall notify, within ten days, the relevant local authority of any changes to the information provided in, as the case may be, an application for registration or, as appropriate, an application for renewal of registration.

(5) An application for registration or for renewal of registration under article 13 shall be accompanied by a fee equivalent to €15 per tonne of packaging material and packaging placed on the market, which—

(a) in the case of the initial registration of a premises at which business has been carried on by the applicant for a period of twelve months or more immediately prior to application, was supplied by the applicant at that premises in the twelve month period prior to the date of application for registration,

(b) in the case of the initial registration of a premises at which business has not been carried on by the applicant for a period of twelve months or more immediately prior to application, is likely to be supplied by the applicant at that premises in the twelve month period subsequent to the date of application for registration,

(c) in the case of a renewal of registration in respect of a premises, was supplied by the applicant at that premises in the period since initial registration or last preceding renewal of registration as the case may be,

save that the amount of fee shall be not less than €500, and not more than €15,000 subject to sub-articles (6) and (7), in respect of a premises.

(6) Not later than the 30th day of November each year and having regard to any change in the consumer price index since the determination of the—

(a) minimum fee of €500,

(b) maximum fee of €15,000,

in respect of a premises for the time being in force, and

(c) fee equivalent to €15 per tonne of packaging material and packaging placed on the market,

the Minister may review and make an order, amending sub-article (5) by substituting for each of the amounts specified in that sub-article greater amounts than those for the time being in force.

(7) In this sub-article, “change in the consumer price index” means the difference between the All Items Consumer Price Index Number last published by the Central Statistics Office before the date of the determination under this sub-article and the said number last published before the date of the preceding review under sub-article (6), expressed as a percentage of the last-mentioned number.

Implementation plans, annual reports and quarterly reports

15. (1) A major producer shall not later than the date on which application for registration is made under article 13—

(a) prepare a three-year implementation plan specifying the steps to be taken by the said major producer in order to comply with the requirements of these

Regulations, including the steps which the major producer intends to take to prevent or minimise packaging waste, and

(b) fix and maintain in a conspicuous position, and in such manner as to be clearly visible to members of the public, at or near each entrance to each premises specified in article 10(1)(a) but separate and adjacent to the notice required in article 10(1)(a), a notice complying with the requirements specified in Part 2 of the Second Schedule.

(2) A major producer shall not later than the date on which application for renewal of registration is made under article 13—

(a) prepare an annual report specifying the steps taken by the said major producer in order to comply with the requirements of these Regulations in the preceding registration period, and the results of those steps, and

(b) prepare a revised three-year implementation plan, having regard to experience in the preceding registration period, specifying the steps to be taken by the said major producer to comply with the Regulations, including the steps which the major producer intends to take to prevent or minimise packaging waste, and

(c) fix and maintain in a conspicuous position, and in such manner as to be clearly visible to members of the public, at or near each entrance to each premises specified in article 10(1)(a) but separate and adjacent to the notice required in article 10(1)(a), a notice complying with the requirements specified in Part 3 of the Second Schedule.

(3) A three-year implementation plan under sub-article (1)(a) or, as appropriate, a revised three-year implementation plan under sub-article (2)(b) shall contain at least the information set out in Part 3 of the Third Schedule.

(4) An annual report under sub-article (2)(a) shall contain at least the information set out in Part 4 of the Third Schedule.

(5) Without prejudice to commercial and industrial confidentiality, a copy of an implementation plan or an annual report prepared for the purpose of this article shall be made available, free of charge, by the major producer concerned to any person who so requests.

(6) For the purpose of this article, “made available” includes sending the implementation plan or annual report, as the case may be, by post, fax or electronic mail to a person who so requests.

(7) With effect from the date of registration in accordance with article 13, a major producer shall, within ten days of the end of each quarterly period, compile,

maintain and submit to the relevant local authority the information (hereinafter referred to as the “quarterly reports”) set out in Part 5 of the Third Schedule.

(8) It shall be the responsibility of a major producer to retain, for a period of three years after the end of the period in question, such records as are necessary to verify the accuracy of the quarterly reports compiled, maintained and submitted in accordance with sub-article (7).

(9) The quarterly reports to be submitted by a major producer to a local authority under sub-article (7) shall, where the relevant local authority so requires, be in a form specified by the authority.

(10) Without prejudice to sub-articles (1)(a), (2)(a), (2)(b), (3), (4), (7) and (9), the Minister from time to time may issue guidance concerning the presentation, structure and content of the three-year implementation plan and, as appropriate, the annual report and, as appropriate, the quarterly reports.

Application of requirements

16. (1) Where, within the functional area of a local authority, a major producer operates more than one premises at or from which such major producer supplies packaging material, packaging or packaged products—

(a) the requirement to compile, maintain and submit quarterly reports under article 15 shall apply in respect of each such premises as a separate entity, and

(b) a three-year implementation plan or an annual report required to be prepared and published under article 15 may relate to the overall activities of the major producer concerned within the relevant functional area, and these Regulations shall be construed accordingly.

(2) In determining, for the purpose of articles 11, 14 and 15, the aggregate weight of packaging material and packaging supplied by a major producer, account shall not be taken of—

(a) packaging destined for reuse where such packaging destined for reuse is subject to operations by which it is returned to the producer for the purpose of it being refilled or used for the same purpose for which it was conceived, and

(b) packaging material and packaging where such material or packaging is supplied by, or used in the supply of products by, that major producer to persons outside of the State, and

(c) packaging waste supplied by a recovery operator (who is not the producer if the producer is a major producer) to the major producer for the purposes of

treatment, recovery or disposal.

(3) Local authorities shall publish notices in one or more newspapers circulating in their respective functional areas at least once in each calendar year, publicising details of all major producers in respect of whom such local authorities have issued Certificates of Registration or Certificates of Renewal of Registration under article 13, and indicating the obligation of such major producers to accept from any person free of charge packaging waste arising from products, packaging or packaging material of a type or brand sold or otherwise supplied by such major producers.

PART IV APPROVED BODIES

Exemption from certain requirements

17. (1) A producer to whom is granted a certificate by an approved body stating that such producer is participating, in a satisfactory manner, in a scheme for the recovery of packaging and packaging waste shall be exempt from the requirements of articles 10 to 16 and 25 unless and until—

(a) such certification is revoked by the approved body concerned or otherwise ceases to have effect or be in force, or

(b) approval granted by the Minister to the body concerned is revoked in accordance with article 20.

(2) A producer to whom sub-article (1) applies shall, only for so long as such producer is so exempt, fix and maintain in a conspicuous position, and in such manner as to be clearly visible to members of the public, at or near each entrance to each premises specified in article 10(1)(a), a notice complying with the requirements specified in Part 4 of the Second Schedule.

Application to the Minister for approval

18. (1) A body corporate or association may apply to the Minister for approval for the purposes of this Part.

(2) An application for approval under sub-article (1) shall be made in writing and shall be accompanied by the following—

(a) a copy of the articles of association of the body corporate or association,

(b) the appropriate certificate issued by the Companies Registration Office,

(c) proposals relating to corporate governance,

(d) proposals for the representation of small and medium enterprises on the Board of the approved body together with the names and addresses in the State of the officers of the body corporate or association and its Board of Directors,

(e) proposals for a contingency reserve,

(f) proposals relating to green procurement,

(g) a copy of the rules of membership of the body corporate or association together with details of the membership fee structure,

(h) a declaration that no producer applying for membership will be discriminated against on the grounds—

(i) of the quantity or, as appropriate, type of packaging material, packaging or packaged product supplied by the producer in the State, and as appropriate,

(ii) of the geographical location or locations within the State from which the producer is supplying packaging material, packaging or packaged products,

(i) proposals relating to co-operation with other approved bodies for the recovery of packaging and packaging waste (where such approved bodies exist) including, in particular, but not exclusively, targets for the recovery and recycling of packaging waste,

(j) proposals for a scheme to be undertaken by the body corporate or association for the recovery and recycling of packaging waste,

(k) a business plan in relation to the proposed scheme,

(l) a financial plan in relation to the proposed scheme,

(m) annual packaging waste recovery and recycling targets, including material specific recycling targets, to be achieved by the body concerned or by producers participating in the proposed scheme,

(n) proposals for the certification of producers for the purpose of article 17,

(o) proposals relating to the dissemination of information to the public regarding the recovery and recycling of packaging and packaging waste,

(p) proposals for determining and verifying the level of recovery and recycling of packaging waste under the proposed scheme, and

(g) such other information as may be specified in writing by the Minister for the purposes of this article.

Grant or refusal of approval

19. (1) Subject to sub-article (3), the Minister may, by notice in writing, grant approval to a body corporate or association for the purposes of this Part, or may refuse to grant such approval.

(2) Subject to article 20, an approval granted by the Minister under this article shall be for a period of not less than four years and not more than ten years.

(3) An approval under sub-article (1) may be subject to such conditions as the Minister may specify, including conditions relating to—

(a) the articles of association of the body corporate or association,

(b) the appropriate certificate issued by the Companies Registration Office,

(c) corporate governance,

(d) the representation of small and medium enterprises on the Board of the approved body and the composition of the Board of Directors,

(e) the contingency reserve,

(f) green procurement,

(g) the rules of membership of the body corporate or association and the membership fee structure,

(h) the non-discrimination against any producer applying for membership on the grounds—

(i) of the quantity or, as appropriate, type of packaging material, packaging or packaged product supplied by the producer in the State, and as appropriate,

(ii) of the geographical location or locations within the State from which the producer is supplying packaging material, packaging or packaged products,

(i) co-operation with other approved bodies for the recovery of packaging and packaging waste (where such approved bodies exist) including, in particular, but not exclusively, targets for the recovery and recycling of packaging waste,

- (j) any aspects of the scheme to be undertaken by the body corporate or association for the recovery and recycling of packaging waste,
- (k) the business plan of the scheme,
- (l) the financial plan of the scheme,
- (m) the annual packaging waste recovery and recycling targets, including material specific recycling targets, to be achieved by the body concerned or by producers participating in the scheme,
- (n) the certification of producers for the purpose of article 17,
- (o) the dissemination of information to the public regarding the recovery and recycling of packaging and packaging waste,
- (p) the determination and verification of the effects of measures undertaken with regard to the recovery and recycling of packaging waste,
- (q) the nature and frequency of information (including financial accounts) to be submitted by the body concerned to the Minister or to such other person as may be specified by the Minister, and
- (r) such other information as may be specified in writing by the Minister for the purposes of this article.

(4) The Minister may, by notice in writing, from time to time attach a new condition or, as the case may be, vary any existing condition attached to an approval under this article.

Review and revocation of approval

20. (1) Subject to sub-article (2), where it appears to the Minister that new packaging waste recovery and recycling targets, including material specific recycling targets, need to be met, or where relevant packaging waste recovery and recycling targets, including material specific recycling targets, have not been or are not being met, or where, for some other reason the Minister considers it necessary in the interests of packaging waste recovery, the Minister may review an approval granted under article 19, or require the approved body to make a new application under article 18 for a renewal of an approval.

(2) Where the Minister proposes to review an approval, or require the making of a new application in accordance with articles 18 and 19, the Minister shall—

- (a) give notice in writing to the approved body of the proposal and the reasons

therefor,

(b) specify a period of not less than four weeks within which the approved body may make a submission to the Minister in relation to a review, or make a new application under article 18, as the case may be, and

(c) consider any submission, or application so made.

(3) Following the consideration of any submission or application in accordance with sub-article (2), the Minister may issue a revised approval, varying any condition attaching to the approval or attach any additional conditions which he or she considers appropriate, or grant a new approval under article 19, as the case may be.

(4) Where an approval under article 19 is due to expire, an approved body that wishes to continue to operate as an approved body shall, not later than four months before the expiry of an approval, make an application to the Minister under article 18.

(5) Subject to sub-article (6), where it appears to the Minister that an approved body is not complying with conditions attached to such approval, or that relevant packaging waste recovery and recycling targets, including material specific recycling targets, have not been or are not being met, the Minister may revoke an approval granted under article 19.

(6) Where the Minister proposes to revoke an approval granted under article 19, the Minister shall—

(a) give notice in writing to the approved body of the proposed decision and the reasons therefor,

(b) specify a period of not less than four weeks within which the approved body may make a submission to the Minister in relation to the proposed decision, and

(c) consider any submission so made.

Use of logo adopted by an approved body

21. No person shall, otherwise than with the written consent of an approved body, display at any premises or on or in any product, packaging, advertisement or notice, any logo or other mark or symbol designed and adopted by that approved body for use by producers certified by that approved body for the purposes of article 17.

Notifications to local authorities

22. An approved body shall, not later than the 7th day of each month, notify each local authority of any producer situate within the functional area of the authority in respect of which a certificate for the purposes of article 17 has been granted or revoked within the preceding calendar month.

Information to the Agency and the Central Statistics Office

23. An approved body shall furnish such information, in such form and at such frequency as may be specified by the Agency or the Central Statistics Office, in relation to activities carried out by producers or recovery operators registered with that body, for the purposes of complying with these Regulations.

PART V LOCAL AUTHORITY FUNCTIONS

Enforcement by local authorities

24. Each local authority shall be responsible for the enforcement of these Regulations within their functional areas and shall take such steps as are necessary for this purpose.

Power of local authority to require submission of information

25. (1) Subject to article 17 and sub-article (4), a local authority may, by notice in writing, require a producer to furnish within a specified period of not less than six weeks—

(a) a packaging report in respect of a specified period,

(b) such other information as may be specified in the notice regarding the use, type, quantity, origin and destination of packaging by that producer, the steps taken in order to comply with any requirement of these Regulations, and the results of those steps, or

(c) evidence of the turnover of the producer concerned.

(2) A notice under sub-article (1) may specify the manner in which any matter is to be set out or addressed in a packaging report, or the nature of the evidence to be furnished, as the case may be.

(3) A producer on whom a notice under this article has been served shall, within the

period specified in the notice, comply with the terms thereof.

(4) A local authority may not require a producer to furnish in accordance with sub-article (1) a packaging report more frequently than once in any period of twelve months.

(5) Producers should maintain and make available for the purposes of inspection by the local authority all supporting information used in the preparation of a packaging report sought under sub-article (1).

Entries in a local authority register

26. (1) It is hereby prescribed that the register maintained by a local authority under section 19 of the Act shall contain entries specifying the following matters—

(a) the registration or renewal of registration of a major producer by the local authority in accordance with article 13 and, as appropriate,

(b) the giving of a notice under article 25.

(2) Information received by a local authority in accordance with articles 13, 15 and 25 shall be made available at the principal office of the local authority concerned for inspection by any person during office hours.

Notice and information to the Agency

27. A local authority shall furnish such information within a specified period, in such form and at such frequency as may be specified by the Agency, in relation to activities carried out in the functional area of the authority, by major producers who have registered with the authority for the purposes of complying with these Regulations.

PART VI ESSENTIAL REQUIREMENTS OF PACKAGING

Essential requirements of packaging

28. (1) Subject to sub-article (2), a producer shall not supply packaging or packaged products to other persons within the State unless the packaging concerned complies with the requirements of the Fourth Schedule.

(2) Packaging shall be deemed to comply with the requirements of the Fourth

Schedule if it complies with a European standard duly adopted, or a standard prescribed under section 29(4) of the Act, in relation to the requirements of the Fourth Schedule.

Concentration of heavy metal in packaging and packaging material

29. (1) Subject to sub-article (2), and in accordance with Commission Decision 2001/171/EC⁴, packaging material and packaging shall not be imported, manufactured or used unless the aggregate concentration levels of lead, cadmium, mercury and hexavalent chromium present in such packaging material or packaging do not exceed 100 parts per million by weight.

(2) Subject to sub-articles (3) to (6), glass packaging may exceed the limit referred to in sub-article (1) where it complies with the following conditions—

(a) no lead, cadmium, mercury or hexavalent chromium has been intentionally introduced during the manufacturing process, or

(b) the concentration levels have only been exceeded because of the addition of recycled materials.

(3) Where the average heavy metals concentration levels on any 12 consecutive monthly controls in the output of an individual glass furnace operating in the State, representative of normal and regular production activity, exceeds 200 parts per million by weight, the manufacturer, or the manufacturer's authorised representative, shall submit a report to the Agency which shall include, as a minimum, the following information—

(a) a measure of the values taken,

(b) a description of the measurement methods employed,

(c) suspected sources for the presence of the heavy metals concentration levels, and

(d) a detailed description of the measures taken to reduce the heavy metals concentration levels.

(4) In the case of glass imported into the State, produced in a furnace which is situated outside the European Union and which exceeds the limits referred to in sub-article (3), the producer who placed the product on the market shall submit a report to the Agency in accordance with sub-article (3).

(5) The Agency may by notice in writing require the manufacturer, the

manufacturer's authorised representative or the producer who places the product on the market, as appropriate, to furnish within a specified period measurement results from the production sites and the measurement methods employed.

(6) A manufacturer, the manufacturer's authorised representative or the producer who places the product on the market in the State, as appropriate, on whom a notice under this article has been served, shall, within the period specified in the notice, comply with the terms thereof.

PART VII MISCELLANEOUS

Onus of proof on a producer

30. In a prosecution for a contravention of articles 10, 11, 12, 13, 14 or 15 of these Regulations, a producer shall be deemed to be a major producer unless the said producer satisfies the Court that the contrary is the case.

Collection of packaging waste

31. (1) Notwithstanding any contractual arrangement to the contrary effect—

(a) a local authority shall not be obliged to collect or arrange for the collection of packaging waste from a producer where the authority considers that the said producer is not in compliance with the requirements of these Regulations,

(b) a commercial recovery operator shall not accept packaging waste for disposal from a producer in accordance with article 5(1)(a)(ii)(II) without first receiving a written declaration, signed by the person in charge of the premises from which the waste is to be collected, stating that the producer will present packaging waste for collection in compliance with article 5.

(2) Recovery operators, brokers and dealers shall furnish such information in relation to packaging waste collected, sorted, transferred, recycled, recovered or disposed of within a specified period, in such form and at such frequency as may be specified by the Agency.

Constituent materials in packaging waste

32. For the purpose of separating packaging waste into specified packaging waste types in accordance with article 5 in order to comply with a requirement of these Regulations, an item of packaging waste shall be deemed to be comprised of the constituent material which is proportionally largest by weight, and shall be categorised accordingly.

Revocation

33. (1) Article 17 of the Regulations of 2003 is hereby revoked from the day after the date of which notice of the making of these Regulations is published in the *Iris Oifigiúil*.

(2) Articles 1 to 16 and articles 18 to 31 of the Regulations of 2003 are hereby revoked from the 31st day of March 2008.

Transitional

34. A producer who registered with a local authority, in accordance with article 10 of the Regulations of 2003, and whose Certificate of Registration was granted by that local authority for the period up to and including the 31st day of December 2008 shall be deemed to have registered for the year 2008 under these Regulations.

Application of Waste Management (Collection Permit) Regulations 2001

35. The reference in article 22(e) of the Waste Management (Collection Permit) Regulations 2001 (S.I. No. 402 of 2001) to the Regulations of 1997 shall be deemed to be reference to these regulations and reference to article 5 of the Regulations of 1997 shall be deemed to be reference to article 5 of these Regulations, subject to any amendment that may be made to the Waste Management (Collection Permit) Regulations 2001 from time to time, but, if those regulations should be revoked, shall be subject to the corresponding article of such regulations corresponding to the Waste Management (Collection Permit) Regulations 2001 as may be for the time being in force.

FIRST SCHEDULE ILLUSTRATIVE EXAMPLES OF THE APPLICATION OF CRITERIA TO CLARIFY THE DEFINITION OF PACKAGING IN ARTICLE 4(3)

PART I Illustrative examples for criterion (i).

Packaging

Sweet boxes

Film overwrap around a CD case

Non-packaging

Flower pots intended to stay with the plant throughout its life

Tool boxes

Tea bags

Wax layers around cheese

Sausage skins

PART 2 Illustrative examples for criterion (ii).

Packaging, if designed and intended to be filled at the point of sale

Paper or plastic carrier bags

Disposable plates and cups

Cling film

Sandwich bags

Aluminium foil

Non-packaging

Stirrer

Disposable cutlery

PART 3 Illustrative examples for criterion (iii).*Packaging*

Labels hung directly on or attached to a product

Part of packaging

Mascara brush which forms part of the container case

Sticky labels attached to another packaging item

Staples

Plastic sleeves

Device for measuring dosage which forms part of the container closure for detergents

SECOND SCHEDULE REQUIREMENTS REGARDING NOTICES

PART 1 Requirements regarding a notice under article 10(1)(a).

A notice for the purpose of article 10(1)(a) shall—

(a) be not less in dimension than 40 centimetres in height and 30 centimetres in width or 30 centimetres in height and 40 centimetres in width,

(b) be so printed in black indelible ink with a Times New Roman font size of at least 32 or equivalent and line space of at least 1.5 lines on a white background and affixed, on a durable material, so as to be easily visible and legible,

(c) not be obscured or concealed at any time, and

(d) state the following—

“WASTE MANAGEMENT ACTS 1996 TO 2007

We are required to accept on these premises, free of charge, for the purpose of recovery, packaging waste arising from products, packaging or packaging material of a type or brand sold or otherwise supplied on these premises. The products or packaging in question need not necessarily have been purchased from [name of producer].”.

PART 2 Requirements regarding a notice under article 15(1).

A notice for the purpose of article 15(1) shall—

(a) be not less in dimension than 40 centimetres in height and 30 centimetres in width or 30 centimetres in height and 40 centimetres in width,

(b) be so printed in black indelible ink with a Times New Roman font size of at least 32 or equivalent and line space of at least 1.5 lines on a white background and affixed, on a durable material, so as to be easily visible and legible,

(c) not be obscured or concealed at any time, and

(d) state the following—

“WASTE MANAGEMENT ACTS 1996 TO 2007

A three-year implementation plan specifying the steps to be taken by [name of producer] for the purpose of recovering packaging waste is available at these premises or, if so requested, will be sent by post, fax or electronic mail.”

and

(e) be affixed until the preparation of a revised three-year implementation plan subsequent to the provisions of article 15(2).

PART 3 Requirements regarding a notice under article 15(2).

A notice for the purpose of article 15(2) shall—

(a) be not less in dimension than 40 centimetres in height and 30 centimetres in width or 30 centimetres in height and 40 centimetres in width,

(b) be so printed in black indelible ink with a Times New Roman font size of at least 32 or equivalent and line space of at least 1.5 lines on a white background and affixed, on a durable material, so as to be easily visible and legible,

(c) not be obscured or concealed at any time, and

(d) state the following—

“WASTE MANAGEMENT ACTS 1996 TO 2007

The following documentation is available at these premises—

(i) An annual report specifying the steps taken by [name of producer] for the purpose of recovering packaging waste in the preceding calendar year, and

(ii) A three-year implementation plan specifying the steps which [name of producer] proposes to take to recover, prevent and minimise packaging waste,

and if so requested, will be sent by post, fax or electronic mail.”.

PART 4 Requirements regarding a notice under article 17(2).

A notice for the purpose of article 17(2) shall—

(a) be not less in dimension than 40 centimetres in height and 30 centimetres in width or 30 centimetres in height and 40 centimetres in width,

(b) be so printed in black indelible ink with a Times New Roman font size of at least 32 or equivalent and line space of at least 1.5 lines on a white background and affixed, on a durable material, so as to be easily visible and legible,

(c) not be obscured or concealed at any time, and

(d) state the following—

“WASTE MANAGEMENT ACTS 1996 TO 2007

[Name of producer] participates in a scheme operated by [name of approved body] which is an approved body for the recovery of packaging waste. [Name of producer] is therefore not required to accept packaging waste on these premises.”.

PART 5 Requirements regarding a notice under article 10(5).

A notice for the purpose of article 10(5) shall state the following—

“WASTE MANAGEMENT ACTS 1996 TO 2007

[Name of producer]

[Address of premises]

We are required to accept at [insert address of premises], free of charge, for the purpose of recovery, packaging waste of the following categories [insert packaging types]. The products or packaging in question need not necessarily have been purchased from [name of producer].”.

THIRD SCHEDULE INFORMATION TO BE COMPILED, MAINTAINED AND SUBMITTED

PART 1 Information to be provided for the purpose of registration in respect of each premises from which packaging material, packaging or packaged products are or will be supplied [Article 14(1)].

1. Name(s), address, telephone number, electronic mail address and fax number of the registered office of the producer where that producer is a company registered under the Companies Acts 1963 to 2001, or, the principal place of business of the producer where that producer is any other body corporate or unincorporated body.

2. Name, address, telephone number, electronic mail address and fax number of branch nominated by the producer under article 13(7).

3. Name(s) and address(es) of owner(s).

4. Nature of business conducted, including the appropriate NACE code to which the business relates. Please include a summary of the overall activities of the producer (i.e. from all relevant activities within the State and in respect of

each type of packaging material, an aggregate weight, as appropriate, of packaging received, packaging supplied, packaging on products imported and supplied, packaging on products pack-filled, packaging accepted and/or collected, packaging purchased, packaging destined for reuse, packaging recovered, packaging recycled) in the preceding twelve month period prior to the date of application.

5. Location of premises at or from which packaging or packaged products are or will be supplied by the producer (including a premises to which article 10(2) applies).

6. Where appropriate—

(i) the estimated weight of—

(a) packaging destined for reuse where such packaging destined for reuse is subject to operations by which it is returned to the producer for the purpose of it being refilled or used for the same purpose for which it was conceived, and as appropriate,

(b) other packaging and packaging material received, and as appropriate,

(c) other packaging and packaging material supplied,

by the producer in the twelve month period prior to the date of application, in respect of each type of packaging material;

(ii) name and address of producers from whom packaging and packaged products was/were received in the twelve month period prior to the date of application;

(iii) name and address of producers to whom packaging and packaged products was/were supplied in the twelve month period prior to the date of application;

(iv) the estimated weight of packaging—

(a) on products imported and supplied by the producer, and as appropriate,

(b) on products pack-filled by the producer,

in the twelve month period prior to the date of application, in respect of each type of packaging material.

7. A three-year implementation plan specifying the steps to be taken for the purpose of complying with the Regulations, including the steps proposed to be taken to prevent and minimise packaging waste.

PART 2 Information to be provided for the purpose of renewal of registration in respect of each premises from which packaging material, packaging or packaged products are or will be supplied [Article 14(2)].

1. Name(s), address, telephone number, electronic mail address and fax number of the registered office of the producer where that producer is a company registered under the Companies Acts 1963 to 2001, or, the principal place of business of the producer where that producer is any other body corporate or unincorporated body.

2. Name, address, telephone number, electronic mail address and fax number of branch nominated by the producer under article 13(7).

3. A summary of the overall activities of the producer (i.e. from all relevant activities within the State and in respect of each type of packaging material, an aggregate weight, as appropriate, of packaging received, packaging supplied, packaging on products imported and supplied, packaging on products pack-filled, packaging accepted and/or collected, packaging purchased, packaging destined for reuse, packaging recovered, packaging recycled) in the preceding twelve month period.

4. The weight of—

(i) packaging destined for reuse where such packaging destined for reuse was subject to operations by which it was returned to the producer for the purpose of it being refilled or used for the same purpose for which it was conceived, and as appropriate,

(ii) packaging and packaging material received, and as appropriate,

(iii) packaging and packaging material supplied,

by the producer in the preceding registration period, in respect of each type of packaging material.

5. The name and address of producers from whom packaging and packaged products was/were received in the preceding registration period.

6. The weight of packaging waste—

(i) accepted, and as appropriate,

(ii) collected, and as appropriate,

(iii) purchased,

by the producer in the preceding registration period, in respect of each type of packaging material.

7. Where appropriate, the weight of packaging—

(i) on products imported and supplied by the producer, and

(ii) on products pack-filled by the producer,

in the preceding registration period, in respect of each type of packaging material.

8. The name and address of any producer who accepted the transfer of packaging waste from the producer concerned in the preceding registration period, and the weight of such waste so accepted by each such producer in respect of each type of packaging material.

9. Details of the recovery operators (including details of their waste collection permits) used for the recovery of packaging waste during the preceding registration period for the purposes of article 5(1)(a).

10. The weight of packaging waste—

(i) recovered by or on behalf of the producer, and as appropriate,

(ii) recycled by or on behalf of the producer, and as appropriate,

(iii) accepted by each recovery operator,

in the preceding registration period, in respect of each type of packaging material.

11. The name and address of any producer, dealer, broker or recovery operator from whom packaging waste was purchased, either directly or indirectly, in the preceding registration period for the purposes of fulfilling the obligations of article 11, the weight of such purchased packaging waste by each type of packaging material, and any relevant corroboratory documentation in support of such transactions including a declaration, signed by a competent person, to confirm that the packaging waste purchased, either in whole or in part, has not previously been the subject of any subsidy payments or, as appropriate, subventions from an approved body.

12. The weight of packaging waste disposed of or consigned for disposal by the producer during the preceding registration period in respect of each type of packaging material, and the nature of the disposal operations involved.

13. Copies of any notices placed in newspapers, including details of the titles and publication dates for the notices in the newspapers concerned, circulating in the functional area of the local authority concerned for the purposes of article 10(5) in the preceding registration period.

14. An annual report specifying the steps taken to comply with the Regulations in the preceding registration period. The report shall include a declaration from a competent person having due regard to the records of the major producer, that the competent person is of the opinion that the major producer has complied with the provisions of articles 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16 and 25 of these Regulations.

15. A revised three-year implementation plan, having regard to experience in the preceding registration period, specifying the steps to be taken to comply with the Regulations, including the steps proposed to be taken to prevent or minimise packaging waste.

PART 3 Information to be provided in a three-year implementation plan [Article 15(3)].

1. Name(s), address, telephone number, electronic mail address and fax number of the registered office of the producer where that producer is a company registered under the Companies Acts 1963 to 2001, or, the principal place of business of the producer where that producer is any other body corporate or unincorporated body.

2. The location of premises at which packaging or packaged products are supplied by the producer (including a premises to which article 10(2) applies).

3. The estimated weight of—

(i) packaging destined for reuse where such packaging destined for reuse is subject to operations by which it is returned to the producer for the purpose of it being refilled or used for the same purpose for which it was conceived, and as appropriate,

(ii) other packaging and packaging material received, and as appropriate,

(iii) other packaging and packaging material supplied,

in each of the three years to which the implementation plan refers, in respect of each type of packaging material.

4. The estimated weight of packaging waste that will be—

- (i) accepted, and as appropriate,
- (ii) collected, and as appropriate,
- (iii) purchased,

by the producer in each of the three years to which the implementation plan refers, in respect of each type of packaging material and a description of the facilities that the producer intends to put in place for the acceptance, segregation and storage of packaging waste in accordance with these Regulations.

5. Details of the recovery operators (including details of their waste collection permits) that will be used by the producer for the recovery of packaging waste in each of the three years to which the implementation plan refers for the purposes of article 5(1)(a).

6. The estimated weight of packaging waste that will be—

- (i) recovered by or on behalf of the producer, and
- (ii) recycled by or on behalf of the producer, and as appropriate,
- (iii) accepted by recovery operators,

in each of the three years to which the implementation plan refers, in respect of each type of packaging material.

7. The name and address of any producer, dealer, broker or recovery operator from whom packaging waste may be purchased, either directly or indirectly, for the purposes of fulfilling the obligations of article 11 in each of the three years to which the implementation plan refers, and the estimated weight of any such packaging waste that may be purchased by material type.

8. The estimated weight of packaging waste that will be disposed of or consigned for disposal by the producer in respect of each type of packaging material in each of the three years to which the implementation plan refers, and the nature of the disposal operations involved.

9. Proposals in relation to the steps that the producer intends to take to prevent or minimise packaging waste arising on the producer's premises, including any steps in relation to promote the use of packaging destined for reuse where such packaging destined for reuse will be subject to operations by which it

will be returned to the producer for the purpose of it being refilled or used for the same purpose for which it was conceived.

10. A brief description of any technical or supporting documentation that the producer can make available to demonstrate that packaging material or, as appropriate, packaging supplied by the producer in the State conforms with the essential requirements of packaging in accordance with article 28 and the Fourth Schedule of these Regulations.

11. Proposals in relation to record keeping, in particular but not exclusively, to facilitate the reporting of the recovery and recycling targets, including the material specific recycling targets, in accordance with article 11 of these Regulations.

12. A summary of the overall activities of the producer (i.e. from all relevant activities within the State) anticipated in each of the three years to which the implementation plan refers.

PART 4 Information to be provided in an annual report [Article 15(4)].

1. Name(s), address, telephone number, electronic mail address and fax number of the registered office of the producer where that producer is a company registered under the Companies Acts 1963 to 2001, or, the principal place of business of the producer where that producer is any other body corporate or unincorporated body.

2. The location of premises at which packaging or packaged products are supplied by the producer (including a premises to which article 10(2) applies).

3. The weight of—

(i) packaging destined for reuse where such packaging destined for reuse is subject to operations by which it is returned to the producer for the purpose of it being refilled or used for the same purpose for which it was conceived, and as appropriate,

(ii) other packaging and packaging material received, and as appropriate,

(iii) other packaging and packaging material supplied,

in the preceding registration period, in respect of each type of packaging material.

4. The weight of packaging waste—

(i) accepted, and as appropriate,

(ii) collected, and as appropriate,

(iii) purchased,

by the producer in the preceding registration period, in respect of each type of packaging material.

5. The name and address of any producer who accepted the transfer of packaging waste from the producer concerned in the preceding registration period, and the weight of such waste so accepted by each such producer in respect of each type of packaging material.

6. Details of the recovery operators (including details of their waste collection permits) used for the recovery of packaging waste during the preceding registration period for the purposes of article 5(1)(a).

7. The weight of packaging waste—

(i) recovered by or on behalf of the producer, and

(ii) recycled by or on behalf of the producer, and as appropriate,

(iii) accepted by recovery operators,

in the preceding registration period, in respect of each type of packaging material.

8. The name and address of any producer, dealer, broker or recovery operator from whom packaging waste was purchased, either directly or indirectly, for the purposes of fulfilling the obligations of article 11 in the preceding registration period, and the weight of such purchased packaging waste by material type.

9. The weight of packaging waste disposed of or consigned for disposal by the producer in respect of each type of packaging material during the preceding registration period, and the nature of the disposal operations involved.

10. A summary of the overall activities of the producer (i.e. from all relevant activities within the State) in the preceding period to which the registration applied.

PART 5 Information to be provided in a quarterly report [Article 15(7)].

1. Name(s), address, telephone number, electronic mail address and fax number of the registered office of the producer where that producer is a company registered under the Companies Acts 1963 to 2001, or, the principal place of

business of the producer where that producer is any other body corporate or unincorporated body.

2. The weight of—

(i) packaging destined for reuse where such packaging destined for reuse was subject to operations by which it was returned to the producer for the purpose of it being refilled or used for the same purpose for which it was conceived, and as appropriate,

(ii) packaging and packaging material received, and as appropriate,

(iii) packaging and packaging material supplied,

by the producer in the preceding quarterly period, in respect of each type of packaging material.

3. The name and address of producers from whom packaging and packaged products was/were received in the preceding quarterly period.

4. The weight of packaging waste—

(i) accepted, and as appropriate,

(ii) collected, and as appropriate,

(iii) purchased,

by the producer in the preceding quarterly period, in respect of each type of packaging material.

5. The name and address of any producer who accepted the transfer of packaging waste from the producer concerned in the preceding quarterly period, and the weight of such waste so accepted by each such producer in respect of each type of packaging material.

6. Details of the recovery operators (including details of their waste collection permits) used during the preceding quarterly period for the purposes of article 5(1)(a).

7. The weight of packaging waste—

(i) recovered by or on behalf of the producer, and

(ii) recycled by or on behalf of the producer, and as appropriate,

(iii) accepted by each recovery operator,

in the preceding quarterly period, in respect of each type of packaging material.

8. The name and address of any producer, dealer, broker or recovery operator from whom packaging waste was purchased, either directly or indirectly, in the preceding quarterly period for the purposes of fulfilling the obligations of article 11, the weight of such purchased packaging waste in respect of each type of packaging material, and any relevant corroboratory documentation in support of such transactions, including a declaration, signed by a competent person, to confirm that the packaging waste purchased, either in whole or in part, has not previously been the subject of any subsidy payments or, as appropriate, subventions from an approved body.

9. The weight of packaging waste disposed of or consigned for disposal by the producer in respect of each type of packaging material, and the nature of the disposal operations involved, in the preceding quarterly period.

10. A summary of the overall activities of the producer (i.e. from all relevant activities within the State and in respect of each type of packaging material, an aggregate weight, as appropriate, of packaging received, packaging supplied, packaging on products imported and supplied, packaging on products pack-filled, packaging accepted and/or collected, packaging purchased, packaging destined for reuse, packaging recovered, packaging recycled) in the preceding quarterly period.

FOURTH SCHEDULE ESSENTIAL REQUIREMENTS ON THE COMPOSITION AND THE REUSABLE AND RECOVERABLE, INCLUDING RECYCLABLE, NATURE OF PACKAGING

1. *Requirements specific to the manufacturing and composition of packaging.*

Packaging shall be so manufactured that the packaging volume and weight be limited to the minimum adequate amount to maintain the necessary level of safety, hygiene and acceptance for the packed product to the consumer.

Packaging shall be designed, produced and placed on the market in such a way as to permit its reuse or recovery, including recycling, and to minimise its impact on the environment when packaging waste or residues from packaging waste management operations are disposed of.

Packaging shall be so manufactured that the presence of noxious and other

hazardous substances and materials as constituents of the packaging material or any of the packaging components is minimised with regard to their presence in emissions, ash or leachate when packaging or residues from management operations or packaging waste are incinerated or landfilled.

2. Requirements specific to the reusable nature of packaging.

The following requirements must be simultaneously satisfied:—

—the physical properties and characteristics of the packaging shall enable a number of trips or rotations in normally predictable conditions of use;

—the possibility that the used packaging may be processed in order to meet health and safety requirements for the workforce;

—fulfil the requirements specific to recoverable packaging when the packaging is no longer used and thus becomes waste.

3. Requirements specific to the recoverable nature of packaging.

(a) Packaging recoverable in the form of material recycling

Packaging must be manufactured in such a way as to enable the recycling of a certain percentage by weight of the materials used into the manufacture of marketable products, in compliance with current standards in the European Union. The establishment of this percentage may vary, depending on the type of material of which the packaging is composed.

(b) Packaging recoverable in the form of energy recovery

Packaging waste processed for the purpose of energy recovery shall have a minimum inferior calorific value to allow optimisation of energy recovery.

(c) Packaging recoverable in the form of composting

Packaging waste processed for the purpose of composting shall be of such a biodegradable nature that it should not hinder the separate collection and the composting process or activity into which it is introduced.

(d) Biodegradable packaging

Biodegradable packaging waste shall be of such a nature that it is capable of

undergoing physical, chemical, thermal or biological decomposition such that most of the finished compost ultimately decomposes into carbon dioxide, biomass and water.

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GIVEN under my Official Seal,

7 December 2007

JOHN GORMLEY.

Minister for the Environment, Heritage and Local Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations replace the Waste Management (Packaging) Regulations 2003 as amended by the Waste Management (Packaging) (Amendment) Regulations 2004 and the Waste Management (Packaging) (Amendment) Regulations 2006 and are designed to promote the recovery and recycling of packaging waste. They are intended, in particular, to facilitate the achievement of the targets for the recovery of packaging waste established by Directive 94/62/EC on packaging and packaging waste as amended by European Parliament and Council Directive 2004/12/EC of 11 February 2004 amending Directive 94/62/EC on packaging and packaging waste, so that by 31st December 2008:

(a) a minimum of 60% of packaging waste by weight is recovered; and

(b) a minimum of 55% of packaging waste by weight is recycled in total, including material specific recycling targets as follows:

(i) 60% by weight for glass,

(ii) 60% by weight for paper and board,

(iii) 50% by weight for metals,

(iv) 22.5% by weight for plastics, and

(v) 15% by weight for wood.

The Regulations impose obligations on producers who supply packaging (i.e. packaging material, packaging or packaged products) to the Irish market. An exemption from certain obligations is available to major producers who participate in a packaging waste recovery scheme operated by an approved body.

The Regulations provide that a producer may not supply packaging or packaged products to the Irish market unless the packaging concerned complies with specified essential requirements as to its nature and composition.

The Regulations also provide for limits on the concentration levels of certain heavy metals in packaging.

1 O.J. No. L 365, 31.12.1994, page 10.

2 O.J. No. L 47, 18.02.2004, page 26.

3 O.J. No. L 114, 27.04.2006, page 9.

4 O.J. No. L 62, 02.03.2001, page 20; last amended by Commission Decision 2006/340/EC (O.J. No. L 125, 12.05.2006, page 43).

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