

Report on	Extended Producer Responsibility Obligations/Regulations update
Date of Meeting	12 th September 2023
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Is this report restricted for confidential business? If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	X

1.0	Purpose of Report
1.1	To update members on the Extended Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations.
2.0	Background
2.1	<p>The Department of Agriculture, Environment and Rural Affairs in Northern Ireland (DAERA), along with the UK Government, Scottish Government and Welsh Government, previously published joint consultations in 2019 and 2021 setting out proposals to reform the producer responsibility system for packaging. The Regulations include provisions that implement the 'polluter pays' principle by requiring obligated producers to pay the full net cost of collecting and recycling their packaging when it becomes waste.</p> <p>The draft regulations that were proposed following the consultation response are summarised below:</p> <ul style="list-style-type: none"> • Producers to pay the costs of managing household packaging waste. • Payments to councils for collection of household packaging waste, and packaging disposed of in street/litter bins. • Modulated fees to incentivise the use of recyclable packaging. • Mandatory takeback scheme (by relevant businesses) for the collection and recycling of fibre-based composite cups (disposable coffee cups). • Mandatory labelling of packaging for recyclability with single labelling • Annual packaging waste recycling targets to 2030 • Enhanced waste sampling to enable improved data on packaging waste. • Strengthened requirements on reprocessors and exporters. • Appointment of a Scheme Administrator. <p>Since early 2023 producers of packaging in the UK have been required to collect and report data on the amount and type of packaging they place on the market. This data is being used to calculate the disposal fees of collecting and sorting packaging for recycling and for the collection and disposal of packaging in residual waste and will also be used to calculate producers recycling obligations.</p>

On 25th July the UK Government and the Devolved Administrations announced there had been a decision to defer extended producer responsibility for packaging fees for one year and that EPR payments to local authorities would be delayed until October 2025 however work on the necessary regulations would continue.

3.0 Main Report

3.1 The main impacts of the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations for local authorities are:

- **Provision of recycling information and labelling**
The draft Regulations introduce a single, UK-wide approach to packaging labelling. Producers that are brand owners' packer/fillers and importers must label primary and shipment packaging using the appropriate 'Recycle Now' mark and wording (Recycle or Do Not Recycle). This will provide consumers with clear and consistent information on what packaging they can and cannot recycle.
- **Scheme Administrator calculation of producer disposal and administration fees**

The Scheme Administrator will be required to calculate producer fees based on the amount and type of household packaging the producer has supplied and the disposal and scheme administrator costs assessed. The Scheme Administrator is responsible for calculating producer disposal fees which will cover local authority household packaging waste and binned packaging waste disposal costs, and Scheme Administrator public costs.

If a producer can demonstrate they have collected and recycled packaging waste that is either not commonly collected by local authorities for recycling or is reusable packaging waste from an operational re-use system, the Scheme Administrator can offset these tonnages from a producer's disposal fee obligations, thereby reducing their disposal fees. Government is considering whether any further exemptions of such models from disposal fees should apply.

The draft Regulations also introduce a requirement for the Scheme Administrator to adjust (modulate) disposal fees based on the environmental sustainability of the packaging producers supply and require the Scheme Administrator to publish a statement of policy setting out how the adjustments will be applied.

The draft Regulations also provide the Scheme Administrator with the ability, when calculating total tonnes of packaging to estimate the amount of packaging supplied by producers which have not fully met their reporting and registration obligations. This is a discretionary provision that allows the Scheme Administrator to consider producer non-compliance when calculating producer disposal fees where this may have a material impact on compliant producers. The recalculation of cost and fees, as set out below, provides further provision to the Scheme Administrator to consider and recalculate fees based on producer non-compliance.

- **Scheme Administrator’s calculation of disposal costs and scheme administrator costs to be recovered from producers**

The draft regulations do not place any direct obligations on local authorities as primary powers do not allow for this. However, the draft Regulations limit payments to local authorities to the costs of efficient and effective packaging waste management services, protecting producers from excessive and unfair costs.

The Scheme Administrator (SA) must assess local authority costs in managing household packaging waste from Year 1. This includes assessing the necessary, efficient costs of local authority packaging waste management services. The SA must assess income earned by a local authority through the sale of packaging waste and subtract this from their efficient disposal costs in calculating net costs. If a local authority is assessed as being ineffective, and not delivering against an improvement plan, the SA can make deductions to that local authority’s assessed efficient costs to incentivise service effectiveness (up to 20% of efficient costs). When assessing the effectiveness of local authority packaging waste management services, the SA will provide authorities with the opportunity to discuss their effectiveness assessments and how their services could be improved. The SA will provide authorities with a reasonable period to deliver against their improvement plans, where produced, before taking the decision to make reductions to efficient cost payments.

The SA must provide notices to local authorities on their disposal cost assessments and payments. In addition, the SA must assess the costs it incurs in delivering public information services and separately calculate its SA costs and recover both from producers.

3.2 The Department of Agriculture, Environment and Rural Affairs (DAERA) has published a consultation on the draft Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024 on 28th July. The purpose of the consultation is to gather stakeholder views on how the policy has been reflected in the draft Regulations and to receive feedback on whether the Regulations create clear and operationally feasible obligations. The consultation deadline is the 9th October 2023 and can be accessed using the following link:

<https://consult.defra.gov.uk/extended-producer-responsibility-team/consultation-on-the-draft-producer-responsibility>

3.3 The full text of the consultation is included as an attached document. As this is primarily a technical consultation it is intended to support the response of The Local Authority Recycling Advisory Committee (LARAC) of which the Council is a member upon receipt and review of their proposed draft response in September.

4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	<p>Financial:</p> <p>The proposed Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations will have a financial impact on the Council in the form of payments made from the Scheme Administrator. The quantum of these payments are unknown at this time but are expected to be significant as they are designed to cover the Councils household packaging waste disposal costs.</p>
	<p>Human:</p> <p>The proposed Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations may have an impact on the workload of Officers in submitting information to the Scheme Administrator in relation to disposal cost payments.</p>
	<p>Risk Management:</p> <p>None</p>
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications: None
	Rural Needs Implications: None
5.0	Recommendation(s)
5.1	Members are asked to note the content of this report.
6.0	Documents Attached & References
6.1	Consultation document on the draft Producer Responsibility Obligations – (Packaging and Packaging Waste) Regulations 2024