



CROWBERRY CONSULTING

Environment, Ethics and Corporate
Responsibility Management

Packaging Regulations – FAQ's



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What is it and what does it aim to do?

- ***Producer Responsibility Obligations (Packaging Waste) Regulations 2007***

Originally came into effect at the end of August 1997 and was the first 'producer responsibility' legislation in the UK. The Packaging Waste Regulations work on the principle of '**Collective Producer Responsibility**', enforcing producers of packaging to take responsibility for their environmental impact. The Regulations require obligated producers to pay a proportion of the cost of the recovery and recycling of their packaging. Once you know your obligation, you must demonstrate that your company has paid for the recovery and recycling of the required amount of packaging. This is achieved through the Packaging Waste Recovery Note (PRN) System.

It is enforced by the Environment Agency (England and Wales), the Northern Ireland Environment Agency and SEPA in Scotland. These institutions monitor the compliance of operators and keep a public register of information relating to this regulation.

The Regulations were put in place to try to reduce the amount of packaging waste being produced. They are relatively complex and are administratively difficult to follow, but businesses who can apply the time to the scheme can potentially save considerable sums of money.

Do the regulations apply to me?

The regulations apply to businesses that produce packaging and:

1. Have an annual turnover of more than £2 million
2. Have produced or handled packaging weighing over 50 tonnes in the previous year.

Small businesses with a turnover of between £2 million and £5 million can opt for a simplified procedure.

Companies who are part of a group should be aware that the turnover and packaging handled thresholds apply to the aggregate group turnover and aggregate packaging handled by the group. Producers are defined in the regulations as:

- **Manufacturers** - businesses who make packaging materials
- **Converters** - businesses who make packaging items
- **Pack-fillers** - businesses who fill packaging
- **Importers** - businesses who import packaging
- **Sellers** - businesses who sell packaged goods

How do I register?

If you are a producer whose registered office or main place of business is in England or Wales **you should register with by 7 April in any calendar year.** You must register online using the **National Packaging Waste Database (NPWD)** (web-based database supported by the Environment Agency).

If your registered office or principal place of business is in Scotland, register with the Scottish Environment Protection Agency.

Registering in this way is one way of fulfilling your registration obligation. The other is by joining a compliance scheme. Details of how you can register or join a compliance scheme, and the relevant fees and charges, can be found in the guidance note WMP1:

http://www.environment-agency.gov.uk/static/documents/Business/WMP1yv02Dec2010_final.pdf

How can I ensure I am complying with the Regulations?

Three methods:

- 1) Individual route – the producer (your business) discharges its obligations itself. In which case it must: register with agency, provide packaging data, carry out necessary recovery and recycling and provide a certificate of compliance to the agency.
- 2) Collective scheme
- 3) Setting up your own compliance scheme – this way individual businesses are exempted from legal obligation and risk of non compliance is removed.

Your business must comply with the Packaging (Essential Requirements) Regulations if you:

- Produce packaged goods
- Design, specify or produce packaging
- Pack or fill packaging to sell
- Claim to have packed or filled packaging by putting your brand or trademark on the packaging
- Import packaging or filled packaging

The calculations for how much packaging is to be recovered/recycled can be found in Schedule 2 of the Regulations, available here:

<http://www.legislation.gov.uk/uksi/2007/871/schedule/2/made>

I am a small producer. What is the easiest way for me to comply with the Regulations?

For producers with a turnover between £2-5m who choose the 'SMALL PRODUCER' option, calculating the obligation is somewhat simpler. For 2012, you must multiply your turnover (in £millions) by 29 and use the predominant material. Therefore, a producer with a turnover in the last accounts of £4.25m and whose predominant packaging activity was in glass (a wine merchant, for instance), would have an obligation of 123 tonnes of glass.

What happens when I don't comply with the Regulations?

Companies that fail to comply can be prosecuted and fined for failure to take reasonable steps to recycle and recover. A company registered with a compliance scheme cannot be prosecuted, nor can the compliance scheme.

The Environment Agency accepted 13 enforcement undertakings between March and the end of May in 2012, mostly for breaches of the Packaging Regulations. The largest was by dried fruit and nut supplier Chelmer Foods Ltd, who donated £31,274 to the Woodland Trust in place of prosecution for a failure to obey packaging regulations.

Other firms breaching packaging regulations included restaurant chain TGI Fridays (UK) Ltd, horse racing event organiser Arena Leisure Plc, potato supplier RS Cockerill (York) Ltd and cheese maker Bradbury & Son (Buxton) Ltd.

Western Wines Ltd racked up a large fine of £225,000 for packaging offences in 2008. The Agency calculated that, by not being registered, Western Wines had avoided fees of £2,486 and recovery and recycling costs of £185,059. This was a record until soft drinks firm Red Bull was fined £261,000 in 2009.

It must be noted that ignorance is not a valid defence – arguing that the Regulations are complicated is irrelevant.

How can I demonstrate that I've complied?

Any documentation which is evidence of recovery/recycling taking place should be kept for four years.

- ❖ PRNs - the shorthand term for a kind of currency in recycling - **Packaging Waste Recovery Notes**. These are documents supplied by the Environment Agency to accredited reprocessors and show that reprocessing of a certain tonnage of packaging waste has taken place.
- ❖ PERNs - **Packaging Waste Export Recovery Notes** for exporters. Businesses need to certify that these materials are going overseas to be recovered or recycled. The environment agencies will accept PERNs as a form of recycling evidence.

These recovery notes are administrated electronically and commonly referred to as ePRNs and ePERNs. Businesses who recover and recycle waste packaging or export waste packaging for reprocessing overseas can apply to the Environment Agency to become accredited. Accredited businesses can issue and sell evidence of recycling and recovery to directly registered obligated producers and packaging compliance schemes.

You can apply if your registered office or principal place of business is in England or Wales.

Case study

A company may use large quantities of cardboard boxes – from incoming goods, for outgoing goods and for internal movements of stock. By unpacking incoming boxes carefully, the company can save money by reusing these boxes and also by packing these recycled boxes more efficiently. By doing this, it will help the company stay below the 50 tonne requirement and thus the Regulations will not apply, in addition to saving money.

How can Crowberry Consulting help you?

- Complete a packaging assessment of the company to establish incoming and outgoing packaging and optimise the use of these materials. As with the case study above, this may result in your company coming under the 50 tonne threshold and will save money on overhead costs by packaging more efficiently.
- Undertake a waste survey to establish statistics and facts of materials being used and whether they are recyclable or not.
- Provide a supply chain dialogue, with an aim of facilitating the packaging flow, for example substituting materials used by suppliers for recyclable materials.
- Signpost your company to various compliance schemes.

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