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WASTE MANAGEMENT (PACKAGING) REGULATIONS, 2003

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WASTE MANAGEMENT (PACKAGING) REGULATIONS, 2003

The Minister for the Environment and Local Government, in exercise of the powers conferred on him by sections 7, 19, 27, 28, 29 and 39 of the Waste Management Act, 1996 (No. 10 of 1996) as amended by the Waste Management (Amendment) Act, 2001 (No. 36 of 2001) hereby makes the following Regulations:-

PART 1

PRELIMINARY AND GENERAL

Citation.

1. These Regulations may be cited as the Waste Management (Packaging) Regulations, 2003.

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/EC¹ of 20 December 1994 on packaging and packaging waste.

Commencement.

3. These Regulations shall come into operation on the 1st day of March, 2003.

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.

¹ OJ No. L 365, 31.12.1994, page 10.

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

“the Act” means the Waste Management Act, 1996 (No. 10 of 1996) as amended by the Waste Management (Amendment) Act, 2001 (No. 36 of 2001);

“approved body” means a body corporate approved by the Minister in accordance with Article 17;

“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;

“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;

“packaging” constitutes packaging within the meaning of section 5 of the Act which is -

- (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;

“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;

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

“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, 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), or with any regulation replacing or amending that article;

“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);

“relevant period” means the preceding calendar year or, in the case of a first application for renewal of registration under article 10, or a first report under article 13(2), the period since the initial application for registration was made by the producer in question;

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

“supply” in relation to packaging material, packaging and packaged products includes, in the course of business, providing in exchange for any consideration including money or giving as a prize or otherwise making a gift;

“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.
- (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, 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 25 tonnes in a calendar year, and who 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 goods 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 goods on a producer’s premises, and
 - (ii) account shall not be taken of -
 - (I) packaging destined for reuse,
 - (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 to any person for the purposes of treatment, recovery or disposal.

PART 11

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 to a producer of packaging material, packaging or 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 to a producer of packaging material, packaging or products of a type or brand, to which the packaging waste in question relates, or
 - (I) 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 for the purposes of recovery in accordance with sub-article (1)(a)(i) shall not be disposed of by that recovery operator or by any other person.
- (2) Sub-article (2) shall not prejudice the disposal of residual waste arising out of any recovery operation.
- (2) 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.
- (2) A person shall not contaminate specified packaging waste.
- (2) 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 the facilitate the recovery or disposal of that waste, and a producer shall comply with such a direction.

Information on the weight of packaging.

6. 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.

7.
 - (1) For the purposes of articles 5 and 9, 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)(a), 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 22.

8. The provisions of articles 9 to 14 and article 22 shall apply to all major producers unless such producers are exempt in accordance with article 15.

Requirements on major producers to recover packaging waste.

9.
 - (1) A major producer shall -
 - (a) fix and maintain in a conspicuous position at or near each entrance to a premises to which members of the public have access and 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 First Schedule (unless a notice is being displayed in accordance with sub-article (5));

- (b) subject to sub-article (7), 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 (7), provide facilities at each premises specified in paragraph (a) whereby customers may remove and deposit packaging from products or substances purchased at that premises;
 - (d) subject to sub-article (7), accept from any person, free of charge, at each 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 facilities to be provided for the purpose of sub-articles (1)(b) and (1)(c) shall be commensurate with the number of customers which normally frequent the premises concerned, and the purpose, location, and availability of such facilities shall be notified or advertised in a conspicuous position, at or near each entrance to the premises concerned, to which members of the public have access in such manner as to be clearly evident to customers.
- (3) (a) A major producer who is an importer of packaged goods 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 collected by that major producer is not less than 50% of the aggregate weight of packaging material and packaging imported or packed/filled by the producer and supplied by that major producer in the preceding quarterly period;
- (b) Without prejudice to the generality of paragraph (a), such steps may include:
- (i) accepting or collecting packaging waste from customers of the major producer, or from any other person,
 - (i) 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,
 - (i) giving the notice referred to in sub-paragraph (ii) or drawing the attention of the public, or of business, to the notice, through other forms of broadcast or electronic media;

- (c) 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 this article;
 - (c) Where a major producer purchases packaging waste from any other source for the purpose of fulfilling its obligations under this sub-article, it shall keep a record of the type, amount and source of such packaging waste and shall include that information in the quarterly report to local authorities under article 12;
 - (e) In this sub-article, “packer/filler” means a producer who puts products into packaging for the purpose of supply.
- (4) (a) A major producer shall not be required under sub-article (1) to accept packaging waste at a premises in any quarterly period where such major producer has in that period accepted at that premises an amount of packaging waste, the aggregate weight of which exceeds the aggregate weight of packaging material and packaging supplied by the major producer from the premises in the preceding quarterly period, and such major producer complies with the requirements of sub-article (5)(a);
- (b) A major producer to whom sub-article (6) applies shall not be required under sub-article (1) to accept packaging waste at a premises in any quarterly period where such major producer, has in that period accepted at that premises an amount of packaging waste, the aggregate weight of which exceeds the aggregate weight of packaging material and packaging supplied by the major producer within the functional area of the relevant local authority in the preceding quarterly period, and such major producer complies with the requirements of sub-article (5)(a);
- (c) A major producer shall not be required under sub-article (1) to accept or collect packaging waste in any quarterly period where such major producer has in that period accepted and collected an amount of packaging waste, the aggregate weight of which exceeds the aggregate weight of packaging material and packaging supplied by the major producer in the preceding quarterly period, and such major producer complies with sub-article (5)(b).
- (5) (a) A major producer who proposes in accordance with sub-article (4)(a) or (4)(b) not to accept packaging waste at a premises shall -
- (i) apply to the local authority in whose functional area the premises is situate for authorisation to cease to accept such waste and shall not cease to accept such waste at the premises concerned unless so authorised in writing by the said local authority, and

- (i) not less than one day before ceasing to accept such waste at the premises, fix and maintain, in a conspicuous position at or near each entrance to the premises to which members of the public have access, a notice complying with the requirements specified in Part 2 of the First Schedule;
- (b) A major producer who proposes in accordance with sub-article (4)(c) not to accept or collect packaging waste shall -
 - (i) seek the authorisation of the local authority in whose functional area the principal place of business of such major producer is situate and shall not cease to accept or collect packaging waste unless so authorised in writing by the said local authority, and
 - (i) not less than one day before ceasing to accept such waste at a premises or to collect such waste -
 - (I) fix and maintain, in a conspicuous position at or near each entrance to the premises to which members of the public have access, a notice complying with the requirements specified in Part 2 of the First Schedule, and
 - (II) send a copy of the authorisation to the relevant local authority in respect of each area in which the major producer carries on business;
- (c) A local authority -
 - (i) shall give a decision on an application for authorisation within five working days of receipt of the application, and
 - (ii) shall not issue an authorisation under this sub-article unless it is satisfied that the authorisation is warranted having regard to the provisions of sub-article (4).
- (6) 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) (other than paragraph (c) of that sub-article), acquire or otherwise obtain the use of a premises located in each City and County 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.
- (7) (a) A major producer may fulfil the requirements of sub-articles 1(b), 1(c), 1(d), (3), (4), (5) and (6) either individually, or collectively with other major producers located within the City or County 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), (4), (5) and (6) collectively, they shall notify the relevant local authority of such intention when applying for registration in accordance with article 10, or where it is decided to act collectively at a later date, at least 4 weeks before any agreement to act collectively is intended to come into effect;
- (c) Where major producers intend to act collectively, they may nominate one of the major producers for the purposes of making an application to a local authority in accordance with sub-article (5)(a)(i) or (5)(b)(i);
- (d) Notification in accordance with paragraph (b) shall identify the major producers which propose to act collectively and any nominated major producer in accordance with paragraph (c);
- (e) 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-article 1(b) shall not be more than 250 metres from the premises of any major producers participating in a collective scheme.

Registration and certification of major producers.

10. (1) Subject to article 15, a major producer shall, in respect of each premises specified in article 9(1)(a) -
 - (a) apply for registration to the local authority in whose functional area the premises is situate not later than 1 April 2003 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 31 January in each year following initial registration, subject only that a major producer shall not be required to make such application within six 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 11 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.
- (3) A major producer shall not be deemed to have renewed his registration in respect of a specified period until a Certificate of Renewal of Registration has issued by the local authority to which the application for renewal of registration was submitted.

- (3) 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 plan submitted for the purposes of article 13 or, as the case may be, failed on a consistent basis to achieve the target specified in article 9(3).

Application for registration or renewal of registration.

11. (1) An application for registration under article 10 shall be made in writing, shall contain at least the information set out in Part 1 of the Second Schedule and shall be accompanied by a copy of the plan required to be prepared under article 13.
- (2) An application for renewal of registration under article 10 shall be made in writing, shall contain at least the information set out in Part 2 of the Second Schedule, and shall be accompanied by a copy of the report required to be prepared under article 13, and where appropriate, by a copy of a new plan prepared in accordance with article 13(4).
- (3) An application for registration or for renewal of registration under article 10 shall be accompanied by a fee equivalent to ₦15 per tonne of packaging and packaging material which –
- (i) 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,
 - (ii) 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,

- (iii) 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 a fee shall not be less than ₨500, and not more than ₨5,000, in respect of a premises.
- (4) A major producer shall notify the relevant local authority of any changes to the information provided in, as the case may be, an application for registration or the last preceding application for renewal of registration.

Information to local authority.

- 12. (1) With effect from the date of registration in accordance with article 10, a major producer shall, within ten days of the end of each quarterly period, compile and submit to the relevant local authority the information set out in Part 3 of the Second Schedule.
- (2) 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 information compiled and submitted in accordance with sub-article (1).
- (3) The information to be submitted by a major producer to a local authority under sub-article (1) shall, where the relevant local authority so requires, be in a form specified by the authority.

Plans and reports.

- 13. (1) A major producer shall, not later than the date on which application for registration is made under article 10 -
 - (a) prepare a 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 at or near each entrance to which members of the public have access at each premises specified in article 9(1)(a), a notice complying with the requirements specified in Part 3 of the First Schedule.
- (2) A major producer shall, not later than the date on which application for renewal of registration is made under article 10 -
 - (a) prepare a report specifying the steps taken by the said major producer in order to comply with the requirements of these Regulations in the relevant period, and the results of those steps, and

- (b) fix and maintain, in a conspicuous position at or near each entrance to which members of the public have access at each premises specified in article 9(1)(a), a notice complying with the requirements specified in Part 4 of the First Schedule.
- (3) A report under sub-article (2)(a) shall contain at least the information set out in Part 4 of the Second Schedule.
- (4) A major producer shall at least once every 3 years, and not later than the date on which application for renewal of registration is made under article 10, prepare a new plan under sub-article (1)(a).
- (5) A copy of a plan or 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 plan or report, as the case may be, by post, fax or electronic mail to a person who so requests.

Application of requirements.

- 14. (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 maintain and provide information under article 12 shall apply in respect of each such premises as a separate entity, and
 - (b) a plan or report required to be prepared and published under article 13 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 9, 10 and 12, the aggregate weight of packaging material and packaging supplied by a major producer, account shall not be taken of -
 - (a) packaging destined for reuse,
 - (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 to any person for the purposes of treatment, recovery or disposal.

PART IV
APPROVED BODIES

Exemption from certain requirements.

15. (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 9 to 13 and 22 unless and until -
- (a) such certification is revoked by the approved body concerned or otherwise ceases to have effect/be in force, or
 - (b) approval granted by the Minister to the body concerned is revoked in accordance with article 18.
- (2) A producer to whom sub-article (1) applies shall, only for as long as such producer is so exempt, fix and maintain, in a conspicuous position at or near each entrance to which members of the public have access at each premises specified in article 9(1)(a), a notice complying with the requirements specified in Part 5 of the First Schedule.

Application to the Minister for approval.

- 16 (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 -
- (i) a copy of the articles of association of the body corporate or association,
 - (ii) proposals for a scheme to be undertaken by the body corporate or association for the recovery of packaging waste,
 - (iii) a financial plan in relation to the proposed scheme,
 - (iv) annual packaging waste recovery targets to be achieved under the proposed scheme,
 - (v) proposals for the certification of producers for the purpose of article 15,
 - (vi) proposals for determining and verifying the level of recovery of packaging waste under the proposed scheme, and

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

Grant or refusal of approval.

17. (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 18, an approval granted by the Minister under this article shall be for a period of not less than five years and not more than 10 years.
- (3) An approval under sub-article (1) may be subject to such conditions as the Minister may specify, including conditions relating to -
- (a) measures to be undertaken by the body concerned or by producers participating in a scheme with regard to the recovery of packaging waste,
 - (b) targets to be achieved by the body concerned with regard to the recovery of packaging waste,
 - (c) determination and verification of the effects of measures undertaken with regard to the recovery of packaging waste,
 - (d) measures to be undertaken by the body concerned relating to the dissemination of information to the public regarding packaging and the recovery of packaging waste, and
 - (e) 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.
- (4) The Minister may, by notice in writing, from time to time vary any condition attached to an approval under this article.

Review and Revocation of approval.

18. (1) Subject to sub-article (2), where it appears to the Minister that new packaging waste recovery targets need to be met, or where relevant packaging waste recovery 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 17, or require the approved body to make a new application under article 16 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 article 17, 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 16, 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 17, as the case may be.
- (3) Where an approval under article 17 is due to expire, an approved body that wishes to continue to operate as an approved body shall, not later than 4 months before the expiry of an approval, make an application to the Minister under article 16.
- (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 targets have not been or are not being met, the Minister may revoke an approval granted under article 17.
- (6) Where the Minister proposes to revoke an approval granted under article 17, 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.

19. 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 15.

Notifications to local authorities.

20. 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 15 has been granted or revoked within the preceding calendar month.

PART V

LOCAL AUTHORITY FUNCTIONS

Enforcement by local authorities.

21. 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.

22. (1) Subject to article 15 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 four weeks -
 - (a) a packaging report in respect of a specified period,
 - (b) such information as may be specified in the notice regarding the use 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) For the purpose of this article, “packaging report” means a report, compiled on behalf of a producer by a person approved for that purpose

by the relevant local authority, certifying in respect of a specified period the nature and weight of –

- (a) packaging material and packaging received and supplied by a producer, and
- (b) packaging waste -
 - (i) produced or received by a producer,
 - (ii) taken back by other producers,
 - (iii) recovered by or on behalf of the producer, and
 - (v) collected for recovery by recovery operators.

Entries in a local authority register.

23. (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 receipt of an application for authorisation under article 9(5) and the decision of the local authority in respect of that application,
 - (b) the registration or renewal of registration of a major producer by the local authority in accordance with article 10,
 - (c) the giving of a notice under article 22.
- (2) Information received by a local authority in accordance with articles 10, 12 and 22 shall be made available at the principal office of the local authority concerned for inspection by any person during office hours.

PART VI

ESSENTIAL REQUIREMENTS OF PACKAGING

Essential requirements of packaging.

24. (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 Third Schedule.

- (2) Packaging shall be deemed to comply with the requirements of the Third 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 Third Schedule.

Concentration of heavy metal in packaging and packaging material.

25. (1) Subject to sub-article (2), and in accordance with Commission Decision 2001/171/EC², 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 –
- (i) no lead, cadmium, mercury or hexavalent chromium has been intentionally introduced during the manufacturing process, or
 - (ii) the concentration levels have only been exceeded because of the addition of recycled materials.
- (3) Where the average heavy metals concentration levels on any twelve 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 Environmental Protection Agency which shall include, as a minimum, the following information –
- (i) a measure of the values taken,
 - (ii) a description of the measurement methods employed,
 - (iii) suspected sources for the presence of the heavy metals concentration levels, and
 - (iv) 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 Environmental Protection Agency in accordance with sub-article (3).

² OJ L 62, 2.3.2001, p. 20

- (5) The Environmental Protection 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.
- (7) For the purposes of this article, "intentionally introduced" means 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.

PART VII

MISCELLANEOUS

Onus of proof on a producer.

- 26. In a prosecution for a contravention of articles 9, 10, 12 or 13 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.

- 27. 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.

Constituent materials in packaging waste.

28. For the purpose of separating packaging waste into specified 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.

29. The Regulations of 1997 are hereby revoked from the date of commencement of these Regulations.

Transitional.

30. (1) A producer who has registered with a local authority in the year 2003 in accordance with article 6 of the Regulations of 1997 shall be deemed to have registered for the year 2003 under these Regulations.
- (2) A body or association which was granted approved body status by the Minister under article 15 of the Regulations of 1997 shall remain an approved body for the purposes of these Regulations, with the same conditions attaching as to the original approval, unless otherwise amended or revoked.

Application of Waste Management (Collection Permit) Regulations, 2001.

31. 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 1997 Regulations shall be deemed to be reference to Article 5 of these Regulations.

FIRST SCHEDULE
REQUIREMENTS REGARDING NOTICES

PART 1 - Requirements regarding a notice under article 9(1)(a).

A notice for the purpose of article 9(1)(a) shall –

- (a) be not less in dimension than 40 centimetres in height and 30 centimetres in width,
- (b) be so printed and affixed, on a durable material, so as to be easily visible and legible, and
- (c) state the following -

“ WASTE MANAGEMENT ACT, 1996

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 9(5)(a).

A notice for the purpose of article 9(5)(a) shall –

- (a) be not less in dimension than 40 centimetres in height and 30 centimetres in width,
- (b) be so printed, on a durable material so as to be easily visible and legible,
- (c) state the following -

“ WASTE MANAGEMENT ACT, 1996

The acceptance of packaging waste on these premises, for the purpose of recovery will be temporarily suspended from [date] and will resume on the 1st of [month and year]. This temporary suspension has been authorised by (name of local authority). ”

and

- (d) be affixed until the second date specified therein.

PART 3 - Requirements regarding a notice under article 13(1)

A notice for the purpose of article 13(1) shall –

- (a) be not less in dimension than 40 centimetres in height and 30 centimetres in width,
- (b) be so printed, on a durable material, so as to be easily visible and legible,
- (c) state the following -

“ WASTE MANAGEMENT ACT, 1996

A 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

- (d) be affixed until the preparation of a subsequent report under article 13(2).

PART 4 - Requirements regarding a notice under article 13(2)

A notice for the purpose of article 13(2) shall –

- (a) be not less in dimension than 40 centimetres in height and 30 centimetres in width,
- (b) be so printed, on a durable material, so as to be easily visible and legible, and
- (c) state the following –

“ WASTE MANAGEMENT ACT, 1996

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

PART 5 - 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,
- (b) be so printed and affixed, on a durable material, so as to be easily visible and, and
- (c) state the following -

“ WASTE MANAGEMENT ACT, 1996

[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. ”

SECOND SCHEDULE

INFORMATION TO BE COMPILED AND PROVIDED

PART 1 - Information to be provided for the purpose of registration [Article 11(1)].

1. Name(s), address, telephone, electronic mail address and fax number of the registered office or, if not a company, the principal place of business, of the producer.
2. Name and address(es) of owner(s).
2. Nature of business conducted.
2. 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 9(2) applies).
2. Where appropriate -
 - (i) the estimated weight of -
 - (a) packaging intended for reuse, and
 - (b) other packaging and packaging material,received and/or supplied in the twelve month period prior to the date of application, in each of the specified categories;
 - (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.

PART 2 - Information to be provided for the purpose of renewal of registration [Article 11(2)].

1. Name(s), address, telephone, electronic mail address and fax number of the registered office or, if not a company, the principal place of business, of the producer.

2. The weight of packaging and packaging material received and supplied in the period in each of the specified categories.
3. The name and address of producers from whom packaging and packaged products was/were received in the relevant period.
4. The weight of packaging waste accepted or collected in the relevant period, in each of the specified categories.
5. The name and address of any producer who accepted the transfer of packaging waste from the producer concerned in the relevant period, and the weight of such waste so accepted by each such producer.
6. Recovery operators used for the recovery of packaging waste during the relevant period for the purposes of article 5(1)(a).
7. The weight of packaging waste -
 - (a) recovered by or on behalf of the producer, and
 - (a) accepted by recovery operators,in the relevant period, in each of the specified categories.
8. The weight of packaging waste disposed of or consigned for disposal by the producer during the relevant period, in each of the specified categories, and the nature of the disposal operations involved.

**PART 3 - Information to be compiled and maintained by registered producers
[Article 12].**

1. The weight of packaging and packaging material received and supplied in each of the specified categories in the preceding quarterly period.
2. The name and address of producers from whom packaging and packaged products was/were received in the preceding quarterly period.
3. The weight of packaging waste accepted or collected in each of the specified categories in the preceding quarterly period.
4. The name and address of any producer who accepted the transfer of packaging waste from the producer concerned, and the weight of such waste so accepted by each such producer, in the preceding quarterly period.
5. The weight of packaging waste -
 - (a) recovered by or on behalf of the producer, and/or

(a) accepted by each recovery operator,

in each of the specified categories in the preceding quarterly period.

6. The weight of packaging waste disposed of, or consigned for disposal, by the producer in each of the specified categories, and the nature of the disposal operations involved, in the preceding quarterly period.

**PART 4 - Information to be provided in a report for public information
[Article 13(3)].**

1. Name(s), address, telephone, electronic mail address and fax number of the registered office or, if not a company, the principal place of business, of the producer.
2. The location of premises at which packaging or packaged products are produced by the producer.
3. The weight of packaging and packaging material received in the relevant period in each of the specified categories.
4. The weight of packaging waste accepted by the producer in the relevant period in each of the specified categories.
5. The weight of packaging waste the transfer of which was accepted by other producers in the relevant period.
6. Recovery operators used for the recovery of packaging waste during the relevant period for the purposes of article 5(1)(a).
7. The weight of packaging waste -
 - (a) recovered by or on behalf of the producer, and
 - (a) accepted by recovery operators,in the relevant period, in each of the specified categories.
8. The weight of packaging waste disposed of or consigned for disposal by the producer in each of the specified categories during the relevant period, and the nature of the disposal operations involved.

THIRD 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.

1. *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.

1. *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.

Given under the Official Seal of
the Minister for the Environment
and Local Government this 19th day
of February, 2003

L. S.

MARTIN CULLEN

Minister for the Environment 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, 1997 and are designed to promote the recovery 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, so that by December 2005:

- (a) between 50% and 65% of packaging waste by weight is recovered; and
- (b) between 25% and 45% of packaging waste by weight is recycled in total, including 15% by weight for individual packaging materials.

The Regulations impose obligations on producers who supply packaging (i.e. packaging materials, packaging or packaged goods) 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.