

WASTE MANAGEMENT (FARM PLASTICS) REGULATIONS, 1997

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SCHEDULE

S.I. No. 315 of 1997.

The Minister for the Environment, in exercise of the powers conferred by sections 7 of the Waste Management Act, 1996 (No. 10 of 1996), hereby makes the following Regulations:

PART I

PRELIMINARY AND GENERAL

REG 1

Citation and commencement.

1. (1) These Regulations may be cited as the Waste Management (Farm Plastics) Regulations, 1997.

(2) These Regulations shall come into operation on the 1st day of August, 1997.

REG 2

Interpretation.

2. (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 Act, 1996:

"approved body" means a body corporate or association approved by the Minister in accordance with article 15;

"farm plastics" means sheeting, bale wrap or bale bags composed mainly of polyolefins including polyethylene, polypropylene or polyvinyl chloride, which is or are suitable for use for the conservation of fodder:

"offer and make available for recovery" in relation to farm plastics waste means

(a) segregate such farm plastics waste into the specified categories for the purpose of facilitating the recovery of said waste, and

(b) take reasonable steps to notify persons engaged in waste recovery (in these Regulations referred to as "recovery operators") of the availability, nature, amount and location of such farm plastics waste, and

(c) offer to provide such farm plastics waste to a recovery operator free of charge, and

(d) store such waste for a period of not less than four weeks after notification under paragraph (b), or until it is collected by a recovery operator, whichever is the earlier;

"purchaser" means a person within the State to whom farm plastics are supplied;

"recovery operator" means a person referred to in the definition of "offer and make available for recovery";

"relevant period" means the preceding calendar year or, in the case of a first application for renewal of registration under article 8 or a first report under article 11(2), the period since the initial application for registration was made by the producer in question;

"specified categories" in relation to farm plastics waste means sheeting, bale wrap and bags;

"supplier" means a person who, for the purpose of trade or otherwise in the course of business, imports, manufactures, sells or otherwise supplies to other persons farm plastics or goods wrapped in farm plastics;

"supply" includes the supply of farm plastics in association with the cutting of grass, the conservation of fodder or the provision of any similar or related service and includes, for the purpose of trade or otherwise in the course of business, providing in exchange for any consideration other than money or giving as a prize or otherwise making a gift.

(4) For the purposes of these Regulations, 'producer' is hereby specified, under and in accordance with section 27 of the Act. to mean a supplier who, for the purpose of trade or otherwise in the course of business, imports or manufactures farm plastics for supply to other persons.

PART II

PRODUCER RESPONSIBILITY OBLIGATIONS

REG 3

Deposit and refund scheme.

3. Subject to article 13, a producer of farm plastics shall operate a deposit and refund scheme in relation to farm plastics which are imported or manufactured by the producer and supplied by the producer to persons within the State and for this purpose

(a) a producer shall require each purchaser of such farm plastics to pay to the producer a refundable deposit of money in relation to such farm plastics supplied by the producer to the purchaser,

(b) the amount of a refundable deposit shall be calculated at a rate equivalent to £200 per tonne of such farm plastics so supplied,

(c) a producer shall, upon the return by any person of such farm plastics to the producer, repay to that person an amount which is equal to the deposit, or proportion of the deposit, paid to the producer in respect of the farm plastics so returned,

(d) a producer shall obtain a written statement from each person who returns such farm plastics of the amount by weight of farm plastic so returned by the person and shall retain such statements for a period of not less than two years,

(e) a producer shall not repay in whole or in part a deposit of money paid to the producer in accordance with this article in respect of farm plastics unless the farm plastics have been returned to the producer, and

(f) farm plastics will be regarded as being returned to a producer on the transfer of the farm plastics to the producer or to any person collecting such farm plastics on behalf of the producer.

REG 4

Waste collection obligations.

4. (1) Subject to article 13, a producer shall, in accordance with this article and without imposing any charge for so doing, collect or arrange for the collection of farm plastics which were imported or manufactured by the producer and supplied to persons within the State.

(2) The requirement on a producer under sub-article (1) to collect or arrange for the collection of farm plastics which were imported or manufactured by the producer and supplied to persons within the State shall apply in relation to such farm plastics which are held within the State by any person who makes a request to the producer to collect such farm plastics.

(3) A producer shall, within six weeks of receipt of a request from a person in accordance with sub-article (1), collect or arrange for the collection of the farm plastics to which the request relates from the place at which such farm plastics are held by that person, save as may be otherwise agreed between the producer and that person.

(4) The obligation under sub-article (1) to collect or arrange for the collection of farm plastics includes the obligation to transport or arrange for the transportation of, and to accept control of, such farm plastics.

REG 5

Provision of information to purchasers.

5. Subject to article 13, a producer shall, in relation to farm plastics imported or manufactured by the producer and supplied by the producer to persons within the State, provide a statement in writing to each such person indicating that the producer is obliged (a) to repay to any person who returns such farm plastics to the producer the amount of the deposit paid in respect of the farm plastics so returned, and

(b) to collect or arrange for the collection of such farm plastics from the place at which they are held within six weeks of receipt of a request by any person who holds such farm plastics within the State, save as may be otherwise agreed between the producer and that person.

REG 6

Waste recovery obligations.

6. A producer shall take such steps as are necessary to ensure that farm plastics waste collected in accordance with this Part is

(a) recovered by or on behalf of that producer or by a recovery operator, or

(b) offered and made available for recovery.

REG 7

Prevention of environmental pollution.

7. A producer shall use such containers and other equipment, and provide or otherwise obtain the use of such premises, as may be necessary to ensure that farm plastics waste which has been collected in accordance with this Part is handled and stored in a manner which does not cause, and is not likely to cause, environmental pollution.

REG 8

Registration of producers.

8. (1) Subject to article 13, a producer shall

(a) apply for registration to each local authority in whose functional area the producer supplies or intends to supply farm plastics, not later than the date of commencement of these Regulations or the date of commencement of business, whichever is the later, and

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

(2) A local authority shall register a producer who makes an application to that authority in accordance with article 9.

REG 9

Application for registration or renewal of registration.

9. (1) An application for registration under article 8 shall be made in writing, in such form as may be specified by the relevant local authority, shall contain at least the information set out in Part 1 of the Schedule and shall be accompanied by a copy of the plan required to be prepared under article 11(1).

(2) An application for renewal of registration under article 8 shall be made in writing, in such form as may be specified by the relevant local authority shall contain at least the information set out in Part 2 of the Schedule and shall be accompanied by a copy of the report required to be prepared under article 11(2).

(3) An application under article 8 shall be accompanied by a fee of £100.

(4) A 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.

REG 10

Records and Information.

10. (1) With effect from the date of commencement of these Regulations, or the date of commencement of business, whichever is the later, a producer shall, subject to article 13, compile and

maintain the information set out in Part 3 of the Schedule, and shall submit a monthly statement of such information to the relevant local authority, in such form as may be specified by that authority, within 10 days of the end of each month.

(2) It shall be the responsibility of the relevant 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 maintained in accordance with sub-article (1).

REG 11

Plans and reports.

11. (1) Subject to article 13, a producer shall, not later than the date on which application for registration is made under article 8, prepare a plan specifying the steps to be undertaken by the said producer in order to comply with the requirements of these Regulations.

(2) Subject to article 13, a producer shall, not later than the date on which application for renewal of registration is made under article 8, prepare a report specifying the steps taken by the said producer in order to comply with the requirements of these Regulations in the relevant period, and the results of those steps.

(3) A report under sub-article (2) shall contain at least the information set out in Part 4 of the Schedule.

(4) A copy of a plan or report prepared for the purpose of this article shall—

(a) not later than the relevant date, be sent to the persons specified in Part 5 of the Schedule, and

(b) be made available, free of charge, by the producer concerned to any person who so request.

(5) For the purpose of this article, "made available" includes sending the plan or report, as the case may be, by post to a person who so requests.

REG 12

General duty regarding recovery operators.

12. (1) For the purposes of Article 6 a producer shall ensure that a person purporting to be a recovery operator is engaged in bona fide waste recovery activities.

(2) In a prosecution for a contravention of sub-article (1), it shall be a good defence to prove that the accused took all reasonable steps, including the making of reasonable enquiries, to establish that a person concerned was a bona fide recovery operator.

PART III

APPROVED BODIES

REG 13

Exemption from regulatory requirements.

13. 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 farm plastics waste, shall be exempt from the requirements of Part II and articles 20 and 21 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 16.

REG 14

Application for approval by the Minister.

14. (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 purposes of recovery of farm plastics waste.
- (iii) a financial plan in relation to the proposed scheme.
- (iv) annual farm plastics waste recovery targets to be achieved under the proposed scheme,
- (v) proposals for the certification of producers for the purpose of article 13,
- (v) proposed measures for determining and verifying the level of recovery of farm plastics waste under the proposed scheme. and
- (vii) such other information as may be specified by the Minister for the purpose of this article.