

## STATUTORY INSTRUMENTS

S.I. No. 871 of 2004

### WASTE MANAGEMENT (PACKAGING) (AMENDMENT) REGULATIONS, 2004

The Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on him by sections 7, 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) and Part 3 of Environment Act, 2003 (No. 27 of 2003), hereby makes the following Regulations: -

1. (1) These Regulations may be cited as the Waste Management (Packaging) (Amendment) Regulations, 2004.

(2) These Regulations shall come into operation on the 30th day of December, 2004.

2. The Waste Management (Packaging) Regulations, 2003 (S.I. No. 61 of 2003) are hereby amended by -

(a) the insertion in article 4(3) after the definition of "plastic sheeting" of the following definition —

"purchase" in relation to packaging waste means providing, in the course of business, in exchange for any consideration, including money, or giving as a prize or otherwise making a gift;

(b) the substitution of the following paragraph for paragraph (a) of article 9(1) —

"(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 First Schedule;"

(c) the substitution of the following paragraph for paragraph (d) of article 9(1) -

"(d) subject to sub-article (7), 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";

(d) the substitution of the following sub-article for sub-article 9(2) —

"(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, at or near each entrance to each premises, in such manner as to be clearly visible to members of the public.";

(e) the addition after article 9(7) of the following sub-article —

"(8) A major producer shall, during the months of March and September in each calendar year, 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 6 of the First Schedule.";

(f) the substitution of the following paragraph for paragraph (b) of article 10(1) —

"(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 four months of initial registration.";

(g) the addition after article 10(6) of the following sub-articles -

"(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";

(h) the substitution of the following sub-article for sub-article 11(3) —

"(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 placed on the market, 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 fee shall be not less than €500, and not more than €15,000, in respect of a premises.";

(i) the substitution of the following sub-article for sub-article 13(1) —

"(1) A major producer shall, not later than the date on which application for registration is made under article 10 —

(a) prepare a three year 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 9(1)(a) a notice complying with the requirements specified in Part 3 of the First Schedule.";

(j) the substitution of the following sub-article for sub-article 13(2) —

"(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 preceding registration period, and the results of those steps,

(b) prepare a revised three year 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 on article 9(1)(a) a notice complying with the requirements specified in Part 4 of the First Schedule.";

(k) the substitution of the following sub-article for sub-article 14(2) —

"(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,
- (c) packaging waste supplied by a recovery operator to any person for the purposes of treatment, recovery or disposal, and
- (d) packaging waste, other than packaging destined for reuse, which is returned by a producer to the manufacturer or supplier of such packaging for the purpose of being reprocessed by the manufacturer or supplier concerned into similar packaging for subsequent use for the same purpose.";

(l) the addition after article 14(2) of the following sub-article —  
"(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 10, 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.";

(m) the substitution of the following sub-article for sub-article 15(2) —

"(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 9(1)(a), a notice complying with the requirements specified in Part 5 of the First Schedule.";

(n) the substitution of the following sub-article for sub-article 22(5) —

"(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, and in respect of all premises operated by that producer in the State supplying packaging material, packaging or packaged products, 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
- (iv) collected for recovery by recovery operators.";
- (o) the substitution of the following Part for Part 4 of the First

Schedule -

13(2)

**"Part 4 — Requirements regarding a notice under article**

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

width,

- (a) be not less than 40 centimetres in height and 30 centimetres in

and legible, and

- (b) be so printed, on a durable material, so as to be easily visible

(c) state the following —

" WASTE MANAGEMENT ACT, 1996

The following documentation is available at these premises -  
 (i) A 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 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."

- (p) the addition of the following Part after Part 5 of the First

Schedule —

**"Part 6 — Requirements regarding a notice under article 9(8)**

A notice for the purpose of article 9(8) shall state the following —

" WASTE MANAGEMENT ACT 1996

[Name of producer]

[Address of premises]

We are required to accept at the above 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].";

- (q) the substitution of the following Schedule for the Second

Schedule —

**"SECOND SCHEDULE**

**INFORMATION TO BE COMPILED, MAINTAINED AND**

**SUBMITTED**

**PART 1 - Information to be provided for the purpose of**

**registration [Article 11(1)].**

1. Name(s), address, telephone number, 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(s) and address(es) of owner(s).

3. Nature of business conducted.

4. 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).

5. 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 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 goods or products imported and supplied by the producer, and

(b) on goods or products pack-filled by the producer.

6. A three year 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 [Article 11(2)].**

1. Name(s), address, telephone number, 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 preceding registration 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 registration period.

4. The weight of packaging waste accepted and/or collected in the preceding registration period, in respect of each type of packaging material.

5. Where appropriate, the estimated weight of packaging -

(i) goods or products imported and supplied by the producer, and  
(ii) on goods or products pack-filled by the producer.

6. 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.

7. Details of the recovery operators (including details of their authorised collection permits) used for the recovery of packaging waste during the preceding registration period for the purposes of articles 5(1)(a) and 9(2).

8. The weight of packaging waste -

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

(b) accepted by recovery operators,

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

9. The name and address of any producer from whom packaging waste was purchased, either directly or indirectly, in the preceding registration period for the purposes of fulfilling the obligations of article 9(3), the weight of such purchased packaging waste by packaging material type, and any relevant corroboratory documentation in support of such transactions.

10. 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.

11. Copies of any notices placed in newspapers circulating in the functional area of the local authority concerned for the purposes of article 9(8) in the preceding registration period.

12. A report specifying the steps taken to comply with the Regulations in the preceding registration period.

13. A revised three year 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 compiled, maintained and submitted by registered producers [Article 12].**

1. Name(s), address, telephone number, 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 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 accepted and/or collected 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 authorised collection permits) used during the preceding quarterly period for the purposes of articles 5(1)(a) and 9(2).

7. The weight of packaging waste -  
(a) recovered by or on behalf of the producer, and/or  
(b) accepted by each recovery operator,  
in respect of each type of packaging material in the preceding quarterly period.

8. The name and address of any producer from whom packaging waste was purchased, either directly or indirectly, in the preceding quarterly period for the purposes of fulfilling the obligations of article 9(3), the weight of such purchased packaging waste by packaging material type, and any relevant corroboratory documentation in support of such transactions.

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.

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

1. Name(s), address, telephone number, 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 supplied by the producer (including a premises to which article 9(2) applies).

3. The weight of packaging and packaging material received in the preceding registration period, in respect of each type of packaging material.

4. The weight of packaging waste accepted and/or collected 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 authorised collection permits) used for the recovery of packaging waste during the preceding registration period for the purposes of articles 5(1)(a) and 9(2).

7. The weight of packaging waste -  
(a) recovered by or on behalf of the producer, and  
(b) accepted by recovery operators,  
in respect of each type of packaging material in the preceding registration period.

8. The name and address of any producer from whom packaging waste was purchased, either directly or indirectly, for the purposes of fulfilling the obligations of article 9(3) 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 report specifying the steps taken to comply with the Regulations in the preceding registration period.

11. A revised three year 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."

Given under the Official Seal of the Minister for the Environment, Heritage and Local Government this 21st day of December, 2004

L. S.

DICK ROCHE

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 amend the Waste Management (Packaging) Regulations, 2003 (S.I. No. 61 of 2003), which are aimed at promoting the recovery of packaging waste and facilitating the achievement of packaging waste recovery targets established by European Parliament and Council Directive 94/62/EC on packaging and packaging waste. In particular, these Regulations —

(a) increase the maximum fee applicable to major producers of packaging who register with local authorities for the purposes of fulfilling their obligations under the Regulations other than by participating in an approved scheme from €5,000 to €15,000,

(b) require major producers to publish notices, during the months of March and September each year, in one or more newspapers circulating in the functional area of the local authority in which their premises from which they supply packaging or packaged products is located of the obligation of such major producers to accept from any person free of charge packaging waste of a type or brand supplied by such major producers,

(c) require local authorities to publish notices, at least once in every calendar year, in one or more newspapers circulating in their respective functional areas publicising details of major producers of packaging who have registered with them for the purpose of fulfilling their obligations under the Regulations, including the obligation to accept from any person free of charge packaging waste of a type or brand supplied by such major producers.