

# **Producer Responsibility (Packaging Waste) Regulations 2007 - ignore them at your peril (and possibly substantial cost)**

***Better known as the 'Waste Packaging Regulations', these are a reincarnation of those first introduced in 1997. It is therefore a matter of some considerable concern that there are apparently still a significant number of businesses who are either ignorant of their existence, or who are failing to comply.***

The 2007 Regulations are the UK's attempt to impose obligations to meet the targets set in the EU Directive on Packaging and Packaging Waste and to reduce packaging being sent to landfills.

Like many other environmental offences, the consequences of non-compliance are criminal sanctions - fines, and if the circumstances merit, imprisonment.

In July 2009, Red Bull, the drinks importer, incurred fines and costs totalling in excess of £270,000 for failing to comply since 1997. Red Bull approached the Environment Agency when they realised they had failed to comply – it must be assumed that organisations who are found out by the EA face penalties of at least the same size, pro rata to their circumstances.

The Regulations apply to any organisation whose turnover in its last financial year before 31st December in the current year exceeded £2 million and which "handled" in excess of 50 tonnes of packaging materials or packaging in the previous calendar year. Charities are exempt from the Regulations.

The Regulations apply to raw material manufacturers, packaging converters (i.e. those who form raw materials into packaging) packer/fillers (i.e. those who send out their products in packaging, including service providers who carry out e.g. hiring/lending of packaging) and sellers (i.e. those who sell packaged goods to the end user).

The obligations imposed by the Regulations are to:

- 1. Register with the Environment Agency or join an approved compliance scheme;**
- 2. Recover the specified amount of packaging waste;**
- 3. Provide evidence of recovery by producing Packaging Recovery Notes ("PRN's") or Packaging Export Recovery Notes ("PERN's")**

Sellers have to fulfil additional consumer information obligations to give information about return/recovery systems, their own role in recovery and the meaning of symbols. If a producer handles over 500 tonnes per annum, they have to provide an operational plan.

For most organisations, the easiest way to comply is to join a compliance scheme, which takes over responsibility for the member's compliance. However, the producer must join by 7 April in the relevant compliance year, and is responsible for providing the scheme with accurate data.

The obligations apply to packaging which is owned, or passed on to the next entity in the packaging chain or the end user, or directly imported from outside the UK. There are exceptions for long term packaging, packaging which is part of the product, and freight containers.

Cont...

It is inevitable that there is a wide range of “packaging” which does not fall squarely within the definition of “packaging” in the Regulations, and it will be a matter of fact in each case whether or not the particular packaging is part of the producer’s obligation.

It cannot be emphasised enough that non-compliance is a criminal offence, carrying potentially large fines and costs.



**For more information contact:**

**Brian Wake : 0845 634 2604**

**[brian.wake@freethcartwright.co.uk](mailto:brian.wake@freethcartwright.co.uk)**