Draft Regulations laid before Parliament under sections 54(5) and 143(5)(b) of the Environment Act 2021, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2024 No.

ENVIRONMENTAL PROTECTION, ENGLAND

ENVIRONMENTAL PROTECTION, NORTHERN IRELAND

The Deposit Scheme for Drinks Containers (England and Northern Ireland) Regulations 2024

Made - - - -

Coming into force in accordance with regulation 1

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The Secretary of State makes these Regulations in exercise of the powers conferred by sections 54 and 143(1) of, and Schedule 8 to, the Environment Act 2021(**a**) ("the 2021 Act").

In accordance with section 54(4) of the 2021 Act, the Department of Agriculture, Environment and Rural Affairs in Northern Ireland has consented to the making of these Regulations.

In accordance with sections 54(5) and 143(5)(b) of the 2021 Act, a draft of this instrument was laid before and approved by a resolution of each House of Parliament.

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the Deposit Scheme for Drinks Containers (England and Northern Ireland) Regulations 2024.

(2) Except as provided in paragraph (3), these Regulations come into force on 1st October 2027.

(3) The following provisions come into force on the day after the day on which these Regulations are made—

(a) this Part;

(b) Part 2 (interpretation);

(c) regulation 11 in Chapter 1 of Part 4 for the purposes only of registration of scheme producers;

(d) Chapter 1 of Part 6 (items subject to overseas schemes);

(e) regulation 34 in Chapter 2 of Part 6 for the purposes only of—

(i) registration of in-scope retailers as mandatory return point operators, and

(ii) applications for return point exemptions;

(f) regulation 35 in Chapter 2 of Part 6 for the purposes of exemptions for small groceries retailers in urban areas;

(g) regulation 38 in Chapter 3 of Part 6 for the purposes only of authorisations to operate a return point;

(h) Part 7 (the scheme administrator: the deposit management organisation);

(i) Part 9 (enforcement), in so far as it relates to the functions of the deposit management organisation under Part 7;

(j) Part 10 (appeals), in so far as it relates to the appointment of the deposit management organisation.

(**a**) 2021 c. 30.

Extent and application

2.—(1) These Regulations extend to England and Wales and Northern Ireland.

(2) These Regulations apply only in England and Northern Ireland.

(3) But nothing in these Regulations applies in relation to—

(a) the supply of container drinks in export shops or the supply of existing container drinks, or

(b) the bottles or cans in which any of those drinks are or were supplied.

(4) In this regulation—

"existing container drink" means a container drink which is first supplied in any part of the United Kingdom before 1st October 2027;

"export shop" has the meaning given in regulation 2 of the Excise Goods (Export Shops) Regulations 2000(**a**).

PART 2

Interpretation

Meaning of "drink"

3.—(1) For the purposes of these Regulations "drink" means—

(a) water suitable for human consumption,

(b) a beverage suitable for human consumption, including a sports drink,

(c) a liquid which constitutes a beverage suitable for human consumption if it is—

(i) diluted,

(ii) combined with crushed ice or processed so as to create crushed ice,

(iii) combined with carbon dioxide, or

(iv) prepared by way of a process which involves any combination of the processes mentioned in sub-paragraphs (i) to (iii),

such as fruit squash or fruit cordial.

(2) Paragraph (1)(c) does not include any liquid which is used only—

(a) to add flavour to, or enhance the flavour of, a beverage suitable for human consumption, or

(b) to sweeten a beverage suitable for human consumption,

such as coffee flavouring syrup, sugar syrup or hot sauce.

(3) "Sports drink" means a liquid, suitable for human consumption, which is advertised or marketed as a product to enhance physical performance, accelerate recovery after exercise or increase muscle mass.

(**a**) S.I. 2000/645.

Meaning of "deposit item", "scheme producer", "scheme retailer", "scheme supplier", "supply" and related matters

4.—(1) For the purposes of paragraph 1(3) of Schedule 8 to the 2021 Act (items specified as "deposit items"), references in these Regulations to a "deposit item" mean a container drink other than a registered low volume product.

(2) For the purposes of paragraph 1(5)(a) of Schedule 8 to the 2021 Act (persons specified as scheme suppliers), a person who falls within the definition in paragraph (3) of "scheme supplier" or "scheme producer" is a specified person.

(3) In these Regulations—

"manufacturer", in relation to a container drink, means—

(a) the person who manufactures the container drink, or

(b) if the container drink is marketed or otherwise offered for supply under the name, trademark or other distinguishing mark of another person, that other person;

"non-UK container drink" means a container drink from outside the United Kingdom;

"scheme producer" means a person who is established in the United Kingdom and who is—

(a) a manufacturer of container drinks;

(b) an importer, or

(c) a person who fills to order;

"scheme retailer" means a scheme supplier who supplies deposit items to scheme consumers;

"scheme supplier" means a person who—

(a) is established in the United Kingdom, and

(b) supplies deposit items.

(4) For the purposes of paragraph (3), it does not matter whether the consumer is present when the container is filled or securely closed (or both).

(5) Subject to paragraph (6), a person ("S") supplies a container drink if, in the course of a business, S supplies, or offers or agrees to supply, the container drink by way of sale, or in connection with the supply of goods or services—

(a) for consumption in the relevant area, or

(b) with a view to the container drink being consumed in the relevant area.

(6) Where a container drink is offered for supply through a means of distance communication, S supplies that container drink only if—

(a) they determine that it is to be offered for supply through that means of distance communication, and

(b) they provide it for supply.

(7) For the purposes of paragraph (6) it does not matter who undertakes—

(a) to obtain payment for the container drink or any other goods or services, or

(b) to operate or provide the relevant means of distance communication.

(8) In the case of a cross-border distance supply of a container drink, the deposit item is to be treated—

(a) as supplied in England, where the person to whom it is supplied is located in England;

(b) as supplied in Northern Ireland, where the person to whom it is supplied is located in Northern Ireland.

(9) For the purposes of paragraph (8), "cross-border distance supply of a container drink" means the supply of a container drink through a means of distance communication where the person who orders the container drink, or the connected goods or services, from the scheme supplier—

(a) is located in England and the scheme supplier is located outside England;

(b) is located in Northern Ireland and the scheme supplier is located outside Northern Ireland.

Meaning of "established in the United Kingdom"

5. For the purposes of these Regulations, a person is "established in the United Kingdom" if—

(a) in the case of an individual, the individual is resident in the United Kingdom;

(b) in any other case, the person has—

(i) a registered or principal office in the United Kingdom, or

(ii) a permanent place in the United Kingdom from which the person carries out activities which the person is constituted to perform.

Meaning of "established in the Republic of Ireland"

6. For the purposes of these Regulations, a person is "established in the Republic of Ireland" if—

(a) in the case of an individual, the individual is resident in the Republic of Ireland;

(b) in any other case, the person has—

(i) a registered or principal office in the Republic of Ireland, or

(ii) a permanent place in the Republic of Ireland from which the person carries out activities which the person is constituted to perform.

The refund

7.—(1) The refund in respect of a refund item is an amount equal to the greater of—

(a) the deposit level on the date on which the refund item is returned, or

(b) the deposit level on the date on which the refund item was supplied as part of the deposit scheme.

(2) The references in paragraph (1) to the deposit level are to be read as the deposit level for a deposit item which is comparable to the refund item.

(3) For the purposes of this regulation, a deposit item is comparable to a refund item if the container of the deposit item—

(a) is made wholly or mainly from the same in-scope material as the refund item,

(b) is of the same size as the refund item, and

(c) is offered for supply to consumers in a scheme multipack, if the refund item was supplied to a scheme consumer in a multipack.

General interpretation

8.—(1) In these Regulations—

"the 2021 Act" means the Environment Act 2021(**a**);

"brand name" means the primary name by which a drink is known;

(**a**) 2021 c. 30.

"brand owner", in relation to a container drink, means the person under whose name, trademark or other distinguishing mark that container drink is marketed or otherwise offered for supply in the relevant area;

"code" means a bar code, QR code or other code from which information can be obtained by scanning it electronically;

"collection targets" has the meaning given in regulation 81;

"connected goods or services" means any goods or services which, when purchased or received by a consumer, results in the consumer being provided with a free drink;

"consumer" means a person acting otherwise than in the course of a business who purchases or receives goods or services solely for personal use;

"container" means a bottle or can, including any label affixed to it and its lid or other means of closure, in which drink is supplied and which—

(a) is made wholly or mainly from in-scope material,

(b) has a capacity of at least 150 millilitres but no more than three litres of liquid, and

(c) is likely to be used only once, or for a short period of time, before being discarded;

"container drink" means a drink in a securely closed container;

"container line" means a group of containers which are filled to order with a particular drink in a scheme year and which—

(a) are made wholly or mainly from the same in-scope material, and

(b) have the same capacity, and

(c) whether or not—

(i) the outward appearance of the containers is the same, or

(ii) all of the drinks are, or are intended to be, sold to consumers in the United Kingdom in multipacks, or

(iii) the containers are produced in more than one phase of production or, where imported, are imported at different times;

"convenience store" means a retail store offering a limited selection of basic items including packaged food, drinks and household products and which is open for long hours for the convenience of consumers living primarily within its vicinity;

"DAERA" means the Department of Agriculture, Environment and Rural Affairs in Northern Ireland;

"deposit amount", in relation to a deposit item, means a deposit of an amount determined in accordance with Chapter 3 of Part 7;

"deposit item" has the meaning given in regulation 4(1);

"deposit level" means the applicable deposit amount in respect of a deposit item from time to time;

"deposit management organisation" has the meaning given in regulation 50(1);

"DMO function" means a function conferred on the deposit management organisation by or under the Scheme;

"DMO instruction" means—

(a) a request in writing to registered scheme producers which may be given to—

(i) a specified registered scheme producer, or

(ii) all registered scheme producers of a specified description, or

(iii) all registered scheme producers; or

(b) a request in writing to scheme suppliers which may be given to—

(i) a specified scheme supplier, or

(ii) all scheme suppliers of a specified description, or

(iii) all scheme suppliers; and which

(c) may request specified information to be provided—

(i) in a specified form or manner (or both);

(ii) by a specified time or at specified intervals;

(iii) in respect of a specified period; and which

(d) sets out the reasons why the specified information is reasonably required for the purposes of the deposit management organisation carrying out its functions under, or in connection with, the Scheme;

"drink" has the meaning given in regulation 3(1);

"fill to order" means the filling of a container with drink—

(a) in response to an order from a consumer in the relevant area, and

(b) whether or not the consumer is present, and

(c) the closing of that container securely;

"filled to order drink" means a drink that has been filled to order;

"groceries" means one or more of the following—

(a) food suitable for human consumption;

(b) deposit items or other drinks;

(c) pet food;

(d) cleaning products;

(e) toiletries and household goods, other than petrol, clothing, DIY products, pharmaceuticals, newspapers, magazines and books, greetings cards, CDs, DVDs, video and audio tapes, toys, plants and flowers, perfumes and cosmetics, electrical appliances, kitchen hardware, gardening equipment, tobacco and tobacco products;

"groceries retailer" means a supermarket of any size, a grocery store, a convenience store, or a newsagent but does not include—

(a) premises where the main business activity is selling prepared food for consumption off the premises as part of a takeaway service;

(b) a coffee shop whether or not it is selling food and drinks which may be consumed on the premises;

(c) a hospitality venue such as a bar, restaurant or club selling food and drink for consumption on the premises;

(d) an indoor attraction such as an amusement arcade, bingo hall, museum, gallery or cinema selling food and drink for consumption off or on the premises;

(e) a recreational facility such as a community centre, sports centre or gym selling food and drink for consumption off or on the premises;

(f) any retail premises selling food and drink, whether for consumption off or on the premises, which is located within the grounds of—

(i) a school, academy or nursery school;

(ii) an institution within the further education sector or higher education sector within the meanings of section 91 of the Further and Higher Education Act 1992(**a**);

(iii) a hospital within the meaning of section 275 of the National Health Service Act 2006(**b**);

"handling payment" has the meaning given in regulation 67(1);

"importer" means—

(a) a person who—

(i) imports a non-UK container drink into the United Kingdom, and

(ii) is the first person established in the United Kingdom or established in the Republic of Ireland to offer for supply on the market in the relevant area that non-UK container drink, or

(b) a person who—

(i) is established in the Republic of Ireland, and

(ii) supplies container drinks into Northern Ireland, and

(iii) complies with the obligations of a registered scheme producer under these Regulations;

"in-scope material" means—

(a) aluminium,

(b) polyethylene terephthalate (PET) plastic, or

(c) steel;

"in-scope retailer" means a groceries retailer who is required to operate a return point at, on or from MRP premises in accordance with regulation 34(1);

"interim scheme administrator" means the Secretary of State or the person appointed under regulation 80(2)(b);

"local weights and measures authority" has the meaning given by section 69 of the Weights and Measures Act 1985(**c**);

"low volume line" has the meaning given in regulation 18(1);

"mandatory return point" means a return point which an in-scope retailer is required to operate under regulation 34;

"mandatory return point operator" has the meaning given in regulation 34(4);

"means of distance communication" means—

(a) a website,

(b) application software designed and developed for use on mobile devices, such as smartphones and tablets, or

(**a**) 1992 c. 13. Section 91 was amended by the Learning and Skills Act 2000 (c. 21), the Apprenticeships, Children and Learning Act 2009 (c. 22), the Higher Education and Research Act 2017 (c. 29) and S.I. 2018/1226 and 2019/1027.

(**b**) 2006 c. 41. There are amendments to section 275 but they are not relevant for the purposes of these Regulations.

(**c**) 1985 c. 72. Section 69 was amended by paragraph 75 of Schedule 16 to the Local Government (Wales) Act 1994 (c. 19), Part IV of the Statute Law (Repeals) Act 1989 (c. 43) and S.I. 1996/396. There are other amendments to section 69 but they are not relevant for the purposes of these Regulations.

(c) any other method of communication which can be used, without the simultaneous physical presence of the person supplying an item and the person to whom it is supplied, for the conclusion of a contract by the two parties for the supply of an item or connected goods and services;

"mixed retail premises" means a premises at or on which a scheme retailer supplies deposit items both for consumption at or on those premises and for consumption off those premises;

"MRP premises", in relation to a groceries retailer, means premises at, on or from which the retailer sells groceries to consumers other than—

(a) a motor vehicle, ship or boat, train, tram, aircraft or hovercraft, provided that, in each case, the motor vehicle, ship or boat, train, tram, aircraft or hovercraft are not permanently stationary;

(b) premises at, on or from which the retailer sells deposit items and other groceries to scheme consumers only by means of a vending machine, or

(c) on-sale premises;

"multipack" means any packaging which contains (whether fully or partially enclosing) SP container drinks which are, or are intended to be, presented for supply to consumers;

"national enforcement authority" means—

(a) in England, the Environment Agency;

(b) in Northern Ireland, DAERA;

"NEA costs", in relation to a national enforcement authority, means the costs incurred by the authority in exercising the functions conferred on it by or under these Regulations;

"on-sale premises" means premises at or on which a scheme retailer supplies deposit items only for consumption at or on those premises;

"operational plan" means a plan prepared by the deposit management organisation for the administration of the Scheme and the exercise of the DMO functions, and includes any revisions made to the plan in accordance with regulation 52;

"opt-out decision" has the meaning given in regulation 28(2);

"opted-out premises" means premises in respect of which a scheme supplier has, for the time being, made an opt-out decision;

"other scheme administrators" means the scheme administrators of deposit schemes established in Scotland, Wales or overseas;

"overseas refund amount" has the meaning given in regulation 32(2);

"overseas scheme" means a scheme which is established outside of the United Kingdom and is equivalent to a deposit scheme;

"overseas scheme administrator" means a person who exercises functions in relation to a specified overseas scheme which are equivalent to those of the scheme administrator of a deposit scheme;

"overseas scheme item" means a container that is the subject of a specified overseas scheme;

"pre-packed drink line" means a group of containers in which a particular drink is made available for UK retail sale in a scheme year and which—

(a) are made wholly or mainly from the same in-scope material, and

(b) have the same capacity, and

(c) whether or not—

(i) the outward appearance of the containers is the same, or

(ii) all of the drinks are, or are intended to be, sold to consumers in the United Kingdom in multipacks, or

(iii) the containers are produced in more than one phase of production or, where imported, are imported at different times;

"premises" includes land, buildings, moveable structures, a motor vehicle, ship or boat, train, tram, aircraft or hovercraft;

"product line" means a pre-packed drink line or a container line;

"proper address" means—

(a) the address of a person's registered or principal office, or

(b) a person's address for service, if different from the address mentioned in paragraph (a), or

(c) the address of the premises at or on which there is, or there is proposed to be, operated a return point;

"publication" means a catalogue, a newspaper, a magazine, a periodical, or other similar methods of communication with the public;

"refund item" means the container from a deposit item;

"registered low volume product" means a container drink which—

(a) at the time it is made available for UK retail sale, is part of a pre-packed drink line which is registered as a low volume line, or

(b) in the case of a filled to order drink, is in a container from a container line which is registered as a low volume line at the time the container is filled to order;

"registered scheme producer" means a scheme producer who is registered with the deposit management organisation in accordance with regulation 11;

"registration fee" has the meaning given in regulation 63(2);

"relevant area" means—

(a) in relation to the supply of a registered low volume product, the United Kingdom;

(b) otherwise, the scheme area;

"relevant enforcement function" has the meaning given in regulation 73(3);

"return amount" has the meaning given in regulation 9(5);

"return point" means a place in the scheme area where a person can return returnable items to a return point operator and obtain the return amounts for those items;

"return point exemption" has the meaning given in regulation 34(3);

"return point operator" means a person who operates a return point;

"returnable item" has the meaning given in regulation 9(5);

"the Scheme" has the meaning given in regulation 9(2);

"the scheme area" means the area comprising England and Northern Ireland;

"scheme collector" means—

(a) a return point operator, or

(b) a take-back service provider;

"scheme consumer" means a consumer in the scheme area;

"scheme information" has the meaning given in regulation 26(8);

"scheme logo" has the meaning given in regulation 55(1);

"scheme multipack" means a multipack which contains deposit items (whether or not it contains any other items);

"scheme packaging logo" has the meaning given in regulation 55(1);

"scheme return code" has the meaning given in regulation 57(1);

"scheme year" means—

(a) the period beginning on 1st October 2027 and ending on 31st December 2028 ("first scheme year"), or

(b) any subsequent period of 12 months beginning with 1st January;

"Scottish refund amount", in relation to a Scottish scheme item, means a sum equal to the deposit payable for that item in accordance with the relevant Scottish deposit and return scheme(**a**);

"Scottish scheme item" means a container that is the subject of a Scottish deposit and return scheme(**b**);

"SP container", in relation to a scheme producer, means the container from an SP container drink;

"SP container drink", in relation to a scheme producer, means—

(a) a container drink which is produced by the scheme producer,

(b) a container drink which is imported by the scheme producer, or

(c) a container drink which has been filled to order by the scheme producer;

"the SP register" has the meaning given in regulation 12(1);

"specified overseas scheme" has the meaning given in regulation 31(2);

"take-back service" means a service under which returnable items are collected from scheme consumers from any place other than premises at or on which a scheme retailer sells groceries to consumers;

"take-back service provider" means a scheme retailer who is registered to provide a take-back service;

"UK retail sale" means supply by way of sale to consumers in the United Kingdom;

"vending machine" means an automatic machine for the supply of deposit items (whether alone or together with other products);

"voluntary return point" means a return point which is not a mandatory return point;

"Welsh deposit scheme" means a deposit scheme established by the Welsh Ministers;

"Welsh refund amount", in relation to a Welsh scheme item, means a sum equal to the deposit payable for that item in accordance with the relevant Welsh deposit scheme;

"Welsh scheme administrator" means a scheme administrator of a Welsh deposit scheme;

(**a**) "Scottish deposit and return scheme" is defined in paragraph (6) of Schedule 8 to the Environment Act 2021.

(**b**) The Deposit and Return Scheme for Scotland Regulations 2020 (S.S.I. 2020/154) ("the 2020 Regulations") make provision for a deposit and return scheme for Scotland. The 2020 Regulations were amended by the Deposit and Return Scheme for Scotland Amendment Regulations 2022 (S.S.I. 2022/76) and by the Deposit and Return Scheme for Scotland Amendment Regulations 2023 (S.S.I. 2023/201).

"Welsh scheme item" means a container that is a deposit item under a Welsh deposit scheme;

(2) For the purposes of these Regulations, any reference to the size of a multipack is a reference to the number of container drinks contained in the multipack.

(3) It does not matter for the purposes of these Regulations whether deposit items are—

(a) intended to be presented for supply to consumers in multipacks or as single items;

(b) presented for supply to consumers in multipacks or as single items;

(c) supplied to consumers in multipacks or as single items.

(4) For the purposes of these Regulations, a person acts in the course of a business if they act in the ordinary course of conduct of a trade, business, craft or profession, and any reference to a person acting otherwise than in the course of a business is to be construed accordingly.

(5) Where a scheme supplier—

(a) offers to supply deposit items for immediate consumption at or on any particular premises, and

(b) opens the relevant containers before supplying the drinks (whether wholly or partially) in those containers to the persons who have ordered them,

the containers are, for the purposes of these Regulations, to be treated as being securely closed when they are supplied (and accordingly are "deposit items").

(6) Any reference to "consumption of a drink" (however expressed) includes the consumption of the beverage resulting from the preparation of a liquid as described in regulation 3(1)(c).

(7) A reference to a person supplying container drinks for "immediate consumption at or on particular premises" includes a reference to the relevant container drinks being supplied for consumption at or on an area in close proximity to those premises—

(a) where seating is made available for that person's customers (whether by that person or another person), or

(b) which the person's customers habitually use for the consumption of drinks supplied by that person.

(8) A reference to a requirement that an application, approval, authorisation or undertaking, or a decision, determination, direction, notification or notice, including the withdrawal or amendment of a notice, or the making of representations or objections or the provision of information, must be in writing ("written notifications") includes written notifications sent by any electronic means.

(9) Where an email address is provided by any person, documents may be sent to that email address for the purpose of these Regulations.

(10) A notice or other document (the "document") which is given by the Secretary of State, or the Environment Agency, or DAERA, or the deposit management organisation or by a local weights and measures authority to any person in accordance with these Regulations is to be treated as having been received—

(a) if the document is left at the proper address, on the business day after the day on which it is left at the proper address;

(b) if the document is posted to a proper address in the United Kingdom, on the second business day after posting;

(c) if the document is sent by any electronic means, on the business day after the day on which the document is transmitted.

PART 3

Establishment of a Deposit Scheme for Drinks Containers

Establishment of Deposit Scheme for Drinks Containers in England and Northern Ireland

9.—(1) These Regulations establish, in England and Northern Ireland, a deposit scheme(**a**) in respect of containers in which drinks are supplied for the purposes of—

(a) sustaining, promoting or securing an increase in the recycling of materials, and

(b) reducing the incidence of littering or fly-tipping.

(2) The deposit scheme in paragraph (1) is referred to in these Regulations as "the Scheme".

(3) Under the Scheme—

(a) a person supplied with a deposit item by a scheme supplier pays a deposit to the scheme supplier, and

(b) a person who provides a returnable item to a scheme collector is entitled to be paid the return amount for that item by the scheme collector.

(4) Paragraph (3)(a) is subject to regulation 28 and paragraph (3)(b) is subject to regulation 10.

(5) In these Regulations—

"return amount" means—

(a) in relation to an overseas scheme item, the overseas refund amount;

(b) in relation to a Scottish scheme item, the Scottish refund amount;

(c) in relation to a Welsh scheme item, the Welsh refund amount, or

(d) in relation to a refund item, a refund;

"returnable item" means—

(a) an overseas scheme item;

(b) a Scottish scheme item;

(c) a Welsh scheme item, or

(d) a refund item.

Circumstances in which a person is not entitled to a relevant amount for a returnable item

10.—(1) A person who provides a returnable item to a scheme collector is not entitled to be paid a return amount for that item if the scheme collector has a reasonable excuse not to accept the returnable item.

(2) The circumstances in which a scheme collector has a reasonable excuse not to accept a returnable item from a person include, for example—

(a) the scheme collector not being able to identify the container as a returnable item (including where it is not carrying a scheme logo or scheme return code);

(b) the returnable item being soiled;

(c) the returnable item not being empty;

(d) the returnable item not being intact;

(**a**) See paragraph 1(2) of Schedule 8 to the Environment Act 2021 for the meaning of "deposit scheme".

(e) the returnable item being the container for a drink which the scheme collector does not or would not supply for reasons of faith or belief;

(f) where the scheme collector is a scheme retailer, the person providing the returnable item is attempting to return a number of returnable items which is disproportionately greater than the average number of deposit items that the scheme retailer would supply to a scheme consumer in a single transaction.

(3) For the purposes of paragraph (2)(d), a returnable item is to be treated as intact regardless of whether the lid or other similar item used to close it—

(a) is not returned with the returnable item, or

(b) is returned with the returnable item but is not attached to it.

(4) For the avoidance of doubt, a scheme collector does not have a reasonable excuse not to accept a returnable item solely on the grounds that it is for a drink which the scheme collector does not, or, if the scheme collector were a scheme supplier, would not, supply otherwise than as provided for in paragraph (2)(e).

PART 4

Scheme producers

Chapter 1

Registration, information and related matters

Requirement for scheme producers to be registered to supply SP container drinks

11.—(1) A scheme producer must not supply SP container drinks unless the scheme producer is registered with the deposit management organisation.

(2) Part 1 of Schedule 1 contains provision about the registration of scheme producers.

Register of registered scheme producers

12.—(1) The deposit management organisation must publish and maintain a register of registered scheme producers ("the SP register").

(2) The entry in the SP register for a registered scheme producer must state—

(a) whether or not the scheme producer is a brand owner, and

(b) whether or not the scheme producer is an importer;

(c) if the scheme producer is a brand owner or an importer (or both), the brand name of each drink for which the scheme producer is the brand owner or importer;

(d) whether or not the scheme producer fills to order;

(e) the date on which the scheme producer's registration application was granted;

(f) whether or not the scheme producer produces, imports or fills to order with any registered low volume products and, if so, what those products are and the date on which each of the products was registered as a low volume product.

(3) The deposit management organisation must—

(a) add an entry for a registered scheme producer to the SP register as soon as reasonably practicable after the scheme producer's registration application is granted;

(b) update the entry for a registered scheme producer as soon as reasonably practicable after the producer registers a low volume product.

(4) The deposit management organisation must—

(a) make the SP register available for inspection by members of the public at all reasonable times, free of charge, and

(b) permit members of the public to obtain copies of entries on the SP register on payment of a reasonable charge.

Requirement for registered scheme producers to keep records about supply of SP container drinks

13.—(1) A registered scheme producer must—

(a) as soon as reasonably practicable after it supplies an SP container drink, make a record of the information specified in paragraph (2) for that SP container drink, and

(b) keep that record for a period of seven years beginning with the day on which it is made.

(2) The information mentioned in paragraph (1)(a) is—

(a) the in-scope material from which the SP container was wholly or mainly made;

(b) the capacity of the SP container;

(c) if the SP container drink is intended to be presented for supply to consumers in a scheme multipack containing two or more such drinks, the size of the scheme multipack;

(d) subject to paragraph (3), the part or parts of the relevant area in which the SP container drink is, or is intended to be, supplied for consumption;

(e) whether the SP container drink is a registered low volume product.

(3) Paragraph (4) applies if—

(a) a registered scheme producer supplies SP container drinks to a person other than a consumer, and

(b) the registered scheme producer does not supply those drinks to that person on condition that they are to be supplied for consumption in a specific part of the relevant area.

(4) Where paragraph (3) applies, the registered scheme producer must record the part or parts of the relevant area in which the registered scheme producer reasonably expects the SP container drinks to be supplied for consumption.

Deposit management organisation: power to obtain information from registered scheme producers

14.—(1) The deposit management organisation may direct a registered scheme producer to provide it with such information as is specified in a DMO instruction.

(2) A registered scheme producer who receives a DMO instruction must comply with it by the date specified in the DMO instruction (the "compliance date").

(3) Where a registered scheme producer has provided, in response to a DMO instruction, information which the deposit management organisation reasonably believes to be inaccurate, false or misleading, the deposit management organisation must notify the relevant authority and provide to that authority all relevant information and documents.

(4) Where a registered scheme producer has provided incomplete information in response to a DMO instruction, the deposit management organisation must, after not less than 28 days beginning with the compliance date, notify the relevant authority and provide to that authority all relevant information and documents.

(5) Where a registered scheme producer has failed to respond to a DMO instruction, the deposit management organisation must, after not less than 28 days beginning with the compliance date, notify the relevant authority and provide to that authority all relevant information and documents.

(6) For the purposes of this regulation, "relevant authority" means the Environment Agency or DAERA.

Persons ceasing to be registered scheme producers: cancellation of registration

15. Part 2 of Schedule 1 contains provision about the cancellation of a person's registration with the deposit management organisation as a scheme producer.

Persons ceasing to be registered scheme producers: continuing duties and requirements to record and provide information.

16.—(1) The duties specified in paragraph (2) continue to apply to an outgoing producer on and after the registration cancellation date in so far as they relate to SP container drinks supplied by the outgoing producer before that date.

(2) The duties mentioned in paragraph (1) are the duties in regulation 13(1)(b), regulation 14(2) (whether the DMO instruction is given before, on or after the registration cancellation date), and regulation 22.

(3) The deposit management organisation may direct an outgoing producer to provide it with such information as is specified in a DMO instruction on or after the registration cancellation date.

(4) The deposit management organisation may only specify information which relates to matters arising, or SP container drinks supplied, before the registration cancellation date.

(5) For the purposes of this regulation, any reference to a registered scheme producer in regulations 13 to 15 and 22 (however expressed) is to be read as including a reference to the outgoing producer.

(6) In this regulation and regulation 17—

"outgoing producer" means a person whose registration as a scheme producer is cancelled by the deposit management organisation in accordance with Part 2 of Schedule 1;

"registration cancellation date" means the day on which the cancellation of an outgoing producer's registration as a scheme producer takes effect.

Persons ceasing to be registered scheme producers: updating of the SP register

17. The deposit management organisation must—

(a) remove the entry relating to an outgoing producer from the SP register, and

(b) publish a notice of the change to the SP register in such manner as the deposit management organisation considers appropriate for the purposes of bringing that change to the attention of scheme suppliers.

Chapter 2

Low volume lines

Registration of a product line as a "low volume line"

18.—(1) The scheme producer of a product line may apply to register that line with the deposit management organisation as a low volume line in relation to—

(a) the first scheme year, if the number of containers of any size or shape in the product line in that scheme year will not exceed 6,250, and

(b) any other scheme year, if the number of containers of any size or shape in the product line in that scheme year will not exceed 5,000, and

(c) the containers are filled with the same particular drink.

(2) An application under paragraph (1) (an "LVL application") must—

(a) state the scheme year to which it relates, and

(b) be made in such form and manner, and contain such information as the deposit management organisation may direct.

(3) Where the registered scheme producer is a partnership, the LVL application must, if made by only one partner, be made by that partner on behalf of all of the partners.

(4) Where the deposit management organisation receives an LVL application, it must—

(a) grant the application and register the relevant line, if it is satisfied that the relevant threshold in paragraph (1) will not be exceeded;

(b) otherwise, refuse the application.

(5) The deposit management organisation must notify the applicant, in writing, of its decision on the relevant LVL application.

(6) A notification under paragraph (5) must—

(a) where the LVL application is granted, state the scheme year in relation to which the relevant product line is registered as a low volume line;

(b) where the LVL application is refused, state the reasons for that decision and inform the applicant of their right under regulation 76 to ask the deposit management organisation to review its decision.

Cancellation of registration of a product line as a "low volume line"

19.—(1) The registration of a product line as a low volume line under regulation 18 ceases to have effect—

(a) at the end of the scheme year in relation to which the line is registered as a low volume line, or

(b) if earlier, at the end of the day on which the deposit management organisation cancels the registration.

(2) A scheme producer must, in relation to the registration of a product line as a low volume line, notify the deposit management organisation as soon as possible that—

(a) the producer intends to exceed the relevant threshold in regulation 18(1) ("the size threshold") in relation to that product line, or

(b) has exceeded the size threshold in relation to that product line.

(3) The deposit management organisation—

(a) must cancel the registration of a product line as a low volume line before the end of the relevant scheme year, if the scheme producer has given a notification to the deposit management organisation under paragraph (2)(a) or (b);

(b) may cancel the registration of a product line as a low volume line before the end of the relevant scheme year if the deposit management organisation is satisfied that the size threshold has been exceeded in relation to that product line, otherwise than following a notification under paragraph (2)(b).

(4) Where the deposit management organisation proposes to cancel a product line's registration as a low volume line under paragraph (3)(b), the deposit management organisation must give a notice (a "proposal notice") to the relevant scheme producer.

(5) A proposal notice must be in writing and must—

(a) state the reasons for which the deposit management organisation is proposing to cancel the registration,

(b) specify the day on which the registration will be cancelled, if the proposal is made final, and

(c) specify—

(i) the form and manner in which any representations are to be made to the deposit management organisation about the proposal, and

(ii) the period within which such representations must be made, which must not be less than 28 days beginning with the date on which the scheme producer receives the proposal notice.

(6) The deposit management organisation—

(a) must consider any representations made to it in the form and manner, and by the date, specified for the purposes of paragraph (5)(c);

(b) may consider any representations which are not made in the form and manner, or by the date, specified for the purposes of paragraph (5)(c).

(7) Where the deposit management organisation decides, following consideration of any representations made by the relevant scheme producer, not to cancel the product line's registration as a low volume line, the deposit management organisation must give the scheme producer a notice in writing of its decision.

(8) Where—

(a) the deposit management organisation decides, following consideration of any representations made by the relevant scheme producer, to proceed with the cancellation of the product line's registration as a low volume line, or

(b) the relevant scheme producer does not make any representations to the deposit management organisation,

the deposit management organisation must give the relevant scheme producer notice of the cancellation of the product line's registration as a low volume line (an "LVL cancellation notice").

(9) An LVL cancellation notice must be in writing and must state—

(a) that the relevant product line's registration as a low volume line is being cancelled and give the reasons why;

(b) the date when the cancellation of the registration will take effect;

(c) that the relevant scheme producer has a right under regulation 76 to ask the deposit management organisation to review its decision.

(10) If the scheme producer exercises the right referred to in paragraph (9)(c), the LVL cancellation notice will not take effect pending that review of the decision.

(11) The date specified for the purposes of paragraph (9)(b) must not be before the end of the 28-day period specified in regulation 76.

Registration of a product line as a "low volume line": updates to the SP register

20.—(1) The deposit management organisation must—

(a) update the entry relating to a registered scheme producer in the SP register in accordance with paragraph (2) if—

(i) any product line of the scheme producer is registered as a low volume line in relation to a scheme year, or

(ii) the registration of any product line of the scheme producer as a low volume line is cancelled before the end of the relevant scheme year; and

(b) publish a notice of the change to the SP register in such manner as the deposit management organisation considers appropriate to bring the change to the attention of scheme suppliers.

(2) The entry for a registered scheme producer must state—

(a) each scheme year in relation to which a product line of the scheme producer is registered as a low volume line, and

(b) if that product line's registration as a low volume line is cancelled before the end of a scheme year, the date on which that cancellation takes effect.

Chapter 3

Payments to the deposit management organisation

Producer registration fees

21. A registered scheme producer must pay any registration fee, or any instalment of such a fee, to the deposit management organisation.

Deposits

22.—(1) A registered scheme producer must pay to the deposit management organisation an amount equivalent to the deposit for each deposit item which the scheme producer supplies to any person.

(2) The registered scheme producer must pay any amount required to be paid to the deposit management organisation under paragraph (1)—

(a) by such date, or at such intervals, as may be directed by the deposit management organisation;

(b) by such means as may be directed by the deposit management organisation.

PART 5

Scheme suppliers

Prohibition on supply of drinks produced etc. by a scheme producer who is not registered with the deposit management organisation

23. A scheme supplier must not supply a deposit item unless the scheme producer of the deposit item—

(a) is a registered scheme producer, or

(b) if the scheme producer's registration with the deposit management organisation has been cancelled in accordance with paragraph 5 or 6 of Schedule 1, was a registered scheme producer at the time the deposit item was made available for supply by the scheme producer.

Labelling of deposit items and scheme multipacks

24.—(1) A scheme supplier must not supply a deposit item unless the deposit item carries—

(a) the required item logo, and

(b) a scheme return code,

regardless of whether the deposit item is or is intended to be supplied to scheme consumers in a multipack.

(2) A scheme supplier must not supply a scheme multipack unless it carries the required packaging logo (if any).

(3) But paragraph (2) does not apply where—

(a) the deposit management organisation first issues a scheme packaging logo after 1st October 2027, and

(b) the scheme multipack was first made available for supply in the scheme area before the date specified for the purposes of regulation 55(4) in relation to that logo.

(4) For the purposes of this regulation—

(a) the required item logo in relation to a deposit item is—

(i) the scheme logo, or

(ii) if the deposit item was produced or imported before the date specified for the purposes of regulation 55(4) in relation to the scheme logo, the logo issued for the purposes of regulation 55 when the deposit item was produced or imported;

(b) the required packaging logo in relation to a scheme multipack is—

(i) the scheme packaging logo, or

(ii) if the scheme multipack was first made available for supply in the scheme area before the date specified for the purposes of regulation 55(4) in relation to the scheme packaging logo, the logo issued for the purposes of regulation 55 when the scheme multipack was first made available for supply in the scheme area.

Labelling of registered low volume products

25.—(1) A scheme supplier must not supply—

(a) a drink registered as a low volume product, or

(b) where the registration of a low volume product has ceased to have effect in accordance with regulation 19, a drink which was a registered low volume product at the time it was made available for supply in the scheme area by the registered scheme producer,

if the drink carries a scheme logo or scheme return code (or both).

(2) For the purposes of paragraph (1) it does not matter whether the drink is intended to be supplied as a single item or in a multipack.

(3) Paragraph (1) does not apply if the drink was registered as a low volume product after it was produced or imported.

(4) A scheme supplier must not supply a multipack which contains registered low volume products but no deposit items if the multipack carries the scheme packaging logo (if any).

(5) Paragraph (4) does not apply if the multipack contains only SP container drinks which were registered as low volume products on or after the day on which the multipack was first made available for supply in the scheme area.

Duty to display information about the Scheme

26.—(1) A scheme supplier must provide or display, or provide for display, the scheme information, in accordance with this regulation.

(2) A scheme supplier who offers to supply deposit items or connected goods or services orally (for example, by telephone) must—

(a) give the scheme information to a person who orders deposit items or connected goods or services before taking payment for those items, goods or services, and

(b) if requested, provide the scheme information in writing to that person.

(3) A scheme supplier who displays or offers deposit items for supply at or on any premises must display the scheme information on those premises—

(a) so it is available to people choosing deposit items, and

(b) so as to comply with paragraph (7).

(4) But paragraph (3) does not apply—

(a) to any on-sale premises which are opted-out premises, or

(b) in respect of any deposit items which are displayed, or offered, for supply for immediate consumption at or on that part of mixed retail premises which are opted-out premises.

(5) A scheme supplier who offers deposit items for supply on a website, through a mobile application or in any kind of publication must—

(a) ensure, so as to comply with paragraph (7), that the scheme information is displayed as part of the description of the deposit items on the website, in the mobile application or in the publication, or

(b) if the scheme supplier is not responsible for the website, mobile application or publication, provide the scheme information to the person who is responsible for the website, mobile application or publication, for display as part of the description of the deposit items on the website, in the mobile application or in the publication.

(6) A scheme supplier who provides the scheme information in accordance with paragraph (5)(b) must ask the person to whom they provide that information to display it so as to comply with paragraph (7) as part of the description of the deposit items on the website, in the mobile application or in the publication.

(7) A display of the scheme information complies with this paragraph if it is displayed clearly and accessibly.

(8) In these Regulations "scheme information" means—

(a) a statement that the scheme supplier is required by the Scheme to charge a deposit for each deposit item that the supplier supplies,

(b) subject to paragraph (9), for each deposit item that the scheme supplier displays or offers for supply—

(i) the amount payable for the deposit item excluding the deposit,

(ii) the deposit level, and

(iii) the amount payable for the deposit item including the deposit, and

(c) where the scheme supplier is a scheme retailer, a statement as to how a person can obtain a refund for any deposit item supplied to them.

(9) A retailer need not duplicate in the scheme information any amount which the retailer is required to indicate in accordance with article 4 or 5 of the Price Marking Order 2004(**a**) (obligations to indicate selling price and unit price).

Duty to display information about registered low volume products

27.—(1) A person who supplies LVPs must provide or display, or provide for display, the LVP information, in accordance with this regulation.

(2) A person who offers to supply LVPs or connected goods or services orally (for example, by telephone) must—

(a) give the LVP information to a person who orders the LVPs or connected goods or services before taking payment for those LVPs, goods or services, and

(b) if requested, provide the LVP information in writing to that person.

(3) A person who displays, or offers, LVPs for supply at or on any premises must display the LVP information at or on those premises—

(a) so it is available to people choosing LVPs, and

(b) so as to comply with paragraph (6).

(4) A person who offers LVPs for supply on a website, through a mobile application or in any kind of publication must—

(a) ensure that the LVP information is displayed so as to comply with paragraph (6) as part of the description of the LVPs on the website, in the mobile application or in the publication, or

(b) if the person who offers LVPs for supply under this regulation is not responsible for the website, mobile application or publication, that person must provide the LVP information to the person who is responsible for the website, mobile application or publication, for display as part of the description of the LVPs on the website, in the mobile application or in the publication.

(5) The person who provides the LVP information in accordance with paragraph (4)(b) must ask the person to whom they provide that information to display it so as to comply with paragraph (6) as part of the description of the LVPs on the website, in the mobile application or in the publication.

(6) A display of the LVP information complies with this paragraph if it is—

(a) easily visible,

(b) clearly legible, and

(c) not hidden or obscured in any way.

(7) In this regulation—

"LVP" means a registered low volume product;

"the LVP information" means—

(a) a statement that the scheme supplier is not required to charge a deposit in connection with the supply of any LVPs, and

(b) a statement that no refund is payable for a container from an LVP.

(**a**) S.I. 2004/102.

Requirement to charge a deposit

28.—(1) A scheme supplier must charge a customer a deposit for each deposit item which the scheme supplier supplies to the customer.

(2) But a scheme supplier who supplies deposit items for immediate consumption ("IC items") to customers at or on any mixed retail or on-sale premises may decide not to charge a deposit for IC items supplied at or on those premises (an "opt-out decision").

(3) The scheme supplier may reverse an opt-out decision at any time.

(4) In this regulation "customer", in relation to a scheme supplier, means a person to whom the scheme supplier supplies deposit items.

Duty to display information at or on opted-out premises

29.—(1) A scheme retailer must display the opt-out information at or on any opted-out premises—

(a) so as to comply with paragraph (2), and

(b) so that it is available to persons choosing deposit items for immediate consumption at or on those premises.

(2) A display of the opt-out information complies with this paragraph if it is displayed clearly and accessibly.

(3) In this regulation "the opt-out information" means—

(a) a statement that the scheme retailer is not required to charge a deposit for the deposit items which the scheme retailer supplies for immediate consumption at or on the premises, and

(b) a statement requesting that empty containers are not removed from the premises.

Deposit management organisation: power to obtain information from scheme suppliers

30.—(1) The deposit management organisation may direct a scheme supplier to provide it with such information as is specified in a DMO instruction.

(2) A registered scheme supplier who receives a DMO instruction must comply with it by the date specified in the DMO instruction (the "compliance date").

(3) Where a registered scheme supplier has provided, in response to a DMO instruction, information which the deposit management organisation reasonably believes to be inaccurate, false or misleading, the deposit management organisation must notify the relevant authority and provide to that authority all relevant information and documents.

(4) Where a registered scheme supplier has provided incomplete information in response to a DMO instruction, the deposit management organisation must, after not less than 28 days beginning with the compliance date, notify the relevant authority and provide to that authority all relevant information and documents.

(5) Where a registered scheme supplier has failed to respond to a DMO instruction, the deposit management organisation must, after not less than 28 days beginning with the compliance date, notify the relevant authority and provide to that authority all relevant information and documents.

(6) For the purposes of this regulation, "relevant authority" means the Environment Agency or DAERA.

PART 6

Return of returnable items

Chapter 1

Items subject to overseas schemes

Direction specifying an overseas scheme for the purposes of these Regulations

31.—(1) The deposit management organisation may give a direction specifying an overseas scheme for the purposes of enabling containers which are the subject of that scheme to be returned to scheme collectors.

(2) Such a scheme is referred to in these Regulations as a "specified overseas scheme".

(3) A direction under paragraph (1) must—

(a) be in writing,

(b) state the date on which it takes effect, and

(c) be published in such manner as the deposit management organisation considers appropriate for the purposes of bringing it to the attention of scheme collectors and consumers.

(4) A direction under paragraph (1) has effect until revoked by notice by the deposit management organisation.

(5) A notice under paragraph (4) must—

(a) be in writing,

(b) state the date on which it takes effect, and

(c) be published in such manner as the deposit management organisation considers appropriate for the purposes of bringing it to the attention of scheme collectors and consumers.

(6) The date specified for the purposes of paragraph (3)(b) or (5)(b) must not be before the end of the period of three calendar months beginning with the date on which the direction or notice is published.

(7) Before giving a direction under paragraph (1) or revoking such a direction under paragraph (4), the deposit management organisation must—

(a) consult—

(i) the Environment Agency, and

(ii) DAERA, and

(iii) scheme collectors, and

(iv) such other persons (if any) as the deposit management organisation considers appropriate, and

(b) have regard to the views expressed in responses to the consultation.

Determination of overseas refund amount

32.—(1) The deposit management organisation must, for each specified overseas scheme, determine the amount which is to be paid by scheme collectors in respect of overseas scheme items which are the subject of that scheme.

(2) Such an amount is referred to in these Regulations as an "overseas refund amount".

(3) The deposit management organisation may revise the overseas refund amount for the overseas scheme items which are the subject of a particular specified overseas scheme, but must not do so more than once in any 12 month period.

(4) Before making a determination under paragraph (1), or revising an overseas refund amount under paragraph (3), the deposit management organisation must—

(a) consult—

(i) such persons as appear to the deposit management organisation to represent those likely to be affected by the determination or revision, and

(ii) such other persons (if any) as the deposit management organisation considers appropriate, and

(b) have regard to the views expressed in responses to the consultation.

(5) The deposit management organisation must publish in such manner as it considers appropriate, a notice of any determination or revision made under this regulation, for the purposes of bringing it to the attention of scheme collectors and consumers.

(6) A notice under paragraph (5) must specify—

(a) the overseas refund amount or revised overseas refund amount, and

(b) the date on which the determination takes effect, or

(c) if the notice relates to the revision of an overseas amount, the date on which the revision takes effect.

(7) The date specified for the purposes of paragraph (6)(b) or paragraph (6)(c) must not be before the end of the period of three calendar months beginning with the date on which the relevant notice is published.

The amount of the additional scheme refund: supplementary provisions

33.—(1) The deposit management organisation may determine that the overseas refund amount—

(a) is to be the same for all overseas scheme items subject to a particular specified overseas scheme, or

(b) is to be different for different overseas scheme items subject to that scheme.

(2) The deposit management organisation may, when determining or revising an overseas refund amount for an overseas scheme item, have regard to the deposit payable in connection with that item under the specified overseas scheme concerned.

(3) For the purposes of paragraph (1)(b), the deposit management organisation may, in particular, determine an overseas refund amount by reference to any or all of the following—

(a) the size of the container;

(b) the in-scope material from which the container is wholly or mainly made;

(c) the nature of the specified overseas scheme to which the overseas scheme item relates.

(4) But an overseas refund amount for an overseas scheme item must not in any case exceed the refund for a comparable refund item.

(5) For the purposes of paragraph (4), a refund item is "comparable" to an overseas scheme item if—

(a) it is of the same size,

(b) it is made wholly or mainly from the same in-scope material, and

(c) where the overseas scheme item is from a drink that was sold in a multipack, the refund item is from a deposit item that was supplied in a multipack.

Chapter 2

Mandatory return points

Requirement for in-scope retailers to operate a return point at, on or from MRP premises

34.—(1) A groceries retailer who supplies deposit items to consumers at, on or from MRP premises must operate a return point in respect of those premises.

(2) But paragraph (1) does not apply if an exemption has effect in respect of the MRP premises (a "return point exemption").

(3) The return point must be operated—

(a) at, on or from the MRP premises, or

(b) at or on any premises adjacent to the MRP premises which are provided by, or on behalf of, the in-scope retailer for use as parking by the retailer's customers.

(4) An in-scope retailer who is required to operate a return point under paragraph (1) must register with the deposit management organisation and an in-scope retailer so registered is referred to in these Regulations as a "mandatory return point operator".

(5) Schedule 2 contains further provision about registration as a mandatory return point operator.

(6) Schedule 3 contains further provision about return point exemptions.

Exemption for small groceries retailers in urban areas

35.—(1) A groceries retailer which has a relevant retail space and which is situated in an urban area is exempt from the requirement to operate a return point.

(2) Groceries retailers which are exempt under paragraph (1) may apply to operate a return point under regulation 38 (voluntary operation of return points).

(3) The deposit management organisation may provide information to scheme retailers to assist them in determining whether they are established in an urban area.

(4) For the purposes of this regulation—

"relevant retail space" means a retail space of less than $100m_2$ whether or not that retail space is situated within, or forms part of, a larger building or premises and regardless of the uses, nature or purposes of the larger building or premises;

"urban" means—

(a) in England, an area classified as urban by reference to the document titled "2011 rural urban classification of output areas" published by the Office for National Statistics on 13 September 2013 and as updated on 27 January 2016(**a**);

(b) in Northern Ireland, an area classified as urban by reference to the document titled "Urban-Rural Classification 2015" published by the Northern Ireland Statistics and Research Agency on 20 January 2017(**b**).

(**a**) The document titled '2011 rural urban classification of output areas" is available at: https://www.ons.gov.uk/methodology/geography/geographicalproducts/ruralurbanclassifications/2011ruralurbanclassification. A hard copy of the document can be obtained from the Department for Environment, Food and Rural Affairs, 2 Marsham Street, London, SW1P 4DF.

(**b**) The document titled "Urban-Rural Classification 2015" is available at: Urban-Rural Geography Documents (2015) Northern Ireland Statistics and Research Agency (https://www.nisra.gov.uk). A hard copy of the document can be obtained from the Department of Agriculture, Environment and Rural Affairs, Jubilee House, 111 Ballykelly Road, Ballykelly, Limavady, BT49 9HP.

Requirement for groceries retailers to provide information at or on retail premises without a return point

36.—(1) A groceries retailer must display the information specified in paragraph (2) clearly and accessibly at any premises at, on or from which the retailer supplies deposit items to scheme consumers and which—

(a) are neither MRP premises nor premises in respect of which the retailer is authorised to operate a return point in accordance with regulation 38, or

(b) are premises in respect of which a return point exemption is in effect.

(2) The information mentioned in paragraph (1) is—

(a) a statement that the retailer is not required to operate a return point in respect of those premises, and the reason why that is the case,

(b) if a return point exemption has been granted to the retailer in respect of those premises, a statement as to how information about that exemption can be obtained, and

(c) if the premises are not a motor vehicle, ship or boat, train, tram, aircraft or hovercraft, the location of the return point nearest to those premises.

Chapter 3

Voluntary operation of return points

Interpretation

37. In this Chapter "in-scope premises" means any premises which are not—

(a) MRP premises, or

(b) premises at or on which the deposit management organisation operates a return point (see regulation 39).

Voluntary return points

38.—(1) A scheme supplier may operate a voluntary return point at or on any in-scope premises in respect of which they are authorised to operate that return point by the deposit management organisation.

(2) A groceries retailer which is exempt from the requirement to operate a return point under regulation 35 may operate a return point at the premises concerned if they are authorised to do so by the deposit management organisation.

(3) Schedule 4 contains further provision about authorisations to operate return points at or on in-scope premises.

Operation of return points by the deposit management organisation

39. The deposit management organisation may operate a return point at or on any premises other than—

(a) any premises in respect of which a person is required or authorised to operate a return point, or

(b) any premises in respect of which a return point exemption is in effect.

Chapter 4

Information to be provided at return points

Information to be provided at a return point

40. A return point operator must display the following information, clearly and accessibly, at the return point—

(a) a statement that the return point operator may refuse to accept a returnable item if the return point operator has a reasonable excuse for doing so, and in those cases a return amount will not be paid,

(b) a summary of the procedure put in place by the deposit management organisation for the making of any complaint about the operation of the return point, and

(c) contact details for the deposit management organisation.

Chapter 5

Take-back services and deposit management organisation collections

Provision of take-back services

41.—(1) A person may provide a take-back service if—

(a) they are a scheme retailer, and

(b) they are registered with the deposit management organisation to provide that service.

(2) Schedule 4 contains further provision about registration to provide a take-back service and related matters.

Information about take-back services

42.—(1) A take-back service provider must provide or display the take-back service information referred to in paragraph (6), or provide that information for display, in accordance with this regulation.

(2) Where a take-back service provider offers orally (for example, by telephone) to supply deposit items to a scheme consumer, the take-back service provider must orally provide at the same time—

(a) the scheme information, and

(b) the take-back service information, and

(c) if requested to do so, provide the take-back service information in writing to that person or direct the person to where that information can be found through any means of distance communication.

(3) A take-back service provider who displays or offers deposit items for supply at or on any premises must—

(a) display the take-back service information on those premises so that it is available to a scheme consumer choosing deposit items, and so as to comply with paragraph (7), and

(b) if requested to do so, provide the take-back service information in writing to a scheme consumer who purchases any deposit items or direct the person to where that information can be found through any means of distance communication.

(4) A take-back service provider who offers deposit items for supply through any means of distance communication must—

(a) ensure that the take-back service information is displayed as part of the description of the deposit items on or in the relevant means of distance communication, or

(b) if the take-back service provider is not responsible for the means of distance communication, provide the take-back service information to the person who is responsible for the relevant means of distance communication, for display as part of the description of the deposit items on or in the relevant means of distance communication.

(5) A take-back service provider who provides a person with information under paragraph (4)(b) must ask the person to whom they provide the information to display it as part of the description of any deposit item supplied by the take-back service provider through the relevant means of distance communication so as to comply with paragraph (7).

(6) In this regulation the take-back service information is—

(a) a statement as to how the scheme consumer may accept the offer of the take-back service,

(b) a statement that the take-back service provider may refuse to accept returnable items if they have a reasonable excuse for doing so, and that, in that case, no return amount will be paid,

(c) a statement as to any steps that the scheme consumer must take to enable any returnable items to be collected by the take-back service provider (including, for example, if the scheme consumer must book a collection slot and how such a slot may be booked and the means to be used to identify any returnable items provided by that consumer),

(d) if any return amount is to be paid otherwise than when the returnable items are collected from the scheme consumer, a statement as to how and when the return amount will be paid to the scheme consumer,

(e) a summary of the procedure put in place by the deposit management organisation for the making of any complaint about the operation of the take-back service, and

(f) contact details for the deposit management organisation.

(7) A display of information complies with this regulation if it is displayed clearly and accessibly including through any means of distance communication.

Collection or acceptance of returnable items by the deposit management organisation

43.—(1) The deposit management organisation may collect or otherwise accept returnable items from any person (irrespective of the requirements imposed on the deposit management organisation under regulation 66).

(2) The deposit management organisation must pay a return amount for each returnable item that it accepts.

(3) The deposit management organisation may make such arrangements as it considers appropriate for the purposes of this regulation, which may include provision about the means or manner in which any return amount is to be paid by the deposit management organisation.

Chapter 6

Register of return point operators, register of deposit management organisation return points, register of return point exemptions and register of take-back service providers

Register of return point operators and deposit management organisation return points

44.—(1) The deposit management organisation must keep and maintain a register of—

(a) return point operators, and

(b) DMO return points.

(2) An entry on the register for a return point operator must identify—

(a) the name of the return point operator, and

(b) each of the premises in respect of which that return point operator is required or authorised to operate a return point.

(3) An entry on the register for a DMO return point must—

(a) identify the premises concerned, and

(b) specify that it is operated by the deposit management organisation.

(4) The deposit management organisation must keep the register up to date and must make any amendments to the register as soon as reasonably practicable.

(5) The register must be available for inspection by members of the public at all reasonable times, free of charge.

(6) In this regulation "DMO return point" means a return point operated by the deposit management organisation.

The register of return point exemptions

45.—(1) The deposit management organisation must keep and maintain a register of return point exemptions.

(2) An entry on the register for a return point exemption must—

(a) specify the scheme retailer to whom the exemption has been granted, and

(b) the premises in respect of which the exemption is granted.

(3) The deposit management organisation must update the register as soon as reasonably practicable after the day on which a return point exemption is granted to a scheme retailer.

(4) The deposit management organisation must remove the entry for a return point exemption which expires in accordance with paragraph 6(1)(a) of Schedule 3 as soon as reasonably practicable after it expires.

(5) Where a return point exemption is revoked under paragraph 8 or 9 of Schedule 3, the deposit management organisation must remove the entry for the return point exemption from the register—

(a) at the end of the day on which the revocation takes effect, or

(b) if it is not practicable to amend the register at that time, as soon as reasonably practicable after that time.

(6) The register must be available for inspection by members of the public at all reasonable times, free of charge.

The register of take-back service providers

46.—(1) The deposit management organisation must keep and maintain a register of take-back service providers ("the register").

(2) The deposit management organisation must update the register as soon as reasonably practicable after the day on which a scheme retailer is registered as a take-back service provider.

(3) Where a scheme retailer's registration as a take-back service provider is revoked under paragraph 9 or 10 of Schedule 4, the deposit management organisation must remove an entry for the take-back service provider from the register—

(a) at the end of the day on which the revocation takes effect, or

(b) if it is not practicable to amend the register at that time, as soon as reasonably practicable after that time.

(4) The deposit management organisation must—

(a) make the register available for inspection by members of the public at all reasonable times, free of charge, and

(b) permit members of the public to obtain copies of entries on the register on payment of a reasonable charge.

Chapter 7

General obligations of scheme collectors

Form of return amount

47.—(1) Subject to paragraph (2), a scheme collector must pay the total return amount for the returnable items that it accepts from any person and do so using one or more of the following means—

(a) cash in sterling;

(b) a payment to a debit or credit card;

(c) a refund voucher.

(2) If the scheme collector is a scheme retailer (other than a scheme retailer who does not accept cash), the scheme collector must—

(a) offer to pay the total return amount in the form of money or a refund voucher to the person returning the returnable items to them (the "returner"), and

(b) if the returner accepts the offer, pay the total return amount in the form of money or a refund voucher as requested by the returner.

(3) A refund voucher—

(a) may be provided in either a physical or electronic format, but

(b) must be provided in a physical format, if requested by the returner.

(4) For the purposes of this regulation—

(a) "refund voucher" means a voucher, token or similar item which is capable of being exchanged immediately for a sum of money or a payment to a debit or credit card, equal to the relevant total return amount, and

(b) it does not matter whether a refund voucher is capable of being exchanged (whether with the scheme collector or with another person)—

(i) for goods or services, or

(ii) singly or together with any other refund vouchers or other vouchers or similar items;

(c) the "total return amount" payable to a returner is the aggregate of each return amount payable for a returnable item presented by the returner and accepted by the scheme collector.

Requirement for return point operators to retain returnable items

48. A return point operator (other than the deposit management organisation) must retain the returnable items that it accepts at the return point for collection by, or on behalf of, the deposit management organisation.

Requirement for take-back service providers to retain or return returnable items

49. A take-back service provider must either—

(a) retain the returnable items that it accepts through the take-back service for collection by, or on behalf of, the deposit management organisation, or

(b) return the returnable items that it accepts through the take-back service to the deposit management organisation or a person acting on behalf of the deposit management organisation.

PART 7

The scheme administrator: the deposit management organisation

Chapter 1

Appointment and governance

The deposit management organisation

50.—(1) The Secretary of State may, with the consent of DAERA, appoint one person as the scheme administrator of the Scheme (referred to in these Regulations as "the deposit management organisation").

(2) Parts 2 and 4 of Schedule 5 contain provision about the appointment of the deposit management organisation and related matters.

Conditions

51.—(1) A person's appointment as the deposit management organisation may be subject to such conditions (if any) as the Secretary of State considers appropriate (see paragraph 2(3)(a)(iii) of Schedule 5).

(2) The Secretary of State may by notice in writing vary or revoke any condition to which the deposit management organisation is subject.

(3) The deposit management organisation must comply with any conditions imposed by the Secretary of State under this regulation and Schedule 5.

Operational plan

52.—(1) The deposit management organisation must act in accordance with its operational plan.

(2) The deposit management organisation—

(a) must consider how its operational plan would adapt to and manage any expansion of the types of in-scope material;

(b) may review its operational plan at any time, and must do so—

(i) by the end of the period of 12 months beginning with the date of appointment, and

(ii) subsequently at intervals not exceeding 12 months.

(3) The deposit management organisation may revise its operational plan following a review under paragraph (2) and must submit any revision of it, as soon as reasonably possible, to—

(a) the Secretary of State,

(b) the Environment Agency, and

(c) DAERA.

(4) The appropriate authority may approve any revision of the operational plan, with or without modifications.

(5) A call-in notice may relate to—

(a) a particular revision, or

(b) such descriptions of revision as may be specified in the notice.

(6) Before approving any revision to the operational plan, the appropriate authority must consult—

(a) the appropriate bodies, and

(b) the deposit management organisation.

(7) For the purposes of paragraph (6)(a), the appropriate bodies are—

(a) if the Environment Agency is the appropriate authority, DAERA;

(b) if DAERA is the appropriate authority, the Environment Agency;

(c) if the Secretary of State is the appropriate authority, the Environment Agency and DAERA.

(8) An approval for the purposes of paragraph (4) must be given in writing.

(9) The deposit management organisation must promptly incorporate any revision approved under paragraph (4) into its operational plan and must send a copy of that revised operational plan, if requested to do so, to—

(a) the Secretary of State,

(b) the Environment Agency, and

(c) DAERA.

(10) In this regulation—

"appropriate authority" means—

(a) the Environment Agency or DAERA, or

(b) where a call-in notice has effect in respect of a proposed revision, the Secretary of State;

"call-in notice" means a notice in writing given by the Secretary of State to the Environment Agency or DAERA that a revision of the operational plan is to be approved by the Secretary of State instead of by the Environment Agency or DAERA, as the case may be.

Annual reports

53.—(1) The deposit management organisation must submit an annual report to the Secretary of State and the national enforcement authorities for each scheme year.

(2) The annual report must set out how, and the extent to which, the deposit management organisation has in the relevant scheme year acted in accordance with its operational plan.

(3) The annual report must be submitted to the Secretary of State and the national enforcement authorities as soon as is reasonably practicable, and in any event within a period of 6 weeks, beginning with the end of the scheme year to which it relates.

Reserve fund

54.—(1) The deposit management organisation which is first appointed following the inception of the Scheme must establish a reserve fund within 5 years of the date of its appointment.

(2) The deposit management organisation, and any deposit management organisation which is subsequently appointed in its place, must—

(a) maintain the reserve fund in such amount as is necessary to fund the payments set out in paragraph (3), or

(b) maintain the reserve fund in such amount as the Secretary of State may direct.

(3) In this regulation "reserve fund" means a fund out of which, in the event of the deposit management organisation's appointment being revoked, payments may be made by the interim scheme administrator in respect of—

(a) expenditure incurred by the deposit management organisation in the exercise of its functions under or in connection with the Scheme before its appointment was revoked, and

(b) expenditure incurred by the interim scheme administrator in the discharge of its functions under or in connection with the Scheme before the appointment of another person as the deposit management organisation (see Chapter 10 of this Part).

Chapter 2

Scheme logo, scheme packaging logo and scheme return code

Scheme logo and scheme packaging logo

55.—(1) The deposit management organisation—

(a) must issue to registered scheme producers a single logo designed to be carried on each deposit item to identify it as a deposit item (the "scheme logo");

(b) may issue to registered scheme producers a single logo designed to be carried on each scheme multipack to identify the scheme multipack as packaging which contains one or more deposit items (the "scheme packaging logo").

(2) A scheme logo or scheme packaging logo may from time to time be withdrawn and replaced by the deposit management organisation.

(3) Before deciding to issue, withdraw or replace a scheme logo or scheme packaging logo, the deposit management organisation must have regard to the likely impact of the decision on registered scheme producers.

(4) Where the deposit management organisation issues or replaces any scheme logo or scheme packaging logo, the deposit management organisation must specify the date from which that logo is to be used by registered scheme producers and scheme suppliers.

(5) The date specified for the purposes of paragraph (4) must be a date which the deposit management organisation is satisfied gives registered scheme producers and scheme suppliers sufficient notice of the change before it takes effect.

Publication of scheme logo and scheme packaging logo

56. The deposit management organisation must publish—

(a) the scheme logo, and

(b) the scheme packaging logo (if any),

in such manner as the deposit management organisation considers appropriate to bring them to the attention of scheme suppliers and consumers.

Scheme return code

57.—(1) In these Regulations "scheme return code", in relation to a deposit item, means a code which—

(a) when scanned electronically, enables the registered scheme producer of the item to be identified, and

(b) meets any code requirements.

(2) For the purposes of paragraph (1), "code requirements", in relation to a code, means any additional requirements specified for the time being by the deposit management organisation.

(3) The requirements which the deposit management organisation may specify under paragraph (2) include—

(a) requirements as to the technological or security standards that a code must meet to be used as a scheme return code, or

(b) requirements as to the information to be retrieved when the code is scanned electronically.

(4) The deposit management organisation may—

(a) specify the same requirements for the code to be used on all deposit items, or

(b) specify different requirements for the codes to be used on different deposit items.

(5) In determining whether, and if appropriate, what requirements to specify under paragraph (2), the deposit management organisation must take into account the likely impact of those requirements on registered scheme producers.

(6) Before making changes to the requirements specified for any deposit item, the deposit management organisation must take into account the likely impact of those changes on registered scheme producers.

(7) Where the deposit management organisation changes the requirements specified for any deposit item, the deposit management organisation must specify the date from which the code containing those requirements is to be used.

(8) The date specified for the purposes of paragraph (7) must be a date which the deposit management organisation is satisfied gives registered scheme producers sufficient notice of the change before it takes effect.

(9) The deposit management organisation must take such steps as it considers appropriate to ensure that registered scheme producers are aware of the code requirements (if any) and any changes to them.

Agreement on a common scheme logo, scheme packaging logo, and scheme return code

58.—(1) The deposit management organisation must use its best endeavours to reach agreement with any other scheme administrator and the Scottish deposit administrator(**a**) on a common single scheme logo, scheme packaging logo, and on return code requirements.

(2) Before issuing a scheme logo or scheme packaging logo under regulation 55 or a scheme return code under regulation 57, the deposit management organisation must—

(a) consult—

(i) such persons as appear to the deposit management organisation to represent those likely to be affected by the deposit management organisation issuing such scheme logo, scheme packaging logo or scheme return code;

(**a**) "Scottish deposit administrator" is defined by paragraph 6 of Schedule 8 to the Environment Act 2021.

(ii) the scheme administrator of any other deposit scheme and the Scottish deposit administrator of any Scottish deposit and return scheme, and

(iii) such other persons (if any) as the deposit management organisation considers appropriate, and

(b) have regard to the views expressed in responses to the consultation.

Chapter 3

The deposit

Requirement to determine the amount of the deposit

59.—(1) The deposit management organisation must determine the deposit level in respect of deposit items.

(2) In making a determination under paragraph (1), the deposit management organisation must—

(a) use its best endeavours to reach agreement with any other scheme administrator and the Scottish deposit administrator on setting the same deposit level for deposit schemes across the United Kingdom, and

(b) have regard to any determinations on deposit levels made by other such administrators when determining the deposit management organisation's own deposit levels.

(3) The deposit management organisation must publish, in such manner as it considers appropriate, the deposit level in respect of deposit items.

(4) The deposit management organisation must, on request from the Secretary of State or DAERA, inform them of the methodology, data and evidence relied upon to calculate and determine the deposit level.

Determination of revised deposit level

60.—(1) The deposit management organisation may determine a revised deposit level in respect of any deposit items.

(2) The deposit management organisation must publish a notice, in such manner as it considers appropriate, which specifies—

(a) the revised deposit level in respect of the relevant deposit items, and

(b) the date on which the revised deposit level takes effect.

(3) The date specified for the purposes of paragraph (2)(b) must not be before the end of the period of three calendar months beginning with the date on which the relevant notice is published.

The amount of the deposit: supplementary provisions

61.—(1) The deposit level may be—

(a) the same in respect of all deposit items, or

(b) different in respect of different deposit items.

(2) For the purposes of paragraph (1)(b), the deposit management organisation may determine the deposit level by reference to, for example—

(a) the size of the containers;

(b) the in-scope material from which the containers are wholly or mainly made;

(c) whether the deposit items are supplied to scheme consumers as single items or in multipacks.

(3) The deposit management organisation, when determining the deposit level for any deposit item, must have regard to—

(a) the purposes of the Scheme,

(b) the collection targets,

(c) the likely impact of the deposit level on the ability of scheme consumers to purchase deposit items,

(d) the likely impact of the deposit level on the use of containers by registered scheme producers (including the in-scope material used to make those containers, the size of the containers and the use of multipacks),

(e) the likely impact on the purchase of deposit items by scheme consumers (including the in-scope material used to make those containers, the size of the containers purchased and purchase of multipacks or single items),

(f) the likely impact on scheme consumers, the purposes of the Scheme and the collection targets, if the deposit level for the deposit item is different to any comparable amount payable for a comparable container under any other deposit scheme or any Scottish deposit and return scheme(**a**), and

(g) the likely impact of a proposed deposit level on the operation of any other deposit scheme or any Scottish deposit and return scheme.

(4) Before making a determination under regulation 59 or 60, the deposit management organisation must—

(a) consult—

(i) such persons as appear to the deposit management organisation to represent those likely to be affected by the determination,

(ii) the scheme administrator of any other deposit scheme and the Scottish deposit administrator of any Scottish deposit and return scheme, and

(iii) such other persons (if any) as the deposit management organisation considers appropriate, and

(b) have regard to the views expressed in responses to the consultation.

(5) For the purposes of this regulation, "comparable container", in relation to a deposit item, means a container which can be returned under another deposit scheme or a Scottish deposit and return scheme and is—

(a) made wholly or mainly from the same in-scope material as the container from the deposit item,

(b) of the same size as the container from the deposit item, and

(c) supplied in a multipack, if the deposit item is supplied in a multipack.

Use of amounts received as deposits

62.—(1) The deposit management organisation—

(a) must retain the amounts paid to it by registered scheme producers under regulation 22, and

(b) must use those amounts to meet the cost of refunds for returnable items under regulation 43(2).

(**a**) "Scottish deposit and return scheme" is defined by paragraph 6 of Schedule 8 to the Environment Act 2021.

(2) If any amount remains after the costs mentioned in paragraph (1)(b) have been paid, the deposit management organisation must use such of that amount towards any of the NEA costs which have not otherwise been met.

(3) If any amount remains after the payments referred to in paragraph (2) have been made, the deposit management organisation may use that remaining amount for the purpose of meeting the costs of exercising any of the deposit management organisation's functions under or in connection with the Scheme.

Chapter 4

Fees for registration

Registration fees for scheme producers

63.—(1) The deposit management organisation may, for each scheme year, charge any scheme producer that is registered with it under regulation 11 during all or part of that scheme year, a fee.

(2) The fee charged under paragraph (1) (the "registration fee") may be used for the purposes of meeting any or all of the following costs—

(a) the NEA costs, and

(b) the costs incurred by the deposit management organisation in exercising its functions under or in connection with the Scheme.

(3) The amount of the registration fee payable by a scheme producer is the aggregate of the following amounts—

(a) the producer amount for containers made wholly or mainly from polyethylene terephthalate (PET) plastic (if any),

(b) the producer amount for containers made wholly or mainly from steel (if any), and

(c) the producer amount for containers made wholly or mainly from aluminium (if any).

(4) The producer amount for containers made wholly or mainly from each type of in-scope material must be calculated as follows (and may be £0)—

$$A \times B$$

where—

"A" is the fee for the relevant scheme year for a container made wholly or mainly from the particular in-scope material (the "per container fee"), and

"B" is the total number of containers made wholly or mainly from that in-scope material which the deposit management organisation expects the relevant scheme producer to supply to scheme consumers in the relevant scheme year.

(5) The per container fee for a container made wholly or mainly from a particular in-scope material—

(a) must be the same for all registered scheme producers, and

(b) may be £0.

(6) The deposit management organisation must, for the purposes of determining the registration fee, have regard to the likely value, or if known the actual value, of each type of in-scope material which the deposit management organisation expects to be recycled from all of the refund items which are collected by, or returned, to the deposit management organisation in the relevant scheme year.

(7) The per container fee for one in-scope material must not subsidise any of the relevant costs from any other in-scope material.

(8) For the purposes of paragraph (7), "the relevant costs" for an in-scope material are the costs which the deposit management organisation expects to incur in the exercise of its functions under, or in connection with, the Scheme in relation to the collection, processing and recycling of refund items made wholly or mainly from that material.

(9) The deposit management organisation must—

(a) keep the registration fee under review;

(b) carry out a full review of the operation of the registration fee at least every 12 months, and

(c) publish the registration fee in such manner as it considers appropriate to bring it to the attention of scheme producers.

(10) Before determining, or re-determining, the registration fee, the deposit management organisation must consult—

(a) scheme producers, and

(b) such other persons (if any) as the deposit management organisation considers appropriate,

and have regard to the views expressed in responses to the consultation.

(11) The deposit management organisation may require the registration fee to be payable at times or intervals and by means specified by the deposit management organisation.

(12) The deposit management organisation may make different payment arrangements for different cases or circumstances and in particular—

(a) must ensure that any registration fee charged to a scheme producer in accordance with paragraph (1) does not include a fee in respect of a container from a container drink which is a registered low volume product during the scheme year concerned;

(b) may make arrangements for registration fees to be reduced, waived or refunded (whether in whole or in part).

Use of registration fees

64.—(1) If the deposit management organisation charges registration fees only for the purposes of meeting any or all of the NEA costs, it must pay such amounts of the registration fees that it receives to the appropriate national enforcement authority for the purposes of meeting the relevant NEA costs.

(2) If the deposit management organisation charges registration fees for the purposes of meeting any or all of the NEA costs and any or all of its own costs, the deposit management organisation—

(a) must pay such amount of the registration fees that it receives as are necessary to meet the relevant NEA costs, and

(b) if any amount remains, may use that amount to meet the costs of carrying out its functions under or in connection with the Scheme.

(3) If the deposit management organisation charges registration fees only for the purposes of meeting any or all of its own costs, the deposit management organisation must use the registration fees that it receives for the purposes of meeting those costs.

Chapter 5

Review of operation of return points and collection etc. of returnable items

Review of operation of return points

65.—(1) The deposit management organisation must, at such intervals as it considers appropriate, carry out a review of the operation of all return points in the scheme area.

(2) In carrying out a review under paragraph (1), the deposit management organisation must in particular consider—

(a) the number of return points;

(b) the location of the return points, and in particular—

(i) whether return points are being operated both in England and in Northern Ireland, and

(ii) whether scheme consumers have reasonable access to at least one return point;

(c) the numbers of returnable items that are returned through the return points;

(d) the costs involved in the operation of the return points;

(e) the likely impact on the number of returnable items returned through return points if the number of return points were to be increased or decreased or the location of return points changed without increasing or decreasing the number of those return points;

(f) the likely impact on the costs incurred in the operation of, or income derived from, the Scheme if the number of return points were to be increased or decreased or the location of return points changed without increasing or decreasing the number of return points;

(g) any information as to general litter levels and the levels of containers in litter;

(h) any information as to footfall in the area under review;

(i) whether there is sufficient access to return points for persons living in villages and rural areas.

(3) Where the deposit management organisation considers that the number of return points could be decreased without either—

(a) reducing the number of returnable items that are returned through the Scheme, or

(b) reducing or removing reasonable access to return points in any part of the scheme area,

the deposit management organisation may take any of the steps specified in paragraph (4).

(4) The steps mentioned in paragraph (3) are—

(a) propose to any scheme retailer registered as a mandatory return point operator that they apply to the deposit management organisation for a return point exemption in respect of those premises specified by the deposit management organisation;

(b) propose to any scheme supplier who is authorised to operate a voluntary return point at or on any premises that they request the cancellation of their authorisation to operate that return point;

(c) cease to operate any return point that the deposit management organisation operates.

(5) Where the deposit management organisation considers that an increase in the number of return points is needed to either—

(a) increase the number of returnable items that are returned through the Scheme, or

(b) improve access to return points for scheme consumers in any part of the scheme area,

the deposit management organisation may take one or more of the steps specified in paragraph (6).

(6) The steps mentioned in paragraph (5) are—

(a) carry out a review of the current return point exemptions and decide whether to propose the revocation of any of them;

(b) set up and operate one or more additional return points itself;

(c) any other step the deposit management organisation considers appropriate.

(7) For the purposes of any steps taken under paragraph (4) or (6), the deposit management organisation—

(a) must have regard to the likely impact on the costs of operating the Scheme;

(b) may take different steps in relation to different parts of the scheme area.

Collection etc. of returnable items from scheme collectors and retailers and connected payment

66.—(1) The deposit management organisation must—

(a) collect all of the returnable items accepted by the return point operators from those operators;

(b) collect all of the refund items from on-sale premises and mixed retail premises;

(c) collect, or accept the return of, all of the returnable items accepted by take-back service providers.

(2) The deposit management organisation must pay each scheme retailer from whom it collects any refund items an amount equal to the total of the amount of refunds paid by the scheme retailer in respect of the collected refund items.

(3) The deposit management organisation must pay each scheme collector from whom it collects, or accepts, returnable items—

(a) the relevant return amount for each returnable item that it collects or accepts from the scheme collector, and

(b) if the scheme collector is a return point operator, the handling payment.

(4) The deposit management organisation must make any payment required under paragraph (2) or (3)(a)—

(a) at such intervals, and

(b) in such manner,

as are determined in accordance with its operational plan.

The handling payment

67.—(1) The deposit management organisation must provide for a payment (a "handling payment") to be paid by the deposit management organisation to each return point operator, other than the deposit management organisation itself.

(2) The deposit management organisation must determine the amount of the handling payment having regard to all relevant factors including—

(a) costs of purchasing or leasing any machinery, equipment or materials required for the collection or storage (or both) of returnable items;

(b) costs of staff time dedicated to the collection or storage (or both) of returnable items;

(c) rental value of the floor space or any other part of any premises used solely for the collection or storage (or both) of returnable items.

(3) The deposit management organisation may determine that the amount of the handling payment be different in different cases.

(4) Before determining the amount of the handling payment under paragraph (2), the deposit management organisation must consult—

(a) the Environment Agency,

(b) DAERA,

(c) return point operators or persons representing return point operators, and

(d) such other persons (if any) as the deposit management organisation considers appropriate,

and have regard to the views expressed in responses to the consultation.

(5) A determination of the amount of the handling payment under paragraph (2) shall have effect for a period no longer than three years from the date of that determination.

(6) The deposit management organisation—

(a) may make a further determination under paragraph (2) of the amount of the handling payment at any time, and

(b) must make a further determination under paragraph (2) to take effect at the end of the period of three years from the date of the previous determination.

Chapter 6

Recycling of in-scope materials

Recycling of in-scope material from returned refund items

68.—(1) The deposit management organisation must make arrangements for the recycling of the in-scope material from which returned items are made.

(2) The arrangements made for the purposes of paragraph (1) must include provision conferring a right of first refusal, for each specified period, on registered scheme producers.

(3) A right of first refusal is a right to purchase the appropriate quantity (if any) of each type of in-scope material that has been recovered from returned items (a "recovered material") during the relevant specified period for such consideration as represents the market value of that in-scope material.

(4) For the purposes of paragraph (3)—

(a) the "appropriate quantity" of a recovered material is an amount which does not exceed the relevant proportion of that recovered material;

(b) "market value" means the price at which the in-scope material would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.

(5) The relevant proportion of a recovered material is to be calculated as follows—

$$SPA / TPA$$

where—

"SPA" is the number of deposit items with containers made wholly or mainly from the recovered material and supplied by the registered scheme producer during the specified period;

"TPA" is the total number of deposit items with containers made wholly or mainly from the recovered material and supplied by all registered scheme producers during the specified period.

(6) In this regulation—

"returned items" means the refund items collected or accepted by the deposit management organisation under or in accordance with regulation 43 or 66;

"specified period" means the period specified in arrangements made under paragraph (1).

Recycling of in-scope material from other returned items

69.—(1) The deposit management organisation must make arrangements with the relevant administrator for the recycling of, or facilitating the recycling of, the in-scope material from which relevant returned items are made.

(2) The arrangements made for the purposes of paragraph (1) may be solely to return the relevant returned items to the relevant administrator.

(3) In this regulation—

"relevant administrator" means—

(a) an overseas scheme administrator,

(b) a Scottish deposit administrator, or

(c) a Welsh scheme administrator;

"relevant returned item"—

(a) in relation to an overseas scheme administrator, means an overseas scheme item that—

(i) is subject to the specified overseas scheme in relation to which the administrator exercises functions, and

(ii) has been collected or accepted by the deposit management organisation under or in accordance with regulation 43 or 66;

(b) in relation to a Scottish deposit administrator, means a Scottish scheme item that—

(i) is subject to the deposit and return scheme in relation to which the Scottish deposit administrator exercises functions, and

(ii) has been collected or accepted by the deposit management organisation under or in accordance with regulation 43 or 66;

(c) in relation to a Welsh scheme administrator, means a Welsh scheme item that—

(i) is subject to the Welsh deposit scheme in relation to which the Welsh scheme administrator exercises functions, and

(ii) has been collected or accepted by the deposit management organisation under or in accordance with regulation 43 or 66.

Amounts received in connection with arrangements made under regulation 68 or 69

70.—(1) The deposit management organisation may retain any amount that it receives in connection with the arrangements made under regulation 68 or 69.

(2) The deposit management organisation—

(a) must use any amount retained under paragraph (1) to meet any NEA costs that have not otherwise been met;

(b) may, if any amount remains, use that amount to meet the costs of carrying out its functions under or in connection with the Scheme.

Chapter 7

National enforcement authorities

Amounts to be paid to the national enforcement authorities

71. The deposit management organisation must make any payment required to be made to a national enforcement authority under this Part by such means or in such manner and at such intervals as are agreed with the national enforcement authority.

Information about returns data

72.—(1) The deposit management organisation must—

(a) supply returns data to its registered scheme producers;

(b) inform each registered scheme producer, in such manner and at such intervals as the deposit management organisation considers appropriate, of how many of each of the scheme producer's deposit items were returned to the deposit management organisation and in respect of which deposits were refunded, within a particular time period, and

(c) make available the returns data to the national enforcement authorities.

(2) In this regulation "returns data" means—

(a) information that enables registered scheme producers to determine the number of containers returned or not returned under the Scheme, including the proportion of returns by product;

(b) information about deposits that are unredeemed;

(c) information relating to the locations of returns, and

(d) information about returns received by the deposit management organisation from other scheme administrators.

Co-operation

73.—(1) The deposit management organisation must enter into and maintain arrangements with each national enforcement authority for securing co-operation and the exchange of information for the carrying out of any of the national enforcement authority's functions other than any relevant enforcement function.

(2) The deposit management organisation and the national enforcement authority must—

(a) review the arrangements from time to time, and

(b) revise them when they consider it appropriate to do so.

(3) In these Regulations "relevant enforcement function" means a function of a national enforcement authority under Part 9 in respect of any act or omission by the deposit management organisation.

Chapter 8

Working with other scheme administrators

Co-operation and joint working

74.—(1) The deposit management organisation may—

(a) where it considers it appropriate to do so for the efficient and effective performance of the Scheme or any of its functions under the Scheme, co-operate or work jointly with a specified administrator;

(b) provide advice or assistance to a specified administrator for the purposes of, or in connection with, the functions of the specified administrator under a deposit scheme, a Scottish deposit and return scheme or an overseas scheme.

(2) Such arrangements may, for example, include—

(a) arrangements intended to simplify registration procedures for producers and importers who supply drinks in the scheme area and in other parts of the United Kingdom;

(b) arrangements intended to simplify the process of returning returnable items for the final user or consumer;

(c) arrangements for the recycling, or to facilitate the recycling of, any in-scope material recovered from—

(i) refund items returned through a Welsh deposit scheme or a Scottish deposit and return scheme;

(ii) overseas scheme items.

(3) In this regulation "specified administrator" means—

(a) a Welsh scheme administrator, or

(b) a Scottish deposit administrator, or

(c) a person having functions equivalent to those of a scheme administrator under an overseas scheme.

Payments to other scheme administrators

75.—(1) The deposit management organisation may make payments to a specified administrator in connection with the operation of the Scheme or a specified scheme, including, but not limited to, payments equal to the total of any refunds paid by the specified administrator in respect of refund items returned through the specified scheme.

(2) In this regulation—

"specified administrator" means—

(a) a Welsh scheme administrator, or

(b) a Scottish deposit administrator;

"specified scheme" means—

(a) a Welsh deposit scheme, or

(b) a Scottish deposit and return scheme.

Chapter 9

Review of decisions

Internal review of decisions made by the deposit management organisation

76.—(1) This regulation applies if—

(a) the deposit management organisation makes a relevant decision, and

(b) within a period of 28 days beginning with the date on which the affected person receives notice of the decision, or such longer period as the deposit management organisation

may specify under regulation 77(1)(a), the affected person applies to the deposit management organisation for review of the decision.

(2) In the table contained in this regulation—

(a) each decision mentioned in column 1 of the table in this regulation is a "relevant decision", and

(b) a person is an "affected person" in relation to such a decision if they are mentioned in the corresponding entry in column 2 of the table.

(3) The deposit management organisation must carry out a review of the relevant decision in accordance with regulation 77.

(4) On conclusion of the review of a relevant decision, the deposit management organisation must—

(a) confirm the decision (whether on the same or different grounds),

(b) make such changes to the decision as the deposit management organisation considers appropriate, or

(c) revoke the decision.

(5) The deposit management organisation must notify the affected person of the decision on the review as soon as reasonably practicable after the decision is taken.

Column 1: Decision	Column 2: Affected Person
Decision to refuse a person's application to register a low volume line under regulation 18	the person making the application
Decision to cancel a product's registration as a low volume line under regulation 19	the registered scheme producer for that product
Decision as to the amount of a registration fee payable by a scheme producer under regulation 63	the registered scheme producer
Decision as to the amount of the handling payment payable to a return point operator under regulation 67	the return point operator
Decision to cancel a person's registration as a registered scheme producer under Schedule 1, paragraph 6	the person whose registration is cancelled
Decision to cancel a scheme retailer's registration as a mandatory return point operator under Schedule 2, paragraph 4	the scheme retailer
Decision to refuse an application for a return point exemption under Schedule 3, paragraph 3	the person making the application
Decision to refuse to renew a return point exemption under Schedule 3, paragraph 6	the person making the application
Decision to revoke a return point exemption under Schedule 3, paragraph 9	the person making the application
Decision to refuse a person's application for authorisation to operate a return point under Schedule 4, paragraph 3	the person making the application

Column 1: Decision	Column 2: Affected Person
Decision to refuse a person's application for registration as a take-back service provider under Schedule 4, paragraph 6	the person making the application
Decision to revoke a person's authorisation to operate a return point under Schedule 4, paragraph 10	the person whose authorisation is revoked
Decision to revoke a person's authorisation as a take-back service provider under Schedule 4, paragraph 10	the person whose authorisation is revoked

Internal review: procedure

77.—(1) The deposit management organisation may specify the procedure for the internal review ("review") of a relevant decision and, in particular, may—

(a) set out the circumstances in which the deposit management organisation may accept an application after the end of the period specified in regulation 76(1)(b);

(b) specify the form and manner in which an application for review is to be made;

(c) specify the information which an application for review must contain and any documentation which must accompany such an application;

(d) enable the deposit management organisation to request such further information or documentation as is reasonably required for it to complete a review of the relevant decision, and specify—

(i) the form and manner in which such further information or documentation is to be provided;

(ii) the period within which such further information or documentation is to be provided;

(e) include provision to allow the deposit management organisation to disregard any information or documentation not provided in the specified form or manner, or within the specified period.

(2) The deposit management organisation must not require the payment of any fee in connection with an application for a review.

(3) In this regulation "relevant decision" has the meaning given in regulation 76(2).

Status of certain decisions pending outcome of internal review

78.—(1) This regulation applies where an affected person applies for an internal review ("review") of a relevant decision.

(2) The effect of the relevant decision is suspended during the period—

(a) beginning with the day on which the application for the review is made, and

(b) ending with the end of the day on which the person is notified of the deposit management organisation's decision on that application in accordance with regulation 76(5).

(3) In this regulation "affected person" and "relevant decision" have the meanings given in regulation 76(2).

Chapter 10

Revocation of a person's appointment as the deposit management organisation

Revocation of a person's appointment as the deposit management organisation

79. Parts 3 and 4 of Schedule 5 contain provisions about the revocation of a person's appointment as the deposit management organisation and related matters.

Interim scheme administrator

80.—(1) This regulation applies where—

(a) the Secretary of State revokes a person's appointment as the deposit management organisation (the "outgoing DMO"), and

(b) the revocation takes effect before another person is appointed as the deposit management organisation.

(2) The Secretary of State may—

(a) carry out the essential DMO functions during the interim period, or

(b) with the consent of DAERA, appoint another person to carry out those functions during the interim period.

(3) The Scheme applies during the interim period with the modifications set out in paragraphs (4) to (6).

(4) Any reference to the deposit management organisation in any of the provisions mentioned in the definition of "essential DMO functions" is to be read as a reference to the interim scheme administrator.

(5) Any registration fee determined under regulation 63 which is in effect immediately before the revocation date is to have effect on and after that date as if determined by the interim scheme administrator.

(6) Regulation 52 is to be treated as omitted for the purposes of the exercise of the essential DMO functions under this regulation.

(7) For the purposes of regulations 76 to 78—

(a) any decision made by the outgoing DMO has effect as a decision of the interim scheme administrator;

(b) any internal review procedures which are in effect immediately before the revocation date are to have effect on and after that date as if specified by the interim scheme administrator.

(8) For the purposes of this regulation, the "essential DMO functions" are the functions of the deposit management organisation under—

(a) regulation 11 and Schedule 1 (registration of scheme producers);

(b) regulation 12 (register of scheme producers);

(c) regulation 14 (DMO instructions);

(d) regulation 18 (registration of low volume products);

(e) regulation 19 (cancellation of registration of low volume products);

(f) regulation 20 (updates on low volume);

(g) regulation 21 (payment of registration fee to deposit management organisation);

(h) regulation 22 (receipt of deposits);

(i) regulation 30 (DMO instructions);

(j) regulations 31 to 33 (overseas schemes);

(k) regulation 34(4) and (5) and Schedule 2 (registration of mandatory return point operators);

(l) regulation 34(6) and Schedule 3 (return point exemptions);

(m) regulations 38 and 41 and Schedule 4 (voluntary return points and take-back services);

(n) regulation 39 (operation of return points), in so far as it relates to any return point operated by the deposit management organisation immediately before the revocation date;

(o) regulation 43 (collection or acceptance of returnable items from any person), in so far as it relates to any arrangements made by the deposit management organisation and remaining in effect immediately before the revocation date;

(p) regulations 44 to 46 (registers);

(q) regulation 62 (use of amounts received as deposits);

(r) regulation 63 (registration fees for scheme producers), if there is no registration fee requirement in effect immediately before the revocation date or alterations are required to any registration fee requirement following a review under regulation 63(9);

(s) regulation 64 (use of registration fees);

(t) regulation 66 (collection etc. of returnable items);

(u) regulation 67 (handling payments);

(v) regulation 68 (recycling of in-scope material);

(w) regulation 70 (amounts received in connection with arrangements under regulation 68 or 69), in so far as it relates to recycling functions under regulation 69;

(x) regulation 71 (payment of NEA costs);

(y) regulation 73 (co-operation);

(z) regulation 74 (co-operation with other scheme administrators);

(z1) regulation 75 (payments to other scheme administrators);

(z2) regulation 76 (internal review).

(9) In this regulation—

"interim period" means the period—

(a) beginning with the revocation date, and

(b) ending at the end of the day preceding the day on which the next appointment of a person as the deposit management organisation takes effect;

"revocation date" means the date on which the revocation of the outgoing DMO's appointment takes effect.

PART 8

Targets

Collection targets: the deposit management organisation

81.—(1) The deposit management organisation must ensure that the Scheme, together with any reciprocal recycling arrangements, operates so as to ensure that at least the minimum total quantity of refund items (the "collection targets") is returned to the deposit management organisation.

(2) The collection targets are—

(a) in the calendar year beginning on 1st January 2028—

(i) 70% of all refund items from deposit items supplied by registered scheme producers with a view to final consumption in England;

(ii) 70% of all refund items from deposit items supplied by registered scheme producers with a view to final consumption in Northern Ireland;

(b) in the calendar year beginning on 1st January 2029—

(i) 80% of all refund items from deposit items supplied by registered scheme producers with a view to final consumption in England;

(ii) 80% of all refund items from deposit items supplied by registered scheme producers with a view to final consumption in Northern Ireland;

(c) in each calendar year beginning on or after 1st January 2030—

(i) 90% of all refund items from deposit items supplied by registered scheme producers with a view to final consumption in England;

(ii) 90% of all refund items from deposit items supplied by registered scheme producers with a view to final consumption in Northern Ireland.

(3) For the purposes of paragraph (2)(c)(i) and (ii), the quantity of containers returned must include—

(a) at least 85% of the refund items made wholly or mainly from polyethylene terephthalate (PET) plastic, and

(b) at least 85% of the refund items made wholly or mainly from any other in-scope material.

(4) For the purposes of this regulation, a refund item which is—

(a) subject to reciprocal recycling arrangements, and

(b) returned to a person in Wales or in Scotland in accordance with those arrangements,

is to be treated as returned to the deposit management organisation.

(5) In this regulation "reciprocal recycling arrangements" means—

(a) arrangements made by the deposit management organisation with a Welsh scheme administrator for the recycling of refund items which are returned to scheme collectors in Wales, or

(b) arrangements made by the deposit management organisation with a Scottish scheme administrator for the recycling of refund items which are returned in accordance with the Scottish deposit and return scheme in relation to which the Scottish deposit administrator is exercising functions.

PART 9

Enforcement

Chapter 1

Interpretation

Interpretation of Part 9

82.—(1) In this Part—

"appropriate authority" means—

(a) the local weights and measures authority, in relation to the ALA provisions as they apply in the authority's area;

(b) the Environment Agency;

(c) DAERA;

"the CS Table" means the Table in Part 2 of Schedule 6;

"enforcement action" means the exercise of enforcement powers and functions by the national enforcement authorities under this Part.

(2) For the purposes of this Part, "the ALA provisions" are the following provisions of these Regulations—

(a) regulation 23 (requirement to supply items from registered scheme producers);

(b) regulation 24(1)(a) (requirement for deposit items supplied to carry scheme logo);

(c) regulation 24(1)(b) (requirement for deposit items supplied to carry scheme return code);

(d) regulation 24(2) (requirement for scheme multipacks supplied to carry the packaging logo);

(e) regulation 25(1) (restrictions on supply of registered low volume products);

(f) regulation 26(1) and (6) (requirement to provide or display scheme information);

(g) regulation 27(1) (requirement to provide or display registered low volume product information);

(h) regulation 28(1) (scheme retailer: requirement to charge deposit);

(i) regulation 34(1) (requirement to operate a return point);

(j) regulation 36(1) (requirement to display information on premises where no return point is operated);

(k) regulation 40 (requirement to display information at a return point);

(l) regulation 41 (requirements for provision of take-back services);

(m) regulation 42(1) and (5) (requirement to provide or display information about take-back service);

(n) regulation 47(1), (2) and (3) (requirements as to payment of total return amount);

(o) regulation 48 (requirement to retain returnable items);

(p) regulation 49 (requirement for take-back service providers to retain returnable items);

(q) regulation 85(1) (provision of information).

Chapter 2

Enforcement powers

Enforcement powers: England

83.—(1) A person who appears suitable to an appropriate authority in England may be authorised in writing by the appropriate authority for the purposes of its functions under these Regulations to exercise the powers of entry and inspection mentioned in paragraph (2).

(2) The powers of entry and inspection are those set out in section 108(4)(a) to (f) and (h) to (ka) of the EA 1995(**a**) (powers of enforcing authorities and persons authorised by them).

(3) For the purposes of paragraph (1), section 108(4) of the EA 1995 is to be read as if—

(**a**) There are amendments to s108(4) of the Environment Act 1995 but they are not relevant to these Regulations.

(a) any reference to an authorised person (however expressed) were a reference to a person authorised under paragraph (1);

(b) in section 108(4)(a), the words "(or, in an emergency, at any time and, if need be, by force)" were omitted;

(c) in section 108(4)(f)—

(i) for "articles or substances" there were substituted "containers (within the meaning of regulation 8 of the Deposit Scheme for Drinks Containers (England and Northern Ireland) Regulations 2024)";

(ii) the words ", and of the air, water or land in, on, or in the vicinity of, the premises" were omitted;

(d) in section 108(4)(h)—

(i) in the words before sub-paragraph (i), for "article or substance as is mentioned in paragraph (g)" there were substituted "container as is mentioned in paragraph (f)";

(ii) in sub-paragraph (iii), for the words from "an offence" to the end there were substituted "an offence under regulation 86 or 87, or any other proceedings relating to the imposition of a civil sanction under regulation 90, of the Deposit Scheme for Drinks Containers (England and Northern Ireland) Regulations 2024 as those Regulations apply in relation to England";

(e) in section 108(4)(k)—

(i) after "computerised form" there were inserted ", including any information recorded electronically";

(ii) in sub-paragraph (i) for the words from "the pollution control enactments" to "he acts" there were substituted "the Deposit Scheme for Drinks Containers (England and Northern Ireland) Regulations 2024 as those Regulations apply in relation to England";

(f) in section 108(4)(ka)(ii), the words "(other than an article or substance within paragraph (g)" were omitted.

(4) Section 108(6) to (7F) of the EA 1995 applies to the applied enforcement powers as it applies to the powers in section 108(4) and is to be read as if—

(a) any reference to an authorised person (however expressed) were a reference to a person authorised under paragraph (1);

(b) in section 108(6), the words ", or to take heavy equipment on to any premises which are to be entered," were omitted;

(c) in section 108(6) and (7), the words "Except in an emergency" were omitted;

(d) in section 108(7B), for "the pollution control enactments or flood risk activity enactments" there were substituted "the Deposit Scheme for Drinks Containers (England and Northern Ireland) Regulations 2024 as those Regulations apply in relation to England.".

(5) Section 108(12), (12A) and (13) of the EA 1995 applies to the applied enforcement powers as it applies in relation to the powers conferred by section 108(4) of the EA 1995.

(6) Paragraphs 2 to 6 of Schedule 18 to the EA 1995 (issue of warrants, exercise of powers, information admissible in evidence, duty to secure premises and compensation) apply to the applied enforcement powers as they apply to the powers conferred by section 108(4) but as if—

(a) any reference to a designated person (however expressed) were a reference to a person authorised under paragraph (1);

(b) any reference to a relevant power were a reference to an applied enforcement power, including any power exercisable by virtue of a warrant under the provisions of the Schedule as applied by this paragraph;

(c) in paragraph 6(1), the reference to a power conferred by section 108(4)(a) or (b) or (5) were a reference to an applied enforcement power;

(d) any reference to "sheriff" were omitted.

(7) In this regulation—

(a) "the EA 1995" means the Environment Act 1995(**a**) as it applies in England;

(b) "the applied enforcement powers" means the powers conferred by paragraphs (1) and (2).

Enforcement powers: Northern Ireland

84.—(1) A person who appears suitable to DAERA may be authorised in writing by DAERA for the purposes of its functions under these Regulations to exercise the powers of entry and inspection mentioned in paragraph (2).

(2) The powers of entry and inspection are those set out in Article 72(2)(a) to (c), (e), (f) and (h) to (j) of the WCLO 1997.

(3) For this purpose, Article 72 of the WCLO 1997 is to be read as if—

(a) any reference to an authorised person (however expressed) were a reference to a person authorised under paragraph (1);

(b) in Article 72(2)(a), the words "(or, in an emergency, at any time and, if need be, by force)" were omitted;

(c) in Article 72(2)(f)—

(i) for "articles or substances" there were substituted "containers (within the meaning of regulation 8 of the Deposit Scheme for Drinks Containers (England and Northern Ireland) Regulations 2024)";

(ii) the words ", and of the air, water or land in, on, or in the vicinity of, the premises" were omitted;

(d) in Article 72(2)(h)—

(i) for "article or substance as is mentioned in sub-paragraph (g)" there were substituted "container as is mentioned in paragraph (f)";

(ii) in sub-paragraph (iii), for the words from "an offence" to the end there were substituted "an offence under regulation 86 or 87, or any other proceedings relating to the imposition of a civil sanction under regulation 90, of the Deposit Scheme for Drinks Containers (England and Northern Ireland) Regulations 2024 as those Regulations apply in relation to Northern Ireland.";

(e) in Article 72(2)(j)—

(i) after "computerised form" there were inserted ", including any information recorded electronically";

(ii) in sub-paragraph (i) for the words from "the pollution control" to "he acts" there were substituted "the Deposit Scheme for Drinks Containers (England and Northern Ireland) Regulations 2024 as those Regulations apply in relation to Northern Ireland";

(**a**) 1995 c. 25.

(f) in Article 72(2)(k), for "this Article" there were substituted "this Article as applied by the Deposit Scheme for Drinks Containers (England and Northern Ireland) Regulations 2024 as those Regulations apply in relation to Northern Ireland";

(g) after Article 72(2) there were inserted—

"(2A) An authorised person must not exercise the powers in sub-paragraphs (2)(f), (h) or (j) without—

(a) the consent of a person entitled to access to material on or accessible from the premises, or

(b) the authority of a warrant under Schedule 4 to this Order.".

(4) Article 72(4) and (5) of the WCLO 1997 applies to the applied enforcement powers as it applies to the powers in Article 72(2) of the WCLO 1997, but as if—

(a) any reference to an authorised person (however expressed) were to a person authorised under paragraph (1);

(b) in Article 72(4), the words ", or to take heavy equipment on to any premises which are to be entered," were omitted;

(c) in Article 72(4) and (5), the words "Except in an emergency" were omitted.

(5) Article 72(9) and (10) of the WCLO 1997 applies to the applied enforcement powers as it applies to the powers conferred by Article 72(2) of the WCLO 1997.

(6) Paragraphs 2 to 5 of Schedule 4 to the WCLO 1997 apply to the applied enforcement powers as they apply to the powers conferred by Article 72(2) of the WCLO 1997, but as if—

(a) any reference to an authorised person (however expressed) were a reference to a person authorised under paragraph (1);

(b) any reference to a relevant power were a reference to an applied enforcement power, including any power exercisable by virtue of a warrant under the provisions of the Schedule as applied by this paragraph;

(c) in paragraph 5, the reference to a power conferred by Article 72(2)(a) or (b) or (3) were a reference to the applied enforcement powers and the reference to the enforcing authority under whose authorisation the authorised person acts were a reference to DAERA.

(7) In this regulation—

(a) "the WCLO 1997" means the Waste and Contaminated Land (Northern Ireland) Order 1997(**a**);

(b) "the applied enforcement powers" means the powers conferred by paragraphs (1) and (2).

Information

85.—(1) An appropriate authority may, by notice (an "information notice"), require a duty-holder to provide information which the enforcement authority requires for the purposes of carrying out its functions under, or in connection with, the Scheme.

(2) An information notice under paragraph (1)—

(a) must be in writing;

(b) may be given to—

(i) a specified duty-holder;

(**a**) S.I. 1997/2778 (N.I. 19). Article 72 was amended by sections 5 and 11 of the Waste and Contaminated Land (Amendment) Act (Northern Ireland) 2011 (c. 5) and by S.I. 2007/611 (N.I. 3) and 2019/584.

(ii) duty-holders of a specified description;

(iii) all duty-holders;

(c) may require the information to be provided in a specified form or manner;

(d) may require the information to be provided—

(i) by a specified date or at a specified time, and

(ii) in respect of a specified period.

(3) A duty-holder who is given a notice under paragraph (1) must comply with it.

(4) In this regulation—

"duty-holder" means—

(a) a scheme producer,

(b) a scheme supplier,

(c) a scheme collector, or

(d) the deposit management organisation;

"specified" means specified in a notice under paragraph (1).

Chapter 3

Offences

Obstructing an authorised person

86.—(1) A person who intentionally obstructs, or fails to assist, an authorised person, in the carrying out of their enforcement functions is guilty of an offence.

(2) An offence under paragraph (1) is punishable—

(a) on conviction on indictment, with a fine;

(b) on summary conviction—

(i) in England, with a fine;

(ii) in Northern Ireland, with a fine not exceeding the statutory maximum.

(3) In this regulation—

"authorised person" means a person authorised under regulation 83(1) or 84(1);

"enforcement functions", in relation to an authorised person, means the powers which that person is authorised to exercise under regulation 83 or 84.

Failure to comply with civil sanction

87.—(1) A person who fails to comply with a civil sanction imposed under regulation 90 is guilty of an offence.

(2) An offence under paragraph (1) is punishable—

(a) on conviction on indictment, with a fine;

(b) on summary conviction—

(i) in England, with a fine;

(ii) in Northern Ireland, with a fine not exceeding the statutory maximum.

Liability of directors etc.

88.—(1) If a relevant offence—

(a) is committed by a body corporate, a Scottish partnership or other unincorporated association, and

(b) is proved to have been committed with the consent or connivance, or to be attributable only to neglect on the part of—

(i) any relevant individual, or

(ii) an individual purporting to act in the capacity of a relevant individual,

the individual, as well as the body corporate, Scottish partnership or other unincorporated association, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where a person ("A") commits a relevant offence due to the act or default of some other person ("B"), B is also guilty of the offence and liable to be proceeded against and punished accordingly, whether or not proceedings for the offence are taken against A.

(3) In this regulation—

"relevant individual"—

(a) in relation to a body corporate, means—

(i) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or

(ii) where the affairs of the body corporate are managed by its members, a member;

(b) in relation to a limited liability partnership, means a member;

(c) in relation to a relevant partnership, means a partner;

(d) in relation to an unincorporated association (other than a relevant partnership), means a person who is concerned in the management and control of the association;

"relevant offence" means an offence under regulation 86 or 87;

"relevant partnership" means a partnership, other than a limited liability partnership, and includes a Scottish partnership.

Chapter 4

Civil sanctions

Interpretation

89. In this Chapter "enforcement authority" means—

(a) the local weights and measures authority in relation to—

(i) an offence under regulation 86, where the person obstructed or not assisted was authorised by an authority under regulation 83;

(ii) a civil sanction specified in the CS Table for—

(aa) any contravention of an ALA provision in the area of the local weights and measures authority, or

(bb) any contravention of regulation 85(3) in relation to a notice given by the authority, or the provision of false or misleading information in response to such a notice;

(b) the Environment Agency in relation to—

(i) an offence under regulation 86, where the person obstructed or not assisted was authorised by the Agency under regulation 83;

(ii) a civil sanction specified in the CS Table for—

(aa) any contravention of a provision other than an ALA provision in England,

(bb) any contravention of regulation 85(3) in relation to a notice given by the Agency, or the provision of false or misleading information in response to such a notice, or

(cc) the provision of false or misleading information in response to a notice given by the deposit management organisation or under any provision of Schedule 2, 3 or 4;

(c) DAERA in relation to—

(i) an offence under regulation 86, where the person obstructed or not assisted was authorised by DAERA under regulation 84;

(ii) a civil sanction specified in the CS Table for—

(aa) any contravention of a provision in Northern Ireland,

(bb) any contravention of regulation 85(3) in relation to a notice given by DAERA or the provision of false or misleading information in response to such a notice, or

(cc) the provision of false or misleading information in response to a notice given by the deposit management organisation or under any provision of Schedule 2, 3 or 4.

Civil sanctions: introductory

90.—(1) Where an enforcement authority is satisfied on the balance of probabilities that there has been an act, or a contravention of any requirement, specified in the first column of the CS Table and the corresponding entry for that act or requirement states "yes", the enforcement authority may, in relation to that act or contravention—

(a) impose a fixed monetary penalty in accordance with Part 3 of Schedule 6;

(b) impose a variable monetary penalty in accordance with Part 4 of Schedule 6;

(c) impose a compliance notice in accordance with Part 5 of Schedule 6;

(d) accept an enforcement undertaking in accordance with Part 6 of Schedule 6.

(2) An enforcement authority may recover a fixed monetary penalty or variable monetary penalty as a civil debt or on the order of a court, as if payable under a court order.

Enforcement cost recovery notices

91.—(1) An enforcement authority may serve a notice (an "enforcement cost recovery notice") on a person on whom a variable monetary penalty notice in accordance with Part 4 of Schedule 6, or a compliance notice in accordance with Part 5 of Schedule 6, has been served requiring that person to pay the costs incurred by the enforcement authority in relation to the imposition of that notice up to the time of its imposition.

(2) The costs mentioned in paragraph (1) include in particular—

(a) investigation costs;

(b) administration costs;

(c) the costs of obtaining expert advice (including legal advice).

(3) An enforcement cost recovery notice must specify—

(a) the amount required to be paid,

(b) how payment must be made,

(c) the period within which payment must be made, which must be not less than 28 days beginning with the date on which the notice is served,

(d) the grounds for serving the notice,

(e) the right of appeal, and

(f) the consequences of failure to comply with the notice in the specified period.

(4) A person on whom an enforcement costs recovery notice is served may require the enforcement authority to provide a detailed breakdown of the amount.

(5) A person required to pay costs is not liable to pay the proportion of those costs which are shown by the person to have been unnecessarily incurred.

(6) A person required to pay costs may appeal against—

(a) the decision of the enforcement authority to impose the requirement to pay costs;

(b) the decision of the enforcement authority as to the amount of those costs.

Penalties and costs received under this Part

92.—(1) The Environment Agency must pay any penalty and costs it receives under this Part into the Consolidated Fund.

(2) DAERA must pay any penalty it receives under this Part into the Consolidated Fund of Northern Ireland.

(3) A local weights and measures authority may retain any penalty and any costs that it receives under this Part.

Withdrawing or amending a notice

93. An enforcement authority may at any time, in writing—

(a) withdraw a fixed penalty notice;

(b) withdraw a variable monetary penalty notice or an enforcement costs recovery notice;

(c) reduce the amount specified in a variable monetary penalty notice or an enforcement costs recovery notice;

(d) withdraw a compliance notice;

(e) amend the steps specified in a compliance notice so as to reduce the amount of work necessary to comply with the notice;

(f) vary a notice so as to extend the time in which to pay any penalty.

Chapter 5

Public register

Publication of enforcement action in public register

94.—(1) Each national enforcement authority must maintain a register (a "public register") containing information relating to any enforcement action taken.

(2) The public register must contain details of—

(a) any conviction for an offence under regulation 86, 87 or 88;

(b) any civil sanction imposed under regulation 90 provided that—

(i) the time for lodging any appeal in respect of the civil sanction has expired, or

(ii) any appeal in relation to the civil sanction has been finally disposed of;

(c) any enforcement undertaking accepted in accordance with Part 6 of Schedule 6;

(d) any enforcement cost recovery notice served under regulation 91.

(3) Information relating to civil sanctions must be removed from the public register within a period no greater than 4 years after it was entered on the register.

(4) Nothing in this regulation requires the public register to contain information relating to criminal proceedings, or anything which is the subject matter of criminal proceedings, before those proceedings are finally disposed of.

(5) In paragraph (4), "criminal proceedings" includes prospective criminal proceedings.

(6) Each national enforcement authority must enter information on the public register, subject to paragraph (4), as soon as reasonably practicable after it comes within that authority's possession.

(7) Each national enforcement authority must—

(a) make the public register available for inspection by members of the public at all reasonable times, free of charge, and

(b) permit members of the public to obtain copies of entries on the public register on payment of a reasonable charge.

(8) The public register may be kept in any form but shall be indexed or arranged so that members of the public can readily trace information contained in it.

Spent convictions of individuals

95. Each national enforcement authority must remove details of any conviction from the public register once the rehabilitation period for a sentence has ended in accordance with—

(a) section 5 of the Rehabilitation of Offenders Act 1974(**a**) (rehabilitation periods for particular sentences) as it applies in England;

(b) Article 3 of the Rehabilitation of Offenders (Northern Ireland) Order 1978(**b**).

PART 10

Appeals

Interpretation of Part 10

96. In this Part—

"appeal body" means—

(a) in relation to England or an appeal under paragraph 8 of Schedule 5, the First-tier Tribunal;

(b) in relation to Northern Ireland, the appeals commission;

"appeals commission" means the planning appeals commission provided for in accordance with section 203 of the Planning Act (Northern Ireland) 2011(**c**);

(**a**) 1974 c. 53. Section 5 of the Rehabilitation of Offenders Act 1974 was amended by section 139(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10). There are other amendments to section 5 but they are not relevant for the purposes of these Regulations.

(**b**) 1978 No. 1908 (N.I. 27). Article 3 was amended by paragraph 8 of Schedule 11 to the Proceeds of Crime Act 2002 (c. 29).

(**c**) 2011 c. 25.

"enforcement authority" has the meaning given in regulation 89.

Right of appeal

97.—(1) A person may appeal to the appeal body against—

(a) a decision to refuse the person's application for appointment as the deposit management organisation under paragraph 2 of Schedule 5,

(b) a decision to revoke the person's appointment as the deposit management organisation under paragraph 4 of Schedule 5, or

(c) a civil sanction imposed under a notice, or enforcement cost recovery notice, issued under Part 9 which is subject to an appeal.

(2) An appeal under paragraph (1) may only be brought on the grounds that the person making the decision made a material mistake of law.

Procedure on appeal

98.—(1) Where an appeal is made to the appeal body under regulation 97—

(a) subject to sub-paragraph (b) and regulation 99, the decision which is the subject of the appeal, including a decision to appoint a person other than the person who is making the appeal to be the deposit management organisation, has effect until the appeal is finally determined or withdrawn, unless the appeal body determines otherwise;

(b) any civil sanction imposed under a notice (other than a compliance notice), or an enforcement cost recovery notice issued under Part 9, which is subject to an appeal is suspended until the appeal is finally determined or withdrawn.

(2) The appeal body may, in relation to the decision or notice which is the subject of the appeal—

(a) quash the decision or withdraw the notice (whether in whole or in part);

(b) confirm the decision or notice (whether in whole or in part);

(c) vary the decision or notice (whether in whole or in part);

(d) take any steps that the Secretary of State or the appropriate authority as defined in regulation 82(1) could take in relation to the matters giving rise to the decision or the act or omission giving rise to the notice;

(e) remit the decision, including any decision whether to confirm any matter relating to the decision or to confirm the notice, to the Secretary of State or the appropriate authority.

(3) Where an appeal is made to the appeals commission, if the appellant so requests or the appeals commission so decides, the appeal must be in the form of a hearing.

(4) Schedule 7 makes further provision about the procedure on an appeal.

Status pending appeal: decision to revoke a person's appointment as the deposit management organisation

99.—(1) In the case of an appeal against a decision to revoke a person's appointment as the deposit management organisation, the decision is ineffective until the appeal is granted, dismissed or withdrawn.

(2) If the appeal is dismissed or withdrawn, the decision becomes effective from the end of the day on which the appeal is dismissed or withdrawn.

Determination of appeals

100.—(1) Where, following an appeal under this Part, the appeal body determines that a decision of a decision maker is to be varied or remitted to the decision maker, the decision maker must—

(a) comply with any directions given to it by the appeal body, and

(b) take any steps necessary to give effect to the appeal body's determination.

(2) In this regulation "decision maker" means—

(a) the Secretary of State, or

(b) the enforcement authority.

PART 11

Functions of the national enforcement authorities

Operational plans

101. Each national enforcement authority must consult on, and where satisfied may approve, any revision of a deposit management organisation's operational plan in accordance with regulation 52.

Enforcement

102. The national enforcement authorities shall take enforcement action as set out in Part 9.

Co-operation with deposit management organisations

103. Each national enforcement authority must, under regulation 73, enter into arrangements with deposit management organisations for securing co-operation and the exchange of information for the carrying out of any of their functions other than any relevant enforcement functions.

Annual reports from deposit management organisations

104. The national enforcement authorities—

(a) must consider the annual reports submitted by a deposit management organisation under regulation 53;

(b) may request such additional reports from the deposit management organisation as the national enforcement authorities consider necessary.

Monitoring functions

105. Each national enforcement authority must monitor—

(a) compliance by registered scheme producers with the obligations of a registered scheme producer under these Regulations;

(b) compliance by the deposit management organisation with the obligations imposed on the deposit management organisation under these Regulations;

(c) compliance by scheme retailers with the obligations imposed on scheme retailers under these Regulations;

(d) the registration of scheme producers;

(e) the registration of scheme retailers;

(f) the accuracy of the information provided by registered scheme producers;

(g) the accuracy of the information provided by scheme retailers;

(h) the accuracy of the information provided by the deposit management organisation.

Monitoring reports

106.—(1) Each national enforcement authority must no later than 1st September 2027 and, in each subsequent year no later than 31st December of that year, provide to the Secretary of State or DAERA, as appropriate, a report setting out its proposed monitoring plan.

(2) Each national enforcement authority must no later than 30th September 2027 and, in each subsequent year no later than 31st December of that year, publish its proposed monitoring plan.

(3) The monitoring plan referred to in paragraph (1) must give—

(a) details of the authority's policy for the following calendar year in relation to performing its functions under regulation 105;

(b) details of the monitoring the authority proposes to carry out during the following calendar year including its monitoring relating to registered scheme producers and to deposit management organisations.

(4) Each national enforcement authority must no later than 31st March 2029 and, in each subsequent year no later than 31st March of that year, publish a report setting out—

(a) the monitoring and enforcement activities it has undertaken during the year commencing with 1st January of the preceding calendar year and ending on 31st December of that year, and

(b) the extent to which by those activities the authority has implemented its monitoring plan for the year reported on, including a description of its performance against the monitoring plan.

Appeals

107. Where an appeal body under regulation 100 determines that a decision of a national enforcement authority is to be varied or remitted to that authority, the national enforcement authority must comply with any directions given to it by the appeal body, and take any steps necessary to give effect to the appeal body's determination.

PART 12

Review

Review

108.—(1) The Secretary of State must, from time to time—

(a) carry out a review of the regulatory provisions contained in these Regulations,

(b) set out the conclusions of the review in a report, and

(c) publish the report.

(2) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(**a**) requires that the report must in particular—

(a) set out the objectives intended to be achieved by the regulatory regime established by the regulatory provisions referred to in paragraph (1)(a),

(b) assess the extent to which those objectives are achieved, and

(**a**) 2015 c. 26.

(c) assess whether those objectives remain appropriate, and if so, the extent to which they could be achieved by a system which imposes less onerous regulatory provision.

(3) The first report must be published before the end of the period of five years beginning with 1st October 2027.

(4) Subsequent reports must be published at intervals not exceeding five years.

(5) In this regulation "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32(4) of that Act).

Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

SCHEDULES

SCHEDULE 1

Regulations 11 and 15

Scheme producers: registration with the deposit management organisation

PART 1

Registration

Interpretation of Part 1

1.—(1) In this Part—

"applicant" means a person making an application for registration with the deposit management organisation as a scheme producer;

"registration application" means an application for registration with the deposit management organisation as a scheme producer;

"registration information" has the meaning given in sub-paragraph (2).

(2) "Registration information", in relation to an applicant, means—

(a) the applicant's name and business name (if different);

(b) the address and telephone number of the applicant's registered or principal office;

(c) an address for service, if different from the address mentioned in paragraph (b);

(d) if the applicant is a company, the company registration number;

(e) if the applicant is a partnership, the names of all of the partners;

(f) the name and contact details (including an email address where available) of the person appointed as the point of contact for the applicant in relation to the Scheme;

(g) the applicant's SIC code;

(h) a statement as to whether or not the applicant is a brand owner;

(i) a statement as to whether or not the applicant is an importer;

(j) a statement as to whether or not the applicant fills to order;

(k) if the applicant is a brand owner or importer, the brand name of each drink for which the applicant is the brand owner or importer;

(l) the total number of deposit items which the applicant expects to supply in the relevant area in the period of 12 months following their registration with the deposit management organisation and in each subsequent 12 month period or as the deposit management organisation directs, together with—

(i) information about the in-scope materials from which the applicant expects the in-scope bottles and cans to be wholly or mainly made,

(ii) the expected capacity of each type of those bottles and cans, and

(iii) if the applicant expects any of the deposit items to be made available for supply in scheme multipacks, the expected size of those multipacks.

(3) For the purposes of sub-paragraph (2)(g), "SIC code" means a code included in the UK Standard Industrial Classification of Economic Activities 2007 (SIC 2007)(**a**).

Registration application

2.—(1) A person seeking registration with the deposit management organisation as a scheme producer must make a registration application to the deposit management organisation before 1st October 2027.

(2) A registration application must—

(a) be made in such form and manner as the deposit management organisation directs,

(b) contain the registration information, and

(c) contain such other information (if any) as the deposit management organisation may direct in compliance with sub-paragraph (4).

(3) Where the applicant is a partnership, the registration application must, if made by only one partner, be made by that partner on behalf of all of the partners.

(4) The deposit management organisation may only direct an applicant to provide information in their registration application which the deposit management organisation reasonably requires for the purposes of its functions under, or in connection with, the Scheme.

(5) Where a person becomes a scheme producer after the coming into force of regulation 11, the scheme producer must make a registration application within such period as the deposit management organisation may direct.

Decision on registration application

3.—(1) The deposit management organisation—

(a) may make a decision on a registration application before 1st October 2027, and

(b) must grant the registration application and register the applicant as a scheme producer, if the deposit management organisation is satisfied that the registration application meets the requirements of paragraph 2(2), or

(c) otherwise, must refuse the registration application.

(2) The deposit management organisation must notify the applicant—

(a) of its decision concerning the registration application,

(b) if the application is granted, of the date on which the registration takes effect, and

(c) if the registration application is refused, of the reasons for that decision.

(3) A notification under sub-paragraph (2) must be in writing.

(4) The deposit management organisation must complete the steps required by sub-paragraphs (1) and (2) within a reasonable period of receiving the registration application.

Requirement to notify the deposit management organisation of changes in registration information

4.—(1) A registered scheme producer must notify the deposit management organisation of any change to any of the relevant information.

(2) In this paragraph "relevant information" means—

(**a**) The UK Standard Industrial Classification of Economic Activities 2007 (SIC 2007) was published by the Office for National Statistics in December 2009, ISBN 978-0-230-21012-7 and is available at: UK SIC 2007 - Office for National Statistics (https://www.ons.gov.uk).

(a) the registration information, and

(b) any other information that the applicant was directed to include in their registration application by the deposit management organisation.

PART 2

Cancellation of registration

Cancellation of registration on the request of the registered person

5.—(1) The deposit management organisation must cancel a person's registration as a scheme producer if—

(a) that person notifies the deposit management organisation that they have ceased to be a scheme producer, and

(b) the deposit management organisation is satisfied that that is the case.

(2) Where the deposit management organisation cancels a person's registration as a scheme producer following a notification under sub-paragraph (1), the deposit management organisation must give the person a notice, which—

(a) states that the person's registration as a scheme producer has been cancelled, and

(b) specifies the date on which that cancellation takes effect.

Deposit management organisation's power to cancel registration

6.—(1) The deposit management organisation may cancel a person's registration as a scheme producer if the deposit management organisation is satisfied, without a notification having been given under paragraph 5, that the person has ceased to be a scheme producer.

(2) Before cancelling a person's registration as a scheme producer in accordance with sub-paragraph (1), the deposit management organisation must give that person a notice (a "proposal notice").

(3) A proposal notice must be in writing and must—

(a) state why the deposit management organisation is proposing to cancel a person's registration as a scheme producer,

(b) specify the date on which the cancellation of the person's registration as a scheme producer will take effect,

(c) state that the person to whom the notice is given may make representations to the deposit management organisation about the proposal, and

(d) specify the form and manner in which such representations are to be made and the period within which they must be made, which must not be less than 28 days beginning with the date on which the person receives the proposal notice.

(4) The deposit management organisation—

(a) must consider any representations made by the relevant person before the date specified in the proposal notice, in accordance with sub-paragraph (3)(b), and

(b) must accept a representation made by that person that the person is a scheme producer.

(5) The deposit management organisation must notify that person in writing of its decision.

(6) Where the deposit management organisation decides to proceed with the cancellation of the person's registration as a scheme producer, the deposit management organisation must give that person a notice (a "cancellation notice").

(7) A cancellation notice must be in writing and must—

(a) state that the person's registration as a scheme producer is being cancelled and the reasons why, and

(b) specify the date on which the cancellation of the registration will take effect, and

(c) state that the person has a right under regulation 76 to ask the deposit management organisation to review the decision.

(8) If the person exercises the right referred to in sub-paragraph (7)(c), the cancellation notice will not take effect pending the review of the decision.

(9) The date specified for the purposes of sub-paragraph (7)(b) must not be before the end of the period of 28 days beginning with the date on which the person receives the cancellation notice.

SCHEDULE 2

Regulation 34(5)

Registration of mandatory return point operators

Interpretation

1. In this Schedule—

"application information", in relation to an in-scope retailer, means—

(a) the retailer's name, and if different, business name,

(b) the address and telephone number of the retailer's registered or principal office,

(c) an address for service, if different from the address mentioned in sub-paragraph (b),

(d) if the retailer is a company, the company registration number,

(e) if the retailer is a partnership, the names of all of the partners,

(f) the name and contact details (including an email address where available) of the person appointed as the point of contact for the retailer in relation to the Scheme, and

(g) the address of each of the MRP premises in respect of which the retailer is required to operate a return point in accordance with regulation 34(1);

"registration application" means an application for registration with the deposit management organisation as a mandatory return point operator.

Application for registration

2.—(1) An in-scope retailer must make a registration application to the deposit management organisation before 1st October 2027.

(2) A registration application must—

(a) be made in such form and manner as the deposit management organisation directs, and

(b) contain the application information, and

(c) contain such other information (if any) as the deposit management organisation may direct.

(3) Where the in-scope retailer is a partnership, the registration application must, if made by only one partner, be made by that partner on behalf of all of the partners.

(4) Where a person becomes an in-scope retailer after the coming into force of regulation 34, the retailer must make a registration application within such period as the deposit management organisation may direct.

Application for registration: decision

3.—(1) Where the deposit management organisation receives a registration application which complies with paragraph 2(2), the deposit management organisation must, within a reasonable period of receiving the application—

(a) register the in-scope retailer in relation to each of the MRP premises in respect of which the retailer is required to operate a return point, and

(b) notify the in-scope retailer in writing that the retailer has been registered as a mandatory return point operator.

(2) The deposit management organisation may register the in-scope retailer under sub-paragraph (1) before 1st October 2027.

Cancellation of registration

4.—(1) The deposit management organisation must—

(a) cancel an in-scope retailer's registration as a mandatory return point operator in respect of any particular MRP premises, if—

(i) the retailer notifies the deposit management organisation that they no longer supply deposit items at or on those premises and the deposit management organisation is satisfied that that is the case, or

(ii) the deposit management organisation grants a return point exemption in respect of those premises;

(b) cancel a person's registration as a mandatory return point operator, if—

(i) the person notifies the deposit management organisation that they are no longer an in-scope retailer and the deposit management organisation is satisfied that that is the case, or

(ii) the deposit management organisation grants a return point exemption in respect of all of the in-scope retailer's premises which are MRP premises.

(2) Where the deposit management organisation cancels a person's registration as a mandatory return point operator following a notification under sub-paragraph (1), the deposit management organisation must give the person a notice which—

(a) states that the person's registration as a mandatory return point operator has been cancelled, and

(b) specifies the date on which that cancellation takes effect.

(3) The deposit management organisation may—

(a) cancel an in-scope retailer's registration as a mandatory return point operator in respect of any particular premises if the deposit management organisation is satisfied, without a notification having been given under sub-paragraph (1)(a)(i) that the retailer no longer supplies deposit items at or on those premises;

(b) cancel a person's registration as a mandatory return point operator, if the deposit management organisation is satisfied, without a notification having been given under sub-paragraph (1)(b)(i), that the person is no longer an in-scope retailer.

(4) Before cancelling a person's registration as a mandatory return point operator in accordance with sub-paragraph (3), the deposit management organisation must give that person a notice (a "proposal notice").

(5) A proposal notice must be in writing and must—

(a) state why the deposit management organisation is proposing to cancel the person's registration as a mandatory return point operator,

(b) specify the date on which the cancellation of the person's registration as a mandatory return point operator will take effect,

(c) state that the person to whom the notice is given may make representations to the deposit management organisation about the proposal, and

(d) specify the form and manner in which such representations are to be made and the period within which they must be made, which must not be less than 28 days beginning with the date on which the person receives the proposal notice.

(6) The deposit management organisation—

(a) must consider any representations made by the relevant person before the date specified in the proposal notice in accordance with sub-paragraph (5)(b);

(b) may reject any representations made by that person after that date.

(7) The deposit management organisation must notify that person in writing of its decision.

(8) Where the deposit management organisation decides to proceed with the cancellation of the person's registration as a mandatory return point operator, the deposit management organisation must give that person a notice (a "cancellation notice").

(9) A cancellation notice must be in writing and must—

(a) state that the persons' registration as a mandatory return point operator is being cancelled and the reasons why, and

(b) specify the date on which the cancellation of the registration will take effect, and

(c) state that the person has a right under regulation 76 to ask the deposit management organisation to review the decision.

(10) If the person exercises the right referred to in sub-paragraph (9)(c), the cancellation notice will not take effect pending the review of the decision.

(11) The date specified for the purposes of sub-paragraph (9)(b) must not be before the end of the period of 28 days beginning with the date on which the person received the cancellation notice.

SCHEDULE 3

Regulation 34(6)

Return point exemptions

Interpretation of Schedule 3

1.—(1) In this Schedule—

"exemption application" means an application made under paragraph 2(1);

"exemption holder", in relation to a return point exemption, means an MRP retailer to whom the return point exemption has, for the time being, been granted;

"MRP retailer" means a scheme retailer whose business consists wholly or mainly of the sale or supply of groceries to scheme consumers;

"renewal application" means an application under paragraph 6(3).

(2) For the purposes of this Schedule—

(a) an exemption application is made on the proximity grounds if it is made on the grounds that—

(i) there is one or more alternative return points located within reasonable proximity to the premises specified in the application, and

(ii) if the exemption were granted, it would not affect the deposit management organisation's ability to meet the collection targets (see regulation 81);

(b) an exemption application is made on the premises grounds if it is made on the grounds that the location, layout, size, design, or construction of the specified premises does not permit, or does not easily permit, or cannot reasonably be altered to permit, the operation of a return point in respect of those premises.

Applications for return point exemptions

2.—(1) An in-scope retailer may apply before or after 1st October 2027 to the deposit management organisation for a return point exemption in respect of the premises in the exemption application.

(2) An exemption application must be made on either the proximity grounds or the premises grounds.

(3) An exemption application must—

(a) be made in such form and manner as may be directed by the deposit management organisation,

(b) contain the application information, and

(c) contain such other information (if any) as the deposit management organisation may direct.

(4) In this paragraph—

"the application information" means—

(a) if an exemption application is made on the proximity grounds—

(i) information about the size of the applicant, which may include information about the—

(aa) floor area of the specified premises;

(bb) number of employees or other persons working in the specified premises;

(cc) annual profit or turnover of the applicant's business;

(ii) information about the alternative return point or points which are located in reasonable proximity to the specified premises, and

(iii) confirmation that the operator of each of those return points has been consulted about the retailer's application for a return point exemption, and none of them has objected to the potential increase in the number of returnable items likely to be returned to their return point if the return point exemption is granted;

(iv) any further information the applicant considers may be relevant;

(b) if an exemption application is made on the premises grounds, information which is sufficient to demonstrate that the location, layout, size, design or construction of the specified premises does not permit, does not easily permit, or, as the case

may be, cannot easily be altered to permit the operation of a return point in respect of those premises.

Decision on applications for return point exemptions

3.—(1) Where the deposit management organisation receives, whether before or after 1st October 2027, an exemption application from an in-scope retailer ("the applicant"), it must, within a reasonable time—

(a) consider the application information supplied by the applicant under paragraph 2 of this Schedule, and

(b) in making a decision on the exemption application, have regard to all relevant factors including—

(i) the number of applications for exemption made in the proximity of the applicant;

(ii) the decisions taken with regard to such other applications;

(iii) any representations made by members of the public, or by groups representing sections of the public, regarding exemptions from the requirement to operate a return point.

(2) The deposit management organisation must—

(a) subject to sub-paragraph (3), decide whether or not to grant the return point exemption, and

(b) give a notice regarding its decision to the applicant.

(3) A notice under sub-paragraph (2) must be in writing, and—

(a) if the deposit management organisation grants the exemption—

(i) specify the premises in respect of which the exemption is granted,

(ii) specify the date on which the exemption will take effect, and

(iii) include a statement that, unless the exemption is revoked or renewed, it will expire at the end of the period of three years beginning with that date;

(b) if the deposit management organisation refuses the exemption—

(i) state the reasons for that decision, and

(ii) state that the in-scope retailer has a right under regulation 76 to ask the deposit management organisation to review its decision.

Effect of making an application for a return point exemption: applications ongoing on 1st October 2027

4.—(1) This paragraph applies where—

(a) an in-scope retailer makes an exemption application before 1st October 2027, and

(b) the deposit management organisation has not made a decision on that application by the end of 30th September 2027.

(2) Irrespective of the final outcome of the exemption application, the in-scope retailer is not required to operate a return point in respect of the premises specified in the exemption application during the period—

(a) beginning with 1st October 2027, and

(b) ending—

(i) if the return point exemption is granted, immediately before the exemption takes effect;

(ii) if the return point exemption is refused and the retailer has asked the deposit management organisation to review its decision under regulation 76, at the end of the period during which the review is carried out;

(iii) if the return point exemption is refused and the retailer has not asked the deposit management organisation to review its decision under regulation 76, at the end of the period within which the retailer could have asked the deposit management organisation to review its decision under regulation 76.

Effect of making an application for a return point exemption: person becoming an in-scope retailer on or after 1st October 2027

5.—(1) This paragraph applies where a person who becomes an in-scope retailer on or after 1st October 2027 (a "new retailer") makes their first exemption application.

(2) The new retailer is not required to operate a return point in respect of the premises specified in the exemption application during the period—

(a) beginning with the day on which the exemption application is received, and

(b) ending—

(i) if the return point exemption is granted, immediately before the exemption takes effect;

(ii) if the return point exemption is refused and the new retailer has asked the deposit management organisation to review its decision under regulation 76, at the end of the period during which the review is carried out;

(iii) if the return point exemption is refused and the new retailer has not asked the deposit management organisation to review its decision under regulation 76, at the end of the period within which the new retailer could have asked the deposit management organisation to review its decision under regulation 76.

Duration, and renewal, of a return point exemption

6.—(1) A return point exemption—

(a) continues in force for a period of three years beginning with the date specified for the purposes of paragraph 3(3)(a)(ii);

(b) may be renewed by the deposit management organisation on one or more occasions.

(2) A return point exemption must not on any occasion be renewed for a period of more than three years.

(3) An exemption holder may apply for the return point exemption to be renewed at any time before the exemption expires.

(4) The deposit management organisation may only renew a return point exemption if—

(a) a renewal application is made by the exemption holder, and

(b) the grounds on which the exemption was originally granted continue to apply.

(5) A renewal application must—

(a) be made in such form and manner as the deposit management organisation may direct,

(b) contain the exemption grounds information, and

(c) contain such other information (if any) as the deposit management organisation may direct.

(6) In sub-paragraph (5) "the exemption grounds information" means—

(a) if the exemption was granted on the proximity grounds—

(i) information about the alternative return point or points which are located in reasonable proximity to the specified premises, and

(ii) confirmation that the operator of each of those return points has been consulted about the retailer's application for a return point exemption, and each of those operators has agreed to continue to accept returnable items which could otherwise have been returned to the retailer making the renewal application;

(b) if the exemption was granted on the premises grounds, information which is sufficient to demonstrate that the location, layout, size, design or construction of the specified premises still does not permit, does not easily permit, or, as the case may be, cannot easily be altered to permit, the operation of a return point in respect of those premises.

(7) Where the deposit management organisation receives a renewal application, it must, within a reasonable period of receiving the application—

(a) decide whether or not to renew the relevant return point exemption, and

(b) notify the exemption holder of its decision.

(8) A notice under sub-paragraph (7)(b) must be in writing and—

(a) if the deposit management organisation renews the return point exemption—

(i) specify the further period for which the exemption is to continue in force, and

(ii) specify the date at the end of which the return point exemption will expire unless it is renewed or revoked;

(b) if the deposit management organisation decides not to renew the return point exemption—

(i) state the reasons for that decision, and

(ii) state that the in-scope retailer has a right under regulation 76 to ask the deposit management organisation to review its decision.

(9) But this paragraph is subject to paragraphs 8 and 9.

Duty to notify the deposit management organisation of a relevant change of circumstances

7.—(1) An exemption holder must notify the deposit management organisation of any change of circumstances relevant to the grounds on which the relevant return point exemption was granted or, as the case may be, renewed.

(2) A notice under sub-paragraph (1) must be given to the deposit management organisation within the period of 28 days beginning with the day on which the change occurs.

Revocation of a return point exemption at the request of the exemption holder

8.—(1) An exemption holder may request that any return point exemption granted to them be revoked.

(2) A request under sub-paragraph (1) must be made in such form and manner as the deposit management organisation may direct.

(3) Where the deposit management organisation receives a request under this paragraph, the deposit management organisation must—

(a) revoke the relevant return point exemption, and

(b) notify the exemption holder, in writing, of the date on which the revocation of the return point exemption takes effect.

Revocation of a return point exemption on initiative of the deposit management organisation

9.—(1) The deposit management organisation may revoke a return point exemption if the deposit management organisation is satisfied that—

(a) there has been a change of circumstances relevant to the grounds on which the exemption was granted, or

(b) if the exemption was granted on the proximity grounds, the continuing operation of the exemption will mean that there are scheme consumers who no longer have reasonable access to a return point.

(2) Where the deposit management organisation proposes to revoke a return point exemption under sub-paragraph (1), the deposit management organisation must give the exemption holder a notice (a "proposal notice").

(3) A proposal notice must be in writing and must—

(a) state the reasons for which the deposit management organisation is proposing to revoke the return point exemption,

(b) specify the day at the end of which the return point exemption will cease to have effect, if the proposal is upheld, and

(c) specify—

(i) the form and manner in which any representations are to be made to the deposit management organisation about the proposal, and

(ii) the period within which any such representations must be made, which must not be less than 28 days beginning with the date on which the person receives the proposal notice.

(4) The deposit management organisation—

(a) must consider any representations made to it in the specified form and manner and by the specified date;

(b) may reject any representations that are made otherwise than in the specified form and manner or after the specified date (or both).

(5) The deposit management organisation must notify the exemption holder in writing of its decision.

(6) Where the deposit management organisation decides to proceed with the revocation of the relevant return point exemption, the deposit management organisation must give the exemption holder a notice (a "revocation notice").

(7) A revocation notice must be in writing and must—

(a) state that the relevant return point exemption is being revoked, and the reasons why, and

(b) specify the day at the end of which the return point exemption will cease to have effect, and

(c) state that the exemption holder has the right under regulation 76 to ask the deposit management organisation to review its decision.

(8) A notice under sub-paragraph (5), together with any revocation notice, must be given before the end of the period of seven days beginning with the day on which the deposit management organisation makes its decision.

(9) If the person exercises the right referred to in sub-paragraph (7)(c), the revocation notice will not take effect pending the review of the decision.

(10) The day specified for the purposes of sub-paragraph (7)(b) must not be before the end of the period of 28 days beginning with the date on which the person receives the revocation notice.

SCHEDULE 4

Regulations 38 and 41

Voluntary operation of return points and provision of take-back services

PART 1

Introductory

Interpretation of Schedule 4

1. In this Schedule—

"applicant information" means—

(a) the name of the person making the application and, if different, their business name,

(b) the address and telephone number for the person's registered or principal office,

(c) an address for service if different from the address mentioned in paragraph (b),

(d) where the person making the application is a company, the company registration number,

(e) where the person making the application is a partnership, the names of all of the partners, and

(f) the name and contact details (including an email address where available) of the person appointed as the point of contact in connection with the application;

"notice" means a notice in writing;

"return point authorisation information" means—

(a) the address of the premises at or on which it is proposed to operate a return point,

(b) information about the accessibility of the return point, including—

(i) its proposed location,

(ii) the access routes to it, and

(iii) its proposed hours of operation,

(c) the type of return point that the person making the application proposes to operate, and

(d) information which demonstrates—

(i) that the person making the application has sufficient resources to set up and operate the return point for a period of at least 12 months,

(ii) the number of returnable items that the person making the application estimates will be returned to the return point each month, and the basis for that estimate, and

(iii) how the person making the application intends to manage the expected volume of returns of returnable items;

"take-back service authorisation information" means information which demonstrates—

(a) that the scheme retailer applying for authorisation has sufficient resources to set up and operate the proposed take-back service for at least 12 months,

(b) the number of returnable items that the scheme retailer estimates will be collected during each month and the basis for that estimate, and

(c) how the scheme retailer intends to manage the expected volume of returns of returnable items.

PART 2

Application for authorisation to operate a return point

Application for authorisation to operate a return point at or on any in-scope premises

2.—(1) A scheme supplier may apply to the deposit management organisation to operate a return point at or on an in-scope premises.

(2) A groceries retailer which is exempt from the requirement to operate a return point under regulation 35 ("exempt groceries retailer") may apply to the deposit management organisation to operate a return point at or on an in-scope premises.

(3) An application under this paragraph must—

(a) be made in such form and manner as the deposit management organisation may direct, and

(b) contain—

(i) the applicant information,

(ii) the return point authorisation information, and

(iii) such other information (if any) as the deposit management organisation may direct.

(4) Where the scheme supplier or the exempt groceries retailer is a partnership, the application must be made by one of the partners on behalf of all of the partners.

Decision on application

3.—(1) Where the deposit management organisation receives an application under paragraph 2, it must, within a reasonable period of receiving the application—

(a) decide whether to grant or refuse the application, and

(b) notify the applicant of its decision.

(2) The deposit management organisation may grant or refuse the application under sub-paragraph (1)(a) before 1st October 2027.

(3) A notice under sub-paragraph (1)(b) must—

(a) where the deposit management organisation grants the application, specify the date on which the authorisation takes effect;

(b) where the deposit management organisation refuses the application, state the reasons for that decision and—

(i) notify the applicant that the authorisation to operate a return point has been refused;

(ii) state that the applicant has a right under regulation 76 to apply to the deposit management organisation to review its decision.

Duration of a person's authorisation to operate a return point

4. A person's authorisation to operate a return point has effect until it is revoked by the deposit management organisation.

PART 3

Authorisation of a scheme retailer as a take-back service provider

Authorisation of a scheme retailer as a take-back service provider

5.—(1) A scheme retailer may make an application to the deposit management organisation for authorisation as a take-back service provider.

(2) Where the scheme retailer is a partnership, the application must, if made by only one partner, be made by that partner on behalf of all of the partners.

(3) An application under this paragraph must—

(a) be made in such form and manner as the deposit management organisation may direct,

(b) contain the applicant information, and

(c) contain such other information (if any) as the deposit management organisation may direct.

Decision on application

6.—(1) Where the deposit management organisation receives an application under paragraph 5, it must, within a reasonable period of receiving the application—

(a) decide whether to grant or refuse the application, and

(b) give the applicant a notice of its decision.

(2) A notice under sub-paragraph (1)(b) must—

(a) where the deposit management organisation grants the application, specify the date on which the authorisation takes effect;

(b) where the deposit management organisation refuses the application—

(i) state the reasons for that decision, and

(ii) state that the applicant has a right under regulation 76 to apply to the deposit management organisation to review its decision.

Duration of a scheme retailer's authorisation as a take-back service provider

7. A scheme retailer's authorisation as a take-back service provider has effect until it is revoked by the deposit management organisation.

PART 4

Information

Duty to notify the deposit management organisation of a change in the applicant information, return point authorisation information or take-back service authorisation information

8.—(1) A scheme supplier or an exempt groceries retailer who is authorised to operate a return point at or on particular premises must notify the deposit management organisation if there is

any change in the applicant information or the return point authorisation information submitted in connection with that scheme supplier's or exempt groceries retailer's authorisation.

(2) A scheme retailer who is authorised to provide take-back services must notify the deposit management organisation if there is any change in the applicant information or the take-back service authorisation information submitted in connection with that scheme retailer's authorisation.

(3) A notice under this paragraph must be given within the period of 28 days beginning with the date on which the change occurs.

PART 5

Revocation of authorisation

Revocation of authorisation on request

9.—(1) The deposit management organisation must, if requested to do so by the scheme supplier or the exempt groceries retailer authorised to operate a return point at or on particular premises, revoke the authorisation to operate that return point.

(2) The deposit management organisation must, if requested to do so by the scheme retailer, revoke the scheme retailer's authorisation as a take-back service provider.

(3) Where the deposit management organisation revokes a person's authorisation under this paragraph, the deposit management organisation must give the person a notice, specifying the day at the end of which the authorisation ceases to have effect.

Revocation of authorisation on initiative of the deposit management organisation

10.—(1) The deposit management organisation may revoke—

(a) the authorisation of a scheme supplier or exempt groceries retailer to operate a return point at or on particular premises, or

(b) a scheme retailer's authorisation to provide take-back services,

otherwise than following a request under paragraph 9.

(2) The deposit management organisation may only revoke the authorisation of a scheme supplier or exempt groceries retailer under sub-paragraph (1)(a) on the following grounds—

(a) the person has failed to comply with one or more of their obligations as a return point operator under or in connection with the Scheme;

(b) there has been a change of circumstances since the authorisation was granted, including any change such that—

(i) the location, layout, design, or construction of the premises to which the authorisation relates can no longer, or can no longer easily, permit the operation of a return point and cannot be reasonably altered to allow the continued operation of a return point;

(ii) the operation of the return point to which the authorisation relates is no longer viable.

(3) The deposit management organisation may only revoke a scheme retailer's authorisation to provide take-back services under sub-paragraph (1)(b) on the following grounds—

(a) the scheme retailer has failed to comply with any of their obligations as a take-back service provider under or in connection with the Scheme;

(b) there has been a change of circumstances since the authorisation was granted;

(c) the operation of the take-back service is no longer viable.

(4) Where the deposit management organisation proposes to revoke an authorisation, it must give that person a notice (a "proposal notice").

(5) A proposal notice must be in writing and must—

(a) state the reasons for which the deposit management organisation is proposing to revoke the authorisation, and

(b) specify the day at the end of which the revocation is expected to take effect, if the proposal is upheld, and

(c) specify the form and manner in which, and the period within which the relevant person may make representations to the deposit management organisation about the proposed revocation, which must not be less than 28 days beginning with the date on which the person receives the proposal notice.

(6) The deposit management organisation—

(a) must consider any representations made to it in the specified form and manner and by the specified date;

(b) may consider any representations made otherwise than in the specified form or manner or after the specified date (or both).

(7) Where the deposit management organisation decides to proceed with the revocation of a person's authorisation, it must give the person a notice (a "revocation notice").

(8) A revocation notice must be in writing and must—

(a) state that the person's authorisation is being revoked, and the reasons why, and

(b) specify the day at the end of which the revocation will take effect, and

(c) state that the person has a right under regulation 76 to apply to the deposit management organisation to review its decision.

(9) If the person exercises the right referred to in sub-paragraph (8)(c), the revocation notice will not take effect pending the review of the decision.

(10) The date specified for the purposes of sub-paragraph (8)(b) must not be before the end of the period of 28 days beginning with the date on which the person receives the revocation notice.

(11) The deposit management organisation must notify the person in writing of its decision within a reasonable time.

SCHEDULE 5

Regulations 50 and 79

Appointment etc. of the deposit management organisation

PART 1

Introductory

Interpretation of Schedule 5

1. In this Schedule—

"DMO applicant" means a person who makes a DMO appointment application;

"DMO appointment application" means an application to be appointed as the deposit management organisation;

"not-for-profit body corporate" means a body corporate which uses money earned by, or donated to, that body corporate solely to pursue its objectives and which does not distribute income to its members, directors, or officers except for reasonable remuneration for goods or services supplied to that body;

"notice" means a notice in writing;

"specified" means specified in a notice given by the Secretary of State.

PART 2

Appointment of the deposit management organisation

Decision on DMO appointment applications

2.—(1) The Secretary of State must—

(a) having assessed each DMO appointment application, determine—

(i) which DMO applicant is proposed to be appointed as the successful DMO applicant, and

(ii) whether any conditions apply to the appointment,

(b) obtain the consent of DAERA to the proposed appointment of the successful DMO applicant, and

(c) give each DMO applicant a notice of the decision made in respect of their DMO appointment application.

(2) The Secretary of State may only propose that a DMO applicant is appointed as the deposit management organisation if the Secretary of State is satisfied that the DMO applicant—

(a) is a not-for-profit body corporate but is not a charity, and

(b) is suitable for appointment as the deposit management organisation, having regard in particular to—

(i) the level of support for the DMO applicant's DMO application amongst scheme producers and scheme suppliers;

(ii) the DMO applicant's proposed finance strategy, including in particular how the DMO applicant intends to ensure that the Scheme becomes and remains self-financing;

(iii) the DMO applicant's proposed strategy for ensuring that the views of all scheme producers and scheme suppliers (irrespective of their size), and of consumers, are obtained and taken into account in the carrying out of the DMO functions;

(iv) the DMO applicant's proposed strategy for minimising the environmental impact of the Scheme and facilitating the recycling of in-scope material;

(v) the arrangements which the DMO applicant intends to put in place to ensure cooperation with any scheme administrator of another deposit scheme or any Scottish deposit administrator of a Scottish deposit and return scheme, in particular in connection with—

(aa) the operation of the Scheme;

(bb) the operation of the other deposit schemes;

(cc) the operation of the Scottish deposit and return schemes;

(dd) facilitating and improving the ease of return by consumers of drinks containers purchased in one part of the United Kingdom and returned in another part of the United Kingdom;

(ee) facilitating and improving the registration process for those who produce, or import, drinks for the United Kingdom market;

(vi) the DMO applicant's proposed strategy for reducing and eliminating any fraud in the Scheme, and

(vii) the purposes for which the DMO proposes to use any amounts which they are permitted to retain under the Scheme but which are not needed to finance the Scheme itself.

(3) A notice under sub-paragraph (1)(c) must—

(a) if the Secretary of State grants the DMO applicant's DMO appointment application—

(i) state that the application has been granted,

(ii) specify the date on which the person's appointment as the deposit management organisation will take effect, and

(iii) state any conditions applying to the person's appointment;

(b) if the Secretary of State refuses the DMO applicant's DMO appointment application—

(i) state the reasons for the decision, and

(ii) state that the DMO applicant may appeal against the decision, and include a statement as to how such an appeal may be brought.

(4) Where there are two or more DMO applicants, the date specified for the purposes of sub-paragraph (3)(a)(ii) must not be before the end of the period within which a person may bring an appeal against the decision to refuse their DMO appointment application (disregarding any extension of that period).

(5) In this paragraph "charity" means a body established for charitable purposes only (whether or not it is registered as a charity in any part of the United Kingdom).

PART 3

Revocation of a person's appointment as the deposit management organisation

Revocation of a person's appointment as the deposit management organisation: on notice

3.—(1) The person appointed as the deposit management organisation ("the resigning DMO") may give notice (a "revocation notice") to the Secretary of State stating that they wish to cease to be the deposit management organisation.

(2) If the Secretary of State receives a revocation notice, the Secretary of State must—

(a) revoke the resigning DMO's appointment as the deposit management organisation, and

(b) give the resigning DMO a notice which specifies the date on which the revocation takes effect.

(3) The date specified for the purposes of sub-paragraph (2)(b) must not be before the end of the period of 18 months beginning with the date on which the Secretary of State receives the revocation notice.

Revocation of a person's appointment as the deposit management organisation: discretion of the Secretary of State

4.—(1) The Secretary of State may, with the consent of DAERA, revoke a person's appointment as the deposit management organisation if—

(a) it appears to the Secretary of State that the person—

(i) has been convicted of an offence involving financial impropriety or fraud;

(ii) has become bankrupt;

(iii) has become subject to insolvency or winding-up proceedings;

(iv) has had assets made subject to administration or receivership, including by a liquidator or court;

(v) has entered into an arrangement with the person's creditors;

(vi) has become subject to a petition or application for any such procedures or arrangements referred to in sub-paragraphs (ii) to (v);

(vii) has, in any jurisdiction, been subject to a procedure or an application which corresponds to any procedure or application mentioned in sub-paragraphs (ii) to (v);

(viii) has failed for at least three years to meet the collection targets for a deposit management organisation;

(ix) has knowingly or recklessly supplied false information in connection with its DMO appointment application or in connection with any of its obligations as the deposit management organisation under or in connection with the Scheme;

(x) has failed to comply with a notice or fine issued by a national enforcement authority;

(xi) has repeatedly refused or failed to pay NEA costs after being invoiced for those costs, or

(xii) has failed to meet one or more of that person's conditions of appointment; or

(b) the person has notified the Secretary of State of a change of circumstances which the Secretary of State considers is likely to prevent the person from complying with that person's conditions of appointment.

(2) The Secretary of State—

(a) must revoke a person's appointment as the deposit management organisation if the Secretary of State considers—

(i) that a mandatory exclusion ground set out in Schedule 6 to the Procurement Act 2023(**a**) (mandatory exclusion grounds) ("the 2023 Act"), applies to that person or to a connected person, and

(ii) the circumstances giving rise to the application of the exclusion ground are continuing or likely to occur again, or

(iii) the person, or a connected person, is on the debarment list under section 62 of the 2023 Act (debarment list) by virtue of a mandatory exclusion ground set out in Schedule 6 to that Act.

(b) may, with the consent of DAERA, revoke a person's appointment as the deposit management organisation if the Secretary of State considers—

(**a**) 2023 c. 54.

(i) that a discretionary exclusion ground set out in Schedule 7 to the 2023 Act (discretionary exclusion grounds) applies to that person or to a connected person, and

(ii) the circumstances giving rise to the application of the exclusion ground are continuing or likely to occur again, or

(iii) the person, or a connected person, is on the debarment list under section 62 of the 2023 Act by virtue of a discretionary exclusion ground set out in Schedule 7 to that Act.

(3) In this regulation "connected person" has the same meaning as that given to "connected person" in paragraph 45 of Schedule 6 to the 2023 Act in relation to a supplier.

(4) If the Secretary of State proposes to revoke a person's appointment as the deposit management organisation it must give the person a notice (a "proposal notice").

(5) A proposal notice must be in writing and must—

(a) state that the Secretary of State, with the consent of DAERA, proposes to revoke the person's appointment as the deposit management organisation, and the reasons why,

(b) specify the date on which the revocation will take effect,

(c) state that the person may make representations in connection with the proposed revocation of their appointment, and

(d) specify the form and manner in, and date by, which any such representations must be made to the Secretary of State.

(6) The date specified for the purposes of sub-paragraph (5)(b) must not be before the end of the period within which the person may make an application for a review of the decision to revoke their appointment as the deposit management organisation (disregarding any extension of that period).

(7) The Secretary of State—

(a) must consider any representations that are made in the specified form and manner, and by the specified date;

(b) may disregard any representations that are not made in the specified form and manner or are made after the specified date.

(8) The Secretary of State must notify the deposit management organisation in writing of the decision.

(9) The Secretary of State must give a copy of any notice under sub-paragraph (8) to DAERA.

(10) Where the Secretary of State decides to proceed with the proposed revocation, the Secretary of State must give that person a notice (a "revocation notice").

(11) The revocation notice must—

(a) state that the person's appointment as the deposit management organisation has been revoked, and

(b) specify the date on which the revocation will take effect.

(12) The Secretary of State must give a copy of any revocation notice to DAERA.

Transfer of assets etc.

5.—(1) The Secretary of State may transfer relevant property, rights and liabilities of the outgoing DMO to the new DMO, or to the interim scheme administrator, as a consequence of the outgoing DMO ceasing to be the deposit management organisation.

(2) The relevant property, rights and liabilities of the outgoing DMO that may be transferred under paragraph (1) are as follows—

(a) data created and compiled specifically for the Scheme;

(b) land assets;

(c) intellectual property, including scheme branding;

(d) deposits;

(e) IT systems;

(f) contracts entered into by the outgoing DMO for the purpose of the Scheme;

(g) collection and processing infrastructure;

(h) staff and human resources systems.

(3) The Secretary of State may only transfer such of the relevant property, rights and liabilities set out in paragraph (2) as constitute the minimum assets required to keep the Scheme operational and to protect consumer interests.

(4) The transfer of any property, rights and liabilities is effective on the new appointment date.

(5) The property, rights and liabilities that may be transferred under this paragraph include property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the outgoing DMO.

(6) A transfer of property, rights and liabilities under this paragraph takes effect despite the absence of any required consent or concurrence to or with the transfer and as if—

(a) no liability existed in respect of a contravention of a requirement for consent or concurrence, and

(b) there were no interference with any property or right,

that would otherwise exist by reason of any provision (whether under any enactment or agreement or otherwise) having effect in relation to the terms on which the outgoing DMO is entitled to the property or right, or subject to the liability, in question.

(7) For the purposes of this paragraph, any property, right or liability of the outgoing DMO is relevant property, or a relevant right or liability, only if it was acquired by, or the outgoing DMO became subject to it, in the course of the exercise of its functions as the deposit management organisation under or in connection with the Scheme.

(8) In this paragraph and paragraph 6—

"the new appointment date" means the date on which the new DMO's appointment takes effect;

"the new DMO" means the person next appointed as the deposit management organisation following the revocation of the outgoing DMO's appointment;

"the outgoing DMO" means the person whose appointment as the deposit management organisation is revoked under paragraph 3 or 4.

Transitional provision in connection with paragraph 5

6.—(1) Anything that—

(a) is done (or has effect as if done) by or in relation to the outgoing DMO in respect of any property, right or liability transferred to the new DMO under paragraph 5, and

(b) has effect immediately before the new appointment date,

is to be treated as done by or in relation to the new DMO.

(2) There may be continued by or in relation to the new DMO anything (including legal proceedings) that—

(a) relates to any property, right or liability transferred under paragraph 5, and

(b) is in the process of being done by, on behalf of or in relation to the outgoing DMO immediately before the new appointment date.

Continuity in exercise of deposit management organisation functions

7.—(1) Anything done by the outgoing DMO in connection with the exercise of the DMO functions has effect as if done by the new DMO.

(2) In this paragraph, "the new DMO" and "the outgoing DMO" have the same meanings as in paragraph 5(8).

PART 4

Appeals in connection with Parts 2 and 3

Right of appeal

8.—(1) A DMO applicant may appeal against a decision of the Secretary of State under paragraph 2 to refuse their DMO appointment application.

(2) A person may appeal against a decision of the Secretary of State under paragraph 4 to revoke their appointment as the deposit management organisation.

(3) An appeal under sub-paragraph (1) or (2) is to the First-tier Tribunal.

SCHEDULE 6

Regulation 90

Civil Sanctions

PART 1

Introductory

Interpretation of Schedule 6

1. In this Schedule—

"compliance notice" has the meaning given in paragraph 14(1);

"enforcement undertaking" means an undertaking, in writing, to take the action specified in that undertaking within the period specified in that undertaking;

"FMP" means a fixed monetary penalty;

"variable monetary penalty" means a penalty of such amount as the enforcement authority may determine;

"VMP" means a variable monetary penalty.

PART 2

The Table of Civil Sanctions

Requirement or act	*FMP (amount)*	*VMP*	*compliance notice*	*enforcement undertaking*
Scheme producers				
Regulation 11 and Part 1 of Schedule 1 (registration)	No	Yes	Yes	Yes
Regulation 13(1)(a) or (b) (requirement to make or keep records)	No	Yes	Yes	Yes
Providing information in response to a DMO instruction under regulation 14, or in an application for registration under paragraph 2 of Schedule 1, or under paragraph 4 or 5 of Schedule 1, where— (a) the person providing the information knows it to be inaccurate, false or misleading in a material particular, or (b) the person providing it does so recklessly and the information is false or misleading in a material particular, or (c) the person providing the information knows it to be incomplete in a material particular, or (d) the producer has not notified the deposit management organisation of a change to the relevant information.	No	Yes	Yes	Yes
Providing information in an application under regulation 18 for registration of a product line as a low volume line, where— (a) the person providing the information knows it to be false or misleading in a material particular, or (b) the person providing it does so recklessly and the information is false or misleading in a material particular.	No	Yes	Yes	Yes
Regulation 21 (requirement to pay a producer registration fee)	No	Yes	Yes	Yes
Regulation 22 (requirement to pay deposits to the deposit management organisation)	No	Yes	Yes	Yes
Scheme suppliers				
Regulation 23 (prohibition on supply of items from a scheme producer not registered with the deposit management organisation)	Yes (£1,000)	No	Yes	No
Regulation 24(1)(a) (requirement for deposit item to carry scheme logo)	Yes (£1,000)	No	Yes	No

Requirement or act	*FMP (amount)*	*VMP*	*compliance notice*	*enforcement undertaking*
Regulation 24(1)(b) (requirement for deposit item to carry scheme return code)	Yes (£1,000)	No	Yes	No
Regulation 24(2) (requirement for scheme multipack to carry scheme packaging logo)	Yes (£1,000)	No	Yes	No
Regulation 25(1) (prohibition on supply of a registered low volume product carrying a scheme logo or scheme return code)	Yes (£1,000)	No	Yes	No
Regulation 26(1) or (6) (requirement to provide or display, or provide for display, the Scheme information)	Yes (£1,000)	No	Yes	No
Regulation 27(1) (requirement to provide or display, or provide for display, the LVP information)	Yes (£500)	No	Yes	No
Regulation 28(1) (requirement to charge a deposit), where the scheme supplier is a scheme retailer	Yes (£1,000)	No	Yes	No
Regulation 28(1), where the scheme supplier is not a scheme retailer	No	Yes	Yes	Yes
Regulation 29(1) (requirement to display opt-out information)	Yes (£500)	No	Yes	No
Providing information in response to a DMO instruction under regulation 30 where— (a) the person providing the information knows it to be inaccurate, false or misleading in a material particular, or (b) the person providing it does so recklessly and the information is false or misleading in a material particular, or (c) the person providing the information knows it to be incomplete in a material particular.	No	Yes	Yes	Yes
Return of returnable items				
Regulation 34(1) (requirement to operate a return point)	Yes (£1,000)	No	Yes	No
Regulation 34(4) and (5) and Schedule 2 (requirement to register, or renew registration, with the deposit management organisation as a mandatory return point operator)	No	Yes	Yes	Yes
Providing information under paragraph 2, or 4 of Schedule 2 where— (a) the person providing the information knows it to be false or misleading in a material particular, or (b) the person providing it does so recklessly and	No	Yes	Yes	Yes

Requirement or act	*FMP (amount)*	*VMP*	*compliance notice*	*enforcement undertaking*
the information is false or misleading in a material particular.				
Failure to provide information under paragraph 7 of Schedule 3 (return point exemption: duty to notify deposit management organisation of change of circumstances.	No	Yes	Yes	Yes
Providing information under paragraph 2, 7 or 9 of Schedule 3 where— (a) the person providing the information knows it to be false or misleading in a material particular, or (b) the person providing it does so recklessly and the information is false or misleading in a material particular.	No	Yes	Yes	Yes
Regulation 36(1) (requirement to display information where no return point is operated)	Yes (£500)	No	Yes	No
Regulation 40 (requirement to display information at a return point)	Yes (£500)	No	Yes	No
Regulation 41 (requirement to be a scheme retailer and registered in order to provide a take-back service)	Yes (£1,000)	No	Yes	No
Regulation 42(1) or (5) (requirement to provide or display information about a take-back service)	Yes (£500)	No	Yes	No
Providing information in an application under paragraph 2 or 5 of Schedule 4, where— (a) the person providing the information knows it to be false or misleading in a material particular, or (b) the person providing it does so recklessly and the information is false or misleading in a material particular.	No	Yes	Yes	Yes
Paragraph 8 of Schedule 4 (duty to notify the deposit management organisation of a change in information)	No	Yes	Yes	Yes
Regulation 47(1), (2) or (3)(b) (requirements as to the payment of the total return amount)	Yes (£500)	No	Yes	No
Regulation 48 (requirement to retain returnable items)	Yes (£1,000)	No	Yes	No
Regulation 49 (requirement to retain or return returnable items)	Yes (£1,000)	No	Yes	Yes
The deposit management organisation				

Requirement or act	*FMP (amount)*	*VMP*	*compliance notice*	*enforcement undertaking*
Regulation 51(3) (requirement to comply with conditions of appointment)	No	Yes	Yes	Yes
Regulation 52(1) (requirement to act in accordance with operational plan)	No	Yes	Yes	Yes
Regulation 53(1) (requirement to submit annual report)	No	Yes	Yes	Yes
Regulation 54(1) (requirement to establish and maintain a reserve fund)	No	Yes	Yes	Yes
Regulation 55 (scheme logo and scheme packaging logo: requirement to issue)	No	Yes	Yes	Yes
Regulation 56 (publication of scheme logo and scheme packaging logo)	No	Yes	Yes	Yes
Regulation 57 (scheme return code)	No	Yes	Yes	Yes
Regulation 66(1) (requirement to collect returnable items etc. from return point operators etc.)	No	Yes	Yes	Yes
Regulation 66(2) (requirement to pay sums for returnable items)	No	Yes	Yes	Yes
Regulation 68 (requirement to recycle or make arrangements for recycling of in-scope material from refund items)	No	Yes	Yes	Yes
Regulation 69 (requirement to make arrangements for the recycling of in-scope material from items other than refund items)	No	Yes	Yes	Yes
Regulation 71 (requirement to pay NEA costs)	No	Yes	Yes	Yes
Regulation 72 (information about returns data)	No	Yes	Yes	Yes
Failure, without reasonable excuse, to comply with the obligation in regulation 81 (collection targets).	No	Yes	Yes	Yes
Matters connected with enforcement				
Regulation 85(3) (requirement to comply with an information notice), where the notice is given by a local weights and measures authority	Yes (£500)	No	Yes	No
Providing information to a local weights and measures authority in response to an information notice under regulation 85 where—(a) the person providing the information knows	Yes (£500)	No	Yes	No

Requirement or act	*FMP (amount)*	*VMP*	*compliance notice*	*enforcement undertaking*
it to be false or misleading in a material particular, or (b) the person providing it does so recklessly and the information is false or misleading in a material particular.				
Regulation 85(3) (requirement to comply with an information notice), where the notice is given by a national enforcement authority	No	Yes	Yes	Yes
Providing information to a national enforcement authority under regulation 85 where — (a) the person providing the information knows it to be false or misleading in a material particular, or (b) the person providing it does so recklessly and the information is false or misleading in a material particular.	No	Yes	Yes	Yes
Regulation 86(1) (obstructing or failing to assist an authorised person), where the authorised person was appointed by a local weights and measures authority	Yes (£1,000)	No	Yes	No
Regulation 86(1) (obstructing or failing to assist an authorised person), where the authorised person was appointed by DAERA or the Environment Agency	No	Yes	Yes	Yes

PART 3

Fixed monetary penalties

Power to impose an FMP

2.—(1) An enforcement authority may, by notice, impose an FMP on a person in relation to an act or contravention of a requirement mentioned in the CS Table, if the CS Table indicates that an FMP is available for that act or contravention of that requirement.

(2) Before doing so, the enforcement authority must be satisfied on the balance of probabilities that the person has acted or contravened the relevant requirement as set out in the CS Table.

(3) "Fixed monetary penalty" means a requirement to pay to the enforcement authority a penalty in relation to an act or contravention of a requirement mentioned in the CS Table, of the amount indicated in the CS Table for that act or contravention of that requirement.

Notice of intention to impose an FMP

3.—(1) Where an enforcement authority proposes to impose an FMP on a person, the authority must give that person a notice of what is proposed (referred to in this Part of this Schedule as a "notice of intent").

(2) A notice of intent must be in writing and must—

(a) state the grounds for imposing the FMP,

(b) state the amount of the FMP, and

(c) include information as to the right to make representations and objections within the period of 28 days beginning with the date on which the person receives the notice (referred to in this Part of this Schedule as "the 28-day period").

Making representations and objections

4.—(1) A person who is given a notice of intent may, within the 28-day period, make representations or objections to the enforcement authority in relation to the proposed imposition of the FMP.

(2) Any representations or objections under paragraph (1) must be in writing.

Final notice of decision to impose an FMP

5.—(1) The enforcement authority must, after considering any representations or objections made within the 28-day period, notify the person concerned in writing of its decision.

(2) Where the decision is made to impose the FMP (with or without modifications to the original terms of the notice of intent) the enforcement authority must serve a final notice in writing and must include the following information—

(a) the amount of the FMP,

(b) the grounds for imposing the FMP,

(c) how payment of the FMP is to be made,

(d) that the date by which payment must be made is the last day of a period of 56 days beginning with the date of receipt of the final notice,

(e) details of the late payment penalties,

(f) information as to the right of appeal, and

(g) the consequences of non-payment.

Appeal

6.—(1) A person who receives a final notice may appeal against it.

(2) The grounds of appeal are—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unreasonable for any other reason.

Non-payment after 56 days

7.—(1) An FMP must be paid within the period of 56 days beginning with the date of receipt of the final notice, unless the final notice is appealed in which case regulation 98(1)(b) applies.

(2) If the FMP is not paid within that period, the amount payable is the original amount of the FMP plus 50% of that figure.

(3) Where a final notice is appealed and the appeal is unsuccessful or withdrawn—

(a) the FMP is payable within the period of 28 days beginning with the day on which the appeal is determined or withdrawn (as the case may be), and

(b) if the FMP is not paid within that period, the amount payable is the original amount of the FMP plus 50% of that figure.

PART 4

Variable monetary penalties

Power to impose a VMP

8.—(1) An enforcement authority may, by notice, impose a VMP on a person in relation to an act or contravention of a requirement mentioned in the CS Table, if the CS Table indicates that a VMP is available for the act or contravention.

(2) A requirement under this paragraph must not be imposed on a person on more than one occasion in relation to the same act or omission, unless the act or omission is a continuing act or omission.

(3) Before serving a notice relating to a VMP for failure to comply with a compliance notice or enforcement undertaking, the enforcement authority may require a person to provide such information as is reasonable to establish the amount of any benefit arising from the failure to comply with the compliance notice or enforcement undertaking.

Notice of intention to issue a VMP

9.—(1) Where an enforcement authority proposes to impose a VMP on a person under this Part of this Schedule, the authority must give the person a notice of what is proposed (a "notice of intent").

(2) A notice of intent must be in writing and must include—

(a) the grounds for imposing the VMP,

(b) the amount of the penalty,

(c) information as to the right to make representations within the period of 28 days beginning with the day on which the person receives the notice (referred to in this Part of this Schedule as "the 28-day period").

Representations and objections

10.—(1) A person on whom a notice of intent is served may within the 28-day period make representations to the enforcement authority about the proposed imposition of the VMP.

(2) Any representations or objections under this paragraph must be in writing.

Service of final notice

11.—(1) The enforcement authority must after considering any representations made within the 28-day period, notify the person concerned of its decision, with or without modifications.

(2) Where the enforcement authority decides to impose a VMP, the enforcement authority must give a notice (referred to in this Part of this Schedule as a "final notice") to the relevant person.

(3) The final notice must be in writing.

Contents of final notice

12. A final notice must include—

(a) the grounds for imposing the VMP,

(b) the amount of the penalty,

(c) how the payment may be made,

(d) the period within which the payment must be made, which must not be less than 28 days from when the final notice is given,

(e) information as to the right of appeal, and

(f) information as to the consequences of failing to comply with the notice.

Appeal against a final notice

13.—(1) A person who receives a final notice may appeal against it.

(2) The grounds of appeal are—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the amount of the penalty is unreasonable;

(d) that the decision was unreasonable for any other reason.

PART 5

Compliance Notices

Issue of a compliance notice

14.—(1) An enforcement authority may, by notice (a "compliance notice"), impose a requirement on a person to take such steps as the authority may specify, within such period as the authority may specify, to secure that the contravention of a requirement does not continue or recur in relation to an act or a contravention of a requirement mentioned in the CS Table, if the CS Table indicates such penalty is possible for the act or contravention.

(2) Before imposing any such requirement, the enforcement authority must be satisfied that there are reasonable grounds for considering that the person has contravened or will contravene the relevant requirement.

(3) A requirement must not be imposed on a person on more than one occasion in relation to the same act or omission unless the act or omission is a continuing act or omission.

(4) But sub-paragraph (3) does not prevent an equivalent requirement being imposed on a person in a compliance notice if any earlier requirement imposed on that person in relation to the same act or omission has first been withdrawn.

Contents of a compliance notice

15. A compliance notice must include—

(a) information as to the grounds for imposing the requirement,

(b) information as to the compliance or restoration which is required and the period within which it must be completed,

(c) information about the right of appeal, and

(d) information as to the consequences of failing to comply with the notice.

Appeal against a compliance notice

16.—(1) A person who receives a compliance notice may appeal against it.

(2) The grounds of appeal are—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the nature of the requirement is unreasonable;

(d) that the decision was unreasonable for any other reason.

PART 6

Enforcement undertaking

Power to accept an enforcement undertaking and related matters

17.—(1) An enforcement authority may accept an enforcement undertaking from a person in a case where, in relation to an act or a contravention of a requirement mentioned in the CS Table, the CS Table indicates that a penalty is available for that act or contravention.

(2) Before accepting any enforcement undertaking, the enforcement authority concerned must first establish a procedure appropriate to such undertakings.

(3) The enforcement authority must—

(a) consult such persons as it considers appropriate before establishing the procedure, and

(b) publish the procedure established.

Contents of an enforcement undertaking

18.—(1) An enforcement undertaking must—

(a) specify a relevant action,

(b) specify the period within which that action must be completed, and

(c) include—

(i) a statement that the undertaking is made in accordance with this Part,

(ii) the terms of the undertaking, and

(iii) a statement as to how and when the person giving the undertaking should be considered to have discharged the undertaking.

(2) An enforcement undertaking may be varied, or the period within which the relevant action is to be taken extended, if agreed in writing by the enforcement authority and the person who gave the enforcement undertaking.

(3) For the purposes of this paragraph "relevant action" means—

(a) action to secure that the contravention of the requirement of these Regulations does not continue or recur,

(b) action to secure that the position is, so far as possible, restored to what it would have been had the contravention not occurred, or

(c) action (including the payment of a sum of money) to benefit or improve the environment, such as action to prevent littering or increase the recycling of in-scope material from which containers are made.

Effect of acceptance of an enforcement undertaking

19.—(1) If an enforcement authority accepts an enforcement undertaking under paragraph 17(1), the enforcement authority must not impose any other civil sanction in respect of the act or the contravention to which the enforcement undertaking relates.

(2) But sub-paragraph (1) ceases to apply if the person fails to comply with the relevant enforcement undertaking or any part of it.

Publication of enforcement undertakings

20. An enforcement authority must publish each enforcement undertaking it accepts in such manner as it considers appropriate for the purposes of bringing it to the attention of persons who may be affected.

Discharge of an enforcement undertaking

21.—(1) If an enforcement authority is satisfied that an enforcement undertaking has been complied with, the enforcement authority must issue a certificate (a "discharge certificate") to that effect.

(2) An enforcement authority may require a person who has given an enforcement undertaking to provide sufficient information for the purposes of determining whether the person has complied with that undertaking.

(3) A person who has given an enforcement undertaking may apply, at any time, for a discharge certificate.

(4) Where an enforcement authority receives an application under sub-paragraph (3), the authority must within the relevant period—

(a) decide whether to issue a discharge certificate, and

(b) notify the person making the application of that decision.

(5) The "relevant period" is the period of 14 days beginning with the day on which the enforcement authority receives the application in question.

Rights of appeal

22.—(1) A person who has given an enforcement undertaking to an enforcement authority may appeal against a decision of that authority not to issue a discharge certificate.

(2) The grounds of appeal are—

(a) that the decision was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the decision was unfair or unreasonable;

(d) that the decision was wrong for any other reason.

Inaccurate, incomplete or misleading information

23.—(1) A person who gives inaccurate, incomplete or misleading information in relation to an enforcement undertaking is to be regarded as not having complied with it.

(2) An enforcement authority may revoke a discharge certificate if it was issued on the basis of inaccurate, incomplete or misleading information.

Partial compliance with an enforcement undertaking

24. If a person has partly complied with an enforcement undertaking, the enforcement authority must take that into account when imposing any other civil sanction.

SCHEDULE 7

Regulation 98

Procedure on Appeal

Application

1.—(1) Paragraph 2 applies to a person in England who wishes to appeal to the First-tier Tribunal under regulation 97 (such a person is referred to in this Schedule as an "FTT appellant").

(2) Paragraphs 3 to 5 apply to a person in Northern Ireland who wishes to appeal to the appeals commission under regulation 97 (such a person is referred to in this Schedule as a "PACNI appellant").

(3) In this Schedule, "appeals commission" means the planning appeals commission established in accordance with section 203 of the Planning Act (Northern Ireland) 2011(**a**).

Appeal to the First-tier Tribunal

2.—(1) A FTT appellant may appeal to the First-tier Tribunal in accordance with the GRC Rules 2009.

(2) The GRC Rules 2009 apply to the appeal subject to the modification in sub-paragraph (3).

(3) Rule 22 of the GRC Rules 2009 applies to an appeal brought under regulation 97 of these Regulations as if paragraph (1)(b) of that rule required the appeal to be brought within two months of the date on which the notice to which the appeal relates was sent to the FTT appellant.

(4) In this paragraph "the GRC Rules 2009" means the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009(**b**).

Appeal to the appeals commission: notice of appeal

3.—(1) A PACNI appellant must appeal to the appeals commission by sending a notice to the appeals commission ("the notice of appeal").

(2) The notice of appeal must be in writing and must be accompanied by the relevant fee.

(3) The relevant fee is the amount specified in regulation 9(1) of the Planning Fees (Deemed Planning Applications and Appeals) Regulations (Northern Ireland) 2015(**c**).

(4) The notice of appeal must be accompanied by—

(a) a statement of the grounds of appeal,

(b) a copy of the notice which is the subject of the appeal,

(c) a copy of any correspondence between the PACNI appellant and the deposit management organisation or the national enforcement authority and any other document relevant to the appeal,

(d) a copy of any other document on which the PACNI appellant intends to rely for the purposes of the appeal, and

(**a**) 2011 c. 25.
(**b**) S.I. 2009/1976 (L. 20).
(**c**) SR 2015/136.

(e) a statement indicating whether the PACNI appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written representations.

Appeal to the appeals commission: time for bringing appeal

4. The notice of appeal under paragraph 3(1) must be given to the appeals commission before the end of the period of 2 months beginning with the date on which the notice to which the appeal relates was received by the appellant.

Appeal to the appeals commission: decision on appeal

5.—(1) The appeals commission must notify the PACNI appellant in writing of the decision on the appeal and the reasons for that decision.

(2) If the appeals commission determines the appeal after a hearing, the appeals commission must provide the appellant with a copy of any report made by the person who conducted the hearing.

(3) The appeals commission must, at the same time as notifying the appellant of the decision on the appeal, send a copy of any document sent to the appellant under this paragraph to the national enforcement authority.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the first to be made under powers which include the powers in Schedule 8 to the Environment Act 2021 (c.30). They establish, in England and Northern Ireland, a deposit scheme for container drinks which are supplied for consumption in England or Northern Ireland. The relevant containers are single-use closed bottles and cans made from polyethylene terephthalate (PET) plastic, steel or aluminium which contain between 150 millilitres and 3 litres of liquid.

From 1st October 2027, anyone in England or Northern Ireland who is supplied with a container drink to which these Regulations apply must pay a deposit to the person who supplies them with that drink, and a person who returns an empty container to a collector will be entitled to a refund. Under the scheme it will also be possible to return and claim a refund for certain empty containers from drinks which were purchased outside of England and Northern Ireland.

Part 1 of the Regulations contains introductory provisions.

Part 2 contains provisions on interpretation.

Part 3 contains provisions relating to the establishment of a deposit scheme for container drinks in England and Northern Ireland. This Part also sets out the circumstances in which a person is not entitled to a refund for a returnable item.

Chapter 1 of Part 4 contains provisions on registration requirements for scheme producers, the obligation of deposit management organisations to keep a register of registered scheme producers and provisions requiring registered scheme producers to keep records relating to the supply of container drinks. Deposit management organisations have powers to obtain information from registered scheme producers and powers relating to the cancellation of registration. Chapter 2 contains provisions relating to registered low volume products. Chapter 3 contains provisions relating to payments by registered scheme producers to deposit management organisations.

Part 5 contains provisions relating to scheme suppliers, including a prohibition on the supply of drinks produced by a scheme producer who is not registered, and provisions relating to the labelling of deposit items, of scheme multipacks and of registered low volume products. Part 5 also contains provisions requiring scheme suppliers to display information about the deposit scheme and about registered low volume products and also provisions giving deposit management organisations the power to obtain information from scheme suppliers.

Part 6 contains provisions relating to the return of returnable items. Chapter 1 of Part 6 contains provisions on items subject to overseas schemes. Chapter 2 contains provisions relating to mandatory return points for container drinks and chapter 3 contains provisions relating to voluntary return points. Chapter 4 contains provisions on information to be provided at return points and chapter 5 contains provisions on take-back services and on the collection or acceptance of returnable items by deposit management organisations. Chapter 6 contains provisions on the register of return points, the register of return point exemptions and the register of take-back service providers and chapter 7 contains provisions on the general obligations of scheme collectors to offer payment for returnable items and to retain them for collection.

Part 7 contains provisions relating to the role of the deposit management organisation as scheme administrator. Chapter 1 contains provisions on the appointment and governance of a deposit management organisation and chapter 2 contains provisions on the issue and administration

arrangements for scheme logos, scheme packaging logos and scheme return codes. Chapter 3 contains provisions relating to deposits, including determining the amount of the deposit and the use that may be made of amounts received as deposits. Chapter 4 contains provisions relating to fees for registration, and chapter 5 contains provisions relating to the collection of returnable items, including reviews of the operation of return points. Chapter 6 contains provisions on the recycling of in-scope materials from drinks containers which have been returned. Chapter 7 contains provisions relating to national enforcement authorities and chapter 8 contains provisions relating to deposit management organisations working with other scheme administrators established in Wales, Scotland or overseas. Chapter 9 contains provisions relating to the internal review of decisions made by deposit management organisations. Chapter 10 contains provisions relating to the revocation of a person's appointment as the deposit management organisation and includes provisions relating to the Secretary of State (or another person) acting as interim scheme administrator until a person is appointed as the deposit management organisation.

Part 8 contains provisions relating to targets for deposit management organisations.

Part 9 contains provisions relating to enforcement. Chapter 2 sets out enforcement powers applicable in England and Northern Ireland respectively and contains powers for the appropriate authorities to require the provision of information. Chapter 3 contains provisions relating to offences and chapter 4 provisions relating to civil sanctions. Chapter 5 contains provisions relating to the publication of enforcement action in a public register.

Part 10 sets out provisions relating to rights of appeal and the procedure on appeal.

Part 11 sets out the functions of the national enforcement authorities.

Part 12 contains provisions for a review of the regulatory provisions contained in these Regulations.

A full impact assessment of the effect that these Regulations will have on the costs of business, the voluntary sector and the public sector is available from www.legislation.gov.uk, and from the Department for Environment, Food and Rural Affairs, Seacole Building, 2 Marsham Street, London, SW1P 4DF.

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