

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fifth Delegated Legislation Committee

DRAFT PACKAGING WASTE (DATA REPORTING)
(ENGLAND) REGULATIONS 2023

Thursday 2 February 2023

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The Committee consisted of the following Members:

Chair: MR VIRENDRA SHARMA

Byrne, Ian (<i>Liverpool, West Derby</i>) (Lab)	† Jones, Ruth (<i>Newport West</i>) (Lab)
† Collins, Damian (<i>Folkestone and Hythe</i>) (Con)	Lavery, Ian (<i>Wansbeck</i>) (Lab)
Duffield, Rosie (<i>Canterbury</i>) (Lab)	† Mayhew, Jerome (<i>Broadland</i>) (Con)
Elphicke, Mrs Natalie (<i>Dover</i>) (Con)	Mullan, Dr Kieran (<i>Crewe and Nantwich</i>) (Con)
† Glindon, Mary (<i>North Tyneside</i>) (Lab)	† Pow, Rebecca (<i>Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs</i>)
† Green, Chris (<i>Bolton West</i>) (Con)	† Smith, Greg (<i>Buckingham</i>) (Con)
† Greenwood, Margaret (<i>Wirral West</i>) (Lab)	† Vara, Shailesh (<i>North West Cambridgeshire</i>) (Con)
† Hall, Luke (<i>Thornbury and Yate</i>) (Con)	Stella-Maria Gabriel, <i>Committee Clerk</i>
Hardy, Emma (<i>Kingston upon Hull West and Hessle</i>) (Lab)	
† Jones, Fay (<i>Brecon and Radnorshire</i>) (Con)	† attended the Committee

Fifth Delegated Legislation Committee

Thursday 2 February 2023

[MR VIRENDRA SHARMA *in the Chair*]

Draft Packaging Waste (Data Reporting) (England) Regulations 2023

11.30 am

The Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs (Rebecca Pow): I beg to move,

That the Committee has considered the draft Packaging Waste (Data Reporting) (England) Regulations 2023.

It is a pleasure to serve under your chairmanship, Mr Sharma. The draft regulations were laid before the House on 9 January. They form part of a tranche of secondary legislation essential to the implementation of extended producer responsibility for packaging, so there is more to come, folks, but this is the start.

Extended producer responsibility will move the full cost of dealing with packaging waste away from households, local taxpayers and councils, and on to the producer. Producers will pay fees to cover the cost of collecting and treating household packaging waste handled by the local authorities. For the first time, the producers will be responsible for the cost of managing their packaging once it reaches its end of life. That will encourage businesses to think more carefully about how much packaging they use and its design, and their use of easily recyclable, reusable or refillable packaging.

EPR will help to reduce the overall amount of packaging that we put into the market—the amount we currently produce each year is considered unsustainable—and, in turn, to reduce the damaging impact of materials such as plastics on our global environment. These measures will help to reduce greenhouse gas emissions by more than 2.2 million tonnes by 2033—equivalent to 5.1 million barrels of oil—by reducing the creation of new packaging using virgin materials and incentivising producers to manage resources more efficiently. That will contribute to climate change mitigation in line with our commitment to decarbonise all sectors of the economy and achieve net zero by 2050.

Shailesh Vara (North West Cambridgeshire) (Con): The Minister talks about incentivising producers. Large producers can probably manage, because of their financial resources, but what sort of incentives will smaller producers have? They might have additional costs, so to what extent are the Government helping them, either by way of transition or with other assistance?

Rebecca Pow: The large producers will bear the brunt of the new measures—the brand owners, the people who put the brand on the market, will be responsible. The regulations we are discussing today are just about recording data. There will be two categories: large producers, and smaller ones producing more than a certain tonnage. I will clarify all the details later in my speech. We have

consulted twice, and the industry understands and is overwhelmingly in favour of the system. The concerns my right hon. Friend expresses have been addressed in the creation of this draft statutory instrument.

While we are talking about the cost, it is important to note that the measure will shift the cost away from local authorities, which at the moment do the collecting of packaging, funded by taxpayers, and on to producers who put the stuff on the market. It will provide an estimated £1.2 billion of funding to local authorities across the UK each year for managing packaging waste. This is a big part of driving us toward the circular economy we have all been talking about for so long. Councils will get the extra funding to deal with rubbish and recycling, easing pressure on council budgets.

We set out our intention to introduce extended producer responsibility in our 25-year environment plan and in our 2019 manifesto. Working with the devolved Administrations, we have agreed to introduce EPR for packaging at the UK level. The regulations will require packaging producers to collect and report data on the amounts and types of packaging that they supply from March this year. If they already hold the data, which most large producers do, they will have to supply it from January this year, so giving us more information.

On material type, producers will have to collect data on plastic, steel, aluminium, paper and card, wood, glass, fibre and fibre-based composites—basically, fibre-based cups. That is a new thing. They will collect data on the weight and the number of drinks containers, and state whether they come from England, Wales, Scotland or Northern Ireland. They will also give some data on the amount of packaging that ends up being binned—trying to reduce littering is an important part of what we are doing. The data is needed to calculate producers' recycling obligations and the EPR fees that producers will pay to cover the cost of managing household packaging waste from 2024. We have to start getting the data this year to work out those fees, so the system can be up and running next year.

Packaging producers already report data on packaging under the current producer responsibility regulations. The new regulations will refocus the obligations on the producers that have the most influence over what packaging is being used, and require producers to report more information about the type of packaging they produce than they do now. Larger producers will also be required to increase the frequency of their reporting from once a year, which they do now under the packaging note system, to twice a year.

We expect these data reporting regulations to be in force for only one year. After that, they will be revoked and replaced by the new producer responsibility obligations (packaging and packaging waste) regulations, which will be laid later this year. That will be the big statutory instrument, which will contain all the other information that we need, and make similar provisions relating to data collection and reporting.

Margaret Greenwood (Wirral West) (Lab): The Minister is generous in giving way. It is vital that voices from across the country are heard. The section of the Government's new environmental improvement plan on implementing EPR for packaging states that the Government are

“engaging with stakeholders to shape the future vision of waste reforms through industry wide sprint events, deep dive sessions and fortnightly forums.”

Will the Minister tell us more about the engagement that has taken place so far, and confirm that the Government are engaging with not just industry stakeholders, but environmental groups?

Rebecca Pow: I thank the hon. Lady for giving me the opportunity to reiterate that two consultations have already been run, and they have been informative. Sprints with businesses and industry have been running for the last couple of months, with thousands of people taking part in them. There has been really good engagement with industry. I have met with the Advisory Committee on Packaging, which gave a lot of advice on the scheme. Its members work with a lot of those working in the industry, many of whom I have met myself.

The hon. Lady makes an important point about non-governmental organisations. We have been working with many of them too, including the Waste and Resources Action Programme, which addresses the consequences of litter. There has been really good engagement on this, including with the devolved Administrations. I met with my equivalents last week to make sure we are all singing from the same hymn sheet. The DAs are bringing their own SIs through as well. I hope that satisfies the hon. Lady and I thank her for her intervention.

As I said, this reporting will only be necessary for one year, and then it will be superseded by the big SI at the end of the year with all the rest of the information. Without these regulations, there would be a gap in the data. These regulations apply to England only but, as I said, similar regulations are being processed in parallel in Wales, Scotland and Northern Ireland. I have met my counterparts, and my Department has worked, and will continue to work, closely at official level to develop the legislation.

A full impact assessment for the packaging EPR scheme has been prepared and laid alongside the draft regulations. The impact of the regulations on business is limited to the additional data collection and reporting requirements, and to familiarisation with the new regulations. When the packaging EPR is introduced in 2024, there will be some additional costs for businesses that handle packaging through the EPR fees, but that will result in a net gain for the public sector, as I explained, because the taxpayer will not be paying for collection. The cost will be put on to people putting products on the market. Producers will pay to manage household packaging waste, rather than local authorities.

The measures in the draft regulations are critical to the implementation of the full packaging EPR, which will bring with it all the environmental benefits that I believe we all want to see. I commend the regulations to the Committee.

11.42 am

Ruth Jones (Newport West) (Lab): It is a real pleasure to see you in the Chair this morning, Mr Sharma.

I am sure that colleagues will be pleased to know that we will not be opposing the draft regulations; none the less, I have a number of important points to make.

First, I thank colleagues in the sector, notably Ruth Chambers from the Greener Alliance, for sharing their thoughts and expertise.

This draft statutory instrument brings in reporting requirements for packaging waste in anticipation of the Government introducing a new system of extended producer responsibility. In other words, packaging producers will be expected to pay for the full waste management costs of the material that they place on the market. We support that aim, but as ever with this Government, the devil is in the detail.

It will come as no surprise to the Committee that the new system has been repeatedly delayed and is now not expected to begin its phased introduction until 2024—possibly at the earliest. It replaces a system relying on packaging recovery notes established back in 1997, which has long been widely regarded as not fit for purpose because producers typically pay for only 10% of packaging recycling and waste management costs, with the public—our constituents—covering the rest. Yes, it is important that a more robust system is introduced and introduced properly, but it is so important that we must take a moment—a small moment, Mr Sharma—to touch on the serious shortcomings in the proposed legislation.

This draft SI sets out that only producers that have an annual turnover of more than £2 million and put more than 50 tonnes of packaging on to the market will be subject to the full reporting and payment requirements. In addition, the SI brings in new requirements for smaller businesses, including producers with an annual turnover of more than £1 million that place more than 25 tonnes of packaging on to the market; they will be required to report data, but not obligated to pay EPR fees. Those that meet neither threshold will remain unobligated to collect or report data for the packaging they produce; nor will they be liable to pay for its management. How will that help to introduce a scheme that is fit for purpose and that can tackle the waste crisis?

The higher threshold resulting in full obligations is the same as in the current, flawed PRN system, which is a higher threshold than any producer responsibility scheme in Europe. The Government have not adequately justified the retention of the same full de minimis threshold, or their introduction of limited reporting requirements for those putting 25 tonnes of packaging on the market. Will the Minister explain that, in simple layman’s terms?

I note that the analysis suggests that about 1,800 more businesses will now face reporting obligations, but does the Minister have a precise number of the businesses affected? The Minister’s own impact assessment suggests that the number could be as high as 15,000, or as low as zero. What is the figure, and what will she do to ensure that the legislation means something?

Margaret Greenwood: My hon. Friend is making an excellent speech. Does she agree that there would have been room in the draft instrument for the Government to make stronger provision to ensure that effective action is taken immediately, in an effort to combat the waste crisis?

Ruth Jones: My hon. Friend is absolutely right. We do not want dither and delay; we want to get on with this. We support the aims, but we are not sure about the

[Ruth Jones]

method. The right hon. Member for North West Cambridgeshire expressed the concerns that smaller businesses have about the new scheme; they need clarity.

To ensure that all material is covered by the new system, has the Minister considered eliminating the threshold entirely, as is common in many packaging systems in Europe, or lowering it to 1 tonne, as was recommended by the Select Committee on Environment, Food and Rural Affairs? The Government might with more justification lower the threshold to 10 tonnes, to correspond to the requirements of their own plastics packaging tax, which has just come into effect. This prompts a question about Ministers doing something with one hand and something very different with the other, which confuses people. Choosing to retain a full de minimis threshold that is more than five times as high, and a new limited de minimis threshold that is more than twice as high, as the threshold for another Government policy on packaging seems inconsistent, to say the least.

The shortcomings mean that the new system, like the previous one, will have to deal with uncertainty about the amount of material that is actually placed on the market, and therefore uncertainty about the real recycling rate for such materials, given that recycling rates are likely to be lower than reported if material placed on the market is not captured in the data. We should be ambitious as we seek to protect our planet and preserve our environment, but as ever with this Government, there is more dither and delay.

I gently remind the Minister that, back in 2018, the National Audit Office launched a report that criticised the packaging producer responsibility system for lacking “robust data”. Data is key, but this interim SI indicates a peculiar approach to legislation that is piecemeal rather than wholesale. Given the retention of the same threshold for reporting requirements in the proposals, it is likely that the new system will be similarly and unnecessarily flawed. Will the Minister comment on that?

In setting up this new system to hold producers responsible for the waste they create, the Government must be careful not to repeat the mistakes of the previous system. I have two final questions. First, will the Minister take all necessary steps to ensure that all packaging is properly accounted for? Secondly, can the Minister be clear that the new system will improve the quality of data compared with the one it is replacing? Without clarity or understanding of our actions, the draft SI will be what we have become used to: more of the same dither and delay.

11.48 am

Rebecca Pow: I thank the shadow Minister for indicating that the Opposition will support the draft regulations. She has raised some valid points, so I will summarise what we are trying to do.

The measure is intended to get packaging producers to report data on the amounts and types of packaging that they supply this year, 2023. That data will be used to calculate the producers’ recycling obligations for the EPR fees that the producers will be required to pay local authorities from 2023, to cover their costs of

collecting the packaging. Previously, that was all subsidised by the local authorities doing the collecting and therefore the taxpayer. I think the hon. Lady will agree that that is the right direction of travel.

There is no dither or delay—one of the hon. Lady’s favourite statements—going on. We are in fact doing exactly what we said we would do. It was in our manifesto and we are introducing the new system. The fees will be decided from 2024—to be clear about that—so there is no dither or delay. The point of the draft SI is to get on with the system, which means that we need to start gathering the data in advance, so that the calculation can be made about which producer needs to pay what, depending on how much they put on the market. If the material is of poorer quality and requires a great deal more reprocessing to recycle it, they will pay more. If they have gone down the right road, and the material in their packaging is of good quality and already recycled or recyclable, they will pay less.

Ruth Jones: The Minister and I agree that data is vital. Will she assure the Committee that she will speaking to industry, as well as NGOs and other stakeholders, to ensure that the data is accurately provided, collected and utilised?

Rebecca Pow: Of course, because the whole thing hinges on good data. A new digital system is being created to handle it all, which is critical. A lot of the large companies are already used to collecting data, so the system is not completely new to them; they have been running it and they understand it. However, they will be required to collect more detailed data. I mentioned the kinds of things that they will now have to list. That data will help to inform the entire system.

The hon. Lady is concerned that not all packaging is going to be captured. In fact, all packaging will be subject to the obligation. For producers below the £2 million turnover and 50 tonnes threshold that has been set, the cost obligation will be met by their suppliers, so everything will be captured. That has been carefully thought through with a lot of the producers. It was one of the main points. She suggested a £1 million threshold, which is just a random number out of the air. We set it at £2 million after a great deal of consultation.

The hon. Lady also asked how we will know whether the system is working, and what we will do if we need to change it. Of course, it will be reviewed as it gets up and running and the data starts to come in. There is plenty of scope to do that. She also questioned the number of suppliers. About 7,000 large producers will be involved in capturing and recording the data, which is what we require this year.

Margaret Greenwood: I thank the Minister for all the information she is giving. Does she think there will be significant changes in the style of packaging in certain sectors, which will be beneficial to all of us?

Rebecca Pow: The change we want to see is that the materials used will become more recyclable and more reusable. We will start to see the whole circle change, with the packaging itself made up of recycled materials. The aim is to avoid packaging going to incineration or landfill, or ending up as litter. This scheme fits with all the others that we are bringing through, including the

consistent collection scheme, the deposit return scheme and the food collection scheme. They are all going to dovetail together.

One of the Government's main commitments is to move in this direction to tackle our emissions and reach net zero. It is a huge part of the commitment made by not just the Department for Environment, Food and Rural Affairs, but the whole Government. It is genuinely popular with the public as well. People understand and want this change, and I am so proud that this Government are implementing it.

I thank everyone for their comments and the Opposition for their support. The measures are critical for the implementation of the extended producer responsibility scheme for packaging, and they will bring all the benefits that we want and need to see..

Question put and agreed to.

11.54 am

Committee rose.

