

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fifth Delegated Legislation Committee

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

*Tuesday 23 May 2023*

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**The Committee consisted of the following Members:**

*Chair:* SIR GARY STREETER

† Churchill, Jo (*Vice-Chamberlain of His Majesty's Household*)

Cox, Sir Geoffrey (*Torridge and West Devon*) (Con)

Cruddas, Jon (*Dagenham and Rainham*) (Lab)

Drummond, Mrs Flick (*Meon Valley*) (Con)

Duddridge, Sir James (*Rochford and Southend East*) (Con)

† Firth, Anna (*Southend West*) (Con)

† Foy, Mary Kelly (*City of Durham*) (Lab)

† Glindon, Mary (*North Tyneside*) (Lab)

† Jones, Ruth (*Newport West*) (Lab)

† Loder, Chris (*West Dorset*) (Con)

† Mills, Nigel (*Amber Valley*) (Con)

† Osborne, Kate (*Jarrow*) (Lab)

† Pow, Rebecca (*Parliamentary Under-Secretary of State for Environment, Food and Rural Affairs*)

Whitley, Mick (*Birkenhead*) (Lab)

† Wild, James (*North West Norfolk*) (Con)

Winter, Beth (*Cynon Valley*) (Lab)

† Wright, Sir Jeremy (*Kenilworth and Southam*) (Con)

William Opposs, *Committee Clerk*

† **attended the Committee**

# Fifth Delegated Legislation Committee

Tuesday 23 May 2023

[SIR GARY STREETER *in the Chair*]

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

9.25 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) (Amendment) Regulations 2023.

It is a pleasure, as ever, to see you in the Chair, Sir Gary. The regulations were laid in draft before the House on 20 April. They amend the Packaging Waste (Data Reporting) (England) Regulations 2023. Since those regulations came into force, further engagement with stakeholders has brought to our attention two key issues that the regulations before us today seek to resolve. We have also taken the opportunity to pursue additional amendments that improve the clarity of provisions.

The regulations introduce two key changes, but I assure the Committee from the outset that the changes being introduced are not a change of policy. Instead, they seek to rectify ambiguities and correct omissions. The data reporting requirements require producers of packaging to collect and report data on the amount and type of packaging that they place on the market, and that will be used to calculate the fees that producers will pay to cover the costs of managing the packaging as part of the extended producer responsibility scheme from 2024.

The regulations add to the obligations of importers. Erroneously omitted from the original statutory instruments, importers will need to report packaging that they import and then subsequently dispose of without supplying onwards. It was always our intention to include such packaging, and it is packaging that importers already collect and report under the original and ongoing packaging producer responsibility scheme. The amendment is crucial to ensuring a properly functioning extended producer responsibility scheme, and we estimate that the amount of packaging it relates to is approximately 1 million tonnes, or about 8% of the packaging placed on the market every year in the United Kingdom. If that packaging went unreported, it would seriously hamper the proper functioning of the packaging recovery note system and would also lead to a distortion of the producer fees that will be payable under the EPR.

The SI makes changes that reduce uncertainty around the definition of brand owner. The amendments address two main scenarios. The first is where there is more than one brand printed on the packaging. For example, a limited edition chocolate Easter egg—I know Easter is over—might have a separate brand's toy inside. The amendments make it clear that it is the brand who first sells the packaged product who is responsible. In that instance, it would be the brand owner of the Easter egg, not the brand owner of the toy.

The second scenario is when multiple items from different brands are grouped together in a single sales unit. An example would be the *Sunday Times* wine box. The amendments make it clear that the brand who brings the other products together into one product should be responsible for any packaging it adds. So *The Sunday Times* would be obligated for the cardboard box, and the wine producers would be obligated for the wine bottles inside the box. I am not sure how many Members shop at Harrods, but a second example would be a Harrods hamper. Harrods would be responsible for the basket and straw, while the producers of the champagne and caviar that you had purchased, Sir Gary, would be responsible for the glass bottle and the container.

The regulations also make a number of other changes, which I will discuss briefly. The amendments will provide further clarification on the data reporting requirements for reusable and refillable packaging, and will simplify the reporting process. At the moment, producers would need to report whether their reusable product was refilled at home or in store; a range of models are used for this sort of scheme, as hon. Members may or may not know from partaking in some of them.

Let me give the Committee an example for clarification. When my Ecover washing up bottle is empty, I take it to a store in my nearby town of Wellington, where I refill it from the store's big canister. The amendments remove the need to describe the type of reusable system being used—that is, that I went to a store to do it—and that will reduce burdens on producers. However, the key data will continue to be reported to inform policy development ahead of introducing new measures to increase the uptake of reuse and refill systems in 2025, which is obviously to be encouraged and will very much be encouraged at a later date.

The key data is the amount of reusable packaging a producer has supplied and whether it is termed “primary packaging”. Primary packaging is the packaging that surrounds a product and forms a sales unit to the customer—for example, a reusable Ecover bottle. Secondary and tertiary packaging is packaging that businesses interact with and that is typically removed before the product is sold to a consumer—for example, cardboard boxes used for display purposes or pallets used in distribution. The changes will also allow producers that have instituted reuse systems of their own to offset the packaging at the end of life, giving them a discount on their EPR disposal fees when they have collected and sent the packaging for recycling once it has become waste. The amendments also include minor corrections to the drafting and fix some incorrect cross-references.

**Nigel Mills (Amber Valley) (Con):** May I take the Minister back to her *Sunday Times* wine club example—other wine clubs presumably are available—when she said that the cardboard would be the responsibility of the *Sunday Times* wine club and the glass bottle would be that of the wine producer? Would I be right that if the wine were imported, as I think is the case for nearly every *Sunday Times* wine club bottle that my wife has ever had, the *Sunday Times* wine club would be responsible for the glass as well and not only the box?

**Rebecca Pow:** I will need to think about that for a minute. My hon. Friend is talking about imported products. The glass bottle will come under a different

system of recycling anyway; it could go into our other kerbside schemes that are currently being developed—potentially deposit return. *[Interruption.]* I waited for a bit of inspiration, and apparently the answer is yes, if the wine club imported it.

I am sure there will be some other examples, because in getting the data gathering system up and running, lots of tiny nuances have arisen. That is why producers have come to us to point out the anomalies, which we have to fix; and that is what we are doing today. These amending regulations will apply to England only, but similar regulations are being progressed and amended where needed in Wales, Scotland and Northern Ireland. My officials have worked closely with the relevant departments in the devolved Administrations in the development of this legislation.

In conclusion, the measures in the draft regulations are crucial for enabling the effective implementation of the extended producer responsibility for packaging and realising its associated environmental benefits. I commend them to the House.

9.34 am

**Ruth Jones** (Newport West) (Lab): It is a pleasure to see you in the Chair again this morning, Sir Gary. What better way to start this late spring Tuesday morning than by talking about the Department for Environment, Food and Rural Affairs and our collective responsibility to protect our planet and preserve our environment?

The regulations require producers of packaging to collect and report data on the amount and type of packaging they place on the market. The data is required to calculate the fees the producers will be required to pay to cover the cost of managing the packaging as part of the extended producer responsibility for packaging scheme, which is planned to start in 2024. The EPR for packaging scheme will be created by the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2023, which will include equivalent provisions on the collection and reporting of data and will replace these regulations.

We will not oppose today's regulations, but before everyone heads to the hills again, it is important to be clear with Ministers about our concerns, which sit around a failure to show the bold and comprehensive leadership required to really tackle the waste crisis facing our country. Each year, consumers across the UK are estimated to get through 14 billion plastic bottles, 9 billion aluminium and steel cans, and 1.5 billion glass bottles. That is a serious amount of waste, and Ministers need to get a grip on how we tackle it. The current inadequacies in waste collection and recycling systems mean that used compostable packaging ends up in landfill or incineration or messes up recycling plants because some of the materials used can be just as resistant to degrading as conventional plastics.

In preparing for this morning's discussions, I was advised that delivery of this scheme is running far behind even the relatively modest new proposed targets to reduce residual waste per capita by 50% by 2042 and to raise the current municipal recycling target of 65% by 2035 to between 70% and 75% by 2042. Will the Minister therefore outline what discussions she had with the devolved Administrations ahead of the drafting of this statutory instrument? As she will know, Wales has long been a stand-out performer in the UK when it comes to

recycling rates. The Welsh Labour Government's £1 billion investment in household recycling since devolution has helped see their rates catapult from just 4.8% in 1998 to over 65% in 2020. That shows what ambition and will, together with real investment and focus, can deliver when it comes to cleaning our waters, streets and communities.

In setting up this new system to hold producers responsible for the waste they create, the Government must be careful not to repeat mistakes from the previous system. I therefore have three questions for the Minister. First—I have raised this before—will she take all necessary steps to ensure that all packaging is properly accounted for? She has already outlined the intricacies of this new system and the potential for confusion. Secondly, will she be very clear for the benefit of the Committee that the new system will improve the quality of data, compared with the system it is replacing?

Finally, when we discussed this issue previously, I touched on the impact on small businesses and local government. Will the Minister set out in detail what support there will be to ensure that businesses and producers are ready for 2024 and the new system while they grapple with the new legislation coming in next year? Importantly, what discussions has she had with local government representatives on this issue? I am sure she will be delighted, as I am, that Labour is now the largest party in local government, and my Labour colleagues stand ready to help clean up after 13 years of Tory inaction.

Without clarity, understanding or action, this SI and the issues it refers to will be what we have become used to: more of the same dither and delay. I therefore urge the Minister to take all steps necessary to get this issue sorted.

9.38 am

**Rebecca Pow:** I thank the shadow Labour Minister for supporting this SI. I think she can see that it is just about a couple of much-needed tweaks to the system.

The hon. Lady referred to getting accurate data, and I think the regulations demonstrate that we are completely on that. The system will not work properly if there are anomalies that distort it. Some of the measures I have mentioned relate to about 1 million tonnes of plastic—8% of the total—and without this SI that could potentially distort the system. It is on the data being gathered that the fees will be calculated to pay the local authorities to do consistent collections, so it is important to get the data right. She raised an important point, but that is why we have introduced this SI and why we continue to work with business and industry. We have been doing that very closely since this started. They have fed back as we have been going along, and we have listened to that. We have listened to them from the very beginning because we wanted to ensure that, although the costs are being put on to businesses to deal with the packaging that they put into the market and the taxpayer no longer has to deal with it, we still do not want that to be over-burdensome. As a result, we have worked to reduce the costs that they face.

The hon. Lady asked about what we were doing with businesses. The Department for Environment, Food and Rural Affairs has set up a business-readiness forum and also a local authority forum. She asked about local authorities in particular. That is obviously the other end that is really important to keep businesses, producers

[Rebecca Pow]

and local authorities up to date about the changes. They have been meeting regularly since January, which is when we recommended companies to start gathering the data voluntarily. The official legal date for the data gathering was in March. Those conversations are ongoing—

**Ruth Jones:** I just want to highlight the fact that the packaging industry is still anxious about the data it is collecting. Is it the data that, as the Minister has outlined, the fees will be paid on? It accepts and has no problem with the principle of EPR, but is still anxious about the confusion about data collection. Small businesses in particular are really anxious about this.

**Rebecca Pow:** Of course, the data is being collected only by companies with a certain turnover and a certain tonnage, so many small businesses are not involved in this. We have listened to them, and the placing of that threshold came out of the consultation. If she would like that in writing, we can clarify the tonnage and where the data is cut off. It is those with a turnover of £2 million and handling 50 tonnes of packaging a year. We thought carefully about where to place that threshold.

On top of the forums, we have delivered a series of information webinars. More will take place, with more engagement through a fortnightly newsletter to business and industry and lots of one-to-one engagement. We

are still encouraging that because, if there are still areas to iron out, we need to know about it. There were also a series of eight-week visioning events to consider the long-term future of all those collection and packaging reforms. They involved producers, trade associations, local authorities, waste management companies and environmental non-governmental organisations. I hope that answers the question satisfactorily.

I thank the Committee for its input. I can see other Members thinking about examples of what will be captured through this SI, and I would like to stress that the SI will make crucial changes to the Packaging Waste (Data Reporting) (England) Regulations 2023. It will ensure the proper functioning of the packaging recycling note evidence scheme and that fair producer fees are set, which reflect the true amount of packaging that arises as waste in the UK.

The amendment will also firm up the definition of “brand owner”, ensuring that producers have confidence in where their obligations lie. Finally, further amendments made through these regulations will provide clarification on producer reporting as well as correct minor inaccuracies in the drafting. Once again, I thank all of those on the Committee from both the Government and Opposition for supporting this SI.

*Question put and agreed to.*

9.44 am

*Committee rose.*



