

DEFRA Business Readiness Forum
webinar 28/03/2023

DRS

Key updates include:

- Industry engagement on the draft Statutory Instrument (SI) (February-April)
 - Engaged industry stakeholders obligated under DRS regulations
 - We shared the draft Statutory Instrument and gave stakeholders three channels to provide feedback: written comments, detailed 1:1s, and invitation to an industry workshop (1 March – 36 individual stakeholders represented)
 - Positive and constructive feedback received by industry
 - Updated Statutory Instrument to be shared with industry next month

DRS

Key updates include:

- Deposit Management Organisation (DMO) Engagement starting from April
 - Launching round of industry engagement to identify potential consortium(s) that could apply to become the Deposit Management Organisation (DMO(s) for the DRS in England, Wales, and Northern Ireland
- Minister Pow Swedish DRS Visit
 - Minister Pow visited the Swedish DRS site in Norrköping to understand their approach, regulations, lessons learnt etc.
 - Key lessons learnt around challenges such as online takeback provision, RVMs in retail environments, and how DRSs operate across borders

EPR STATUTORY INSTRUMENT (SI) UPDATE

Linda Crichton, EPR Policy, Team Leader

Paul Bradley, EPR Policy, Team Leader

Brand owner clarifications and corrections

Data regulation clarifications

- **Dual / multi branding** – obligation will sit with the producer who makes the supply. E.g. Walkers Crisps would be obligated for a packet of their crisps which carried a Heinz logo for a promotional packet of tomato ketchup flavoured crisps
 - **Multiple brands in the same final sales unit (e.g. hamper)** – obligation for the packaging of the individual branded items will sit with those brands, while the packaging added by the brand owner of the final sales unit will be obligated – e.g. a hamper manufacturer would be obligated for the hamper, straw, ribbons, bows and labels they add, but not the packaging around the branded bottle of wine, tin of biscuits or cake box where these bear another company's brand
-

Brand owner clarifications and corrections

- **Logistical labels on unbranded packaging** – where a packer/filler adds a label to unbranded packaging, and this carries the name of their customer, but this is intended purely for logistical purposes, then the packer/filler remains responsible for this packaging. E.g. a plant pot with a customer reserve label added at the time of seed planting, or a delivery label attached to a pallet of packaged goods

Main SI change

- **Empty branded packaging sold to a pack/filler** –where a piece of empty branded packaging (e.g. a Jiffy Bag with their branding) is sold to a packer/filler who fills with their own products and sends to their customers without adding their own brand to the packaging, then it is the packer/filler who picks up this obligation
-

Importer clarifications and corrections

Data regulation clarifications

- **Importer Discarded Packaging** – Packaging that is imported into the UK, which is then discarded by the importer (i.e. without supply to another) will now be captured by the importer obligation

Main Statutory Instrument (SI) changes

- **Packaging from a foreign brand owner where they have no UK presence**
 - **Packaging that is imported into the UK and filled by a toll manufacturer / contract packer** – The obligation will sit with the first owner of the packaging in the UK under the importer obligation (i.e. the foreign brand supplies the packaged good to a large retailer, the large retailer would be considered the importer of that packaging)
-

Other clarifications and corrections

Data regulation clarifications

- **Offsetting of re-useable packaging when recycled at the end of its life** – where a producer operates a re-use system, and where the packaging has been cleaned, refilled and re-used multiple times, a producer, where it has evidence of its recycling, will be able to report this under the offset provisions, even where that packaging is collected by a majority or Local Authority

Main SI changes

- **Unfilled imported packaging sold to large producers who then go on to sell it unfilled to small producers** – e.g. where unfilled imported packaging that is sold unfilled to a large producer (e.g. Booker, Costco etc) and then sold unfilled to a small producer. This packaging will be obligated under the importer obligation from 2024 under the main SI, but will not technically be obligated under the 2023 regulations
-
-

Other clarifications and corrections

- **Re-usable packaging** – all re-useable packaging is currently obligated to be reported as part of core reporting the first time it is used (from 1 January if you have the data or 1 March 2023 if you do not). The regulations also require you to report further information on the nature of the re-useable packaging. This will be required from the 1 January or 1 March where you have this data, but for the first year of EPR, could be from the coming into force date of the amended SI
-

Main Statutory Instrument (SI) - Timeline

- Statutory Instrument (SI) currently undergoing legal checks
- Planning to notify the draft regulations to the World Trade Organisation (WTO) and EU in Spring 2023

[TRIS - European Commission \(europa.eu\)](https://ec.europa.eu/growth/tools-databases/tris/en/)

<https://ec.europa.eu/growth/tools-databases/tris/en/>

- Draft regulations will undergo the legislative processes of the Devolved Administrations and Westminster Parliament during Autumn 2023

Main SI - structure

- Part 1 – General provisions and definitions
- Part 2 – Producer obligations
- Parts 3 & 4 – Registration of producers; approval & registration of schemes
- Part 5 – Record keeping, reporting, certificates
- Part 6 – Scheme Administrator; disposal costs; fees; payments
- Part 7 – Reprocessors & exporters
- Part 8 – Appeals (regulator and SA decisions)
- Part 10 – Duties of the regulators
- Part 11 – Enforcement
- Part 12 – Transitional provisions; revocation of 2007 regs and Data SIs
- Schedules

Obligations on small producers & sellers

Statutory Instrument (SI): Part 2 – chapter 1

Small producers: annual turnover of £1m-£2m and 25 – 50tonnes packaging handled annually

- **Data recording and reporting obligation**
- Statutory Instrument (SI) provisions mirror those in the Data Statutory Instrument (SI) – reporting of packaging data for 2024 onwards

Seller obligations: small & large producers

- **Data recording and reporting obligation** – nation of sale

Obligations on large producers

Statutory Instrument (SI): Part 2 – chapter 1 & Part 6 – chapter 1

Large producers – annual turnover >£2m and >50tonnes of packaging handled annually

- **Data reporting**
 - reporting requirements for 2024 onwards – mainly mirror the provisions in the Data SI but producers can be required to report packaging data for sub-categories (e.g. plastic polymers)
- **Recycling obligations** by packaging material
 - for all packaging types (primary, secondary, transport and household, commercial, industrial) – as now
- **Payment of disposal cost fees** (Part 6)
 - household packaging waste
 - street bin packaging waste
 - public information & communication campaigns – recycling & litter prevention

Producer obligations – labelling

Statutory Instrument (SI): Part 2 – chapter 2

- Requirement on producers to label packaging using the appropriate 'Recycle Now' mark and Recycle or Do Not Recycle
- Requirements in relation to medical packaging and unfilled, plain packaging
- All primary and shipment packaging types (except for plastic films and flexibles) to be labelled by 31 March 2026
- Plastic films and flexible packaging will need to be labelled by 31 March 2027



Producer obligations - used fibre-based composite cups

Statutory Instrument (SI): Part 2 – chapter 3

- Take back obligation on **sellers** of filled disposable fibre-based composite cups with an average of 10 full-time equivalents or more to do the following:
 - Provide a visible bin to collect used cups and make arrangements for them to be collected and sent for recycling
 - Collect & report the weight of cups sold - twice per calendar year
 - Collect & report the weight of cups sent for recycling - twice per calendar year
- Sellers should register with the environmental regulator in each nation where they have their premises
- Sellers can manage their obligations directly or join a dedicated third-party take back scheme
- Provisions will come into force on 1st October 2024 – sellers will need to register before this date

Scheme Administrator (SA) provisions – appointment

Statutory Instrument (SI): Part 6 – chapters 1 & 3

- Statutory Instrument (SI) provides for the appointment of a SA and the revocation of an appointment – appointment decisions to be made jointly by SofS and the DA Ministers
- Provides Ministers with a power to direct the SA if the SA is not delivering agreed outcomes
- Statutory Instrument (SI) sets out the functions of the SA and other key requirements on the SA (such as annual reporting)
- SA must determine its own admin / overhead costs and can recover these from producers

Scheme Administrator (SA) – disposal costs / fees / payments

Statutory Instrument (SI): Part 6 – chapters 1, 2, 4

- SA must assess disposal costs incurred – household & street bin packaging waste
 - Can determine costs to be included, and model costs based on available data
 - Must assess efficient costs and the effectiveness of a LA's packaging waste service
 - Must subtract income from recycling & recovery operations to determine net costs
 - Based on these costs the SA must determine the fees to be paid by individual producers – based on the packaging supplied
- SA can adjust (modulate) producer disposal cost fees based on the environmental sustainability of their packaging – e.g. recyclability of packaging
- Provisions also include for communication and public information campaign costs
- SA must make payments to LAs for collecting and managing packaging waste through an efficient and effective waste management service
 - SA can make deductions to the LA's efficient costs to incentivise effectiveness

Recycling obligations & related provisions

Statutory Instrument (SI): Part 2 – chapter 1 and Part 7

- Recycling obligations on all large producers
- Statutory Instrument (SI) will set annual recycling targets by material
- All reprocessors and exporters handling packaging waste to be registered and to report data
- Accreditation of reprocessors and exporters to issue PRNs/PERNs
 - Additional reporting requirements introduced and new conditions of accreditation

