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From: Packaging <packaging@environment-agency.gov.uk>
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Producer Responsibility Regulatory Service - Packaging

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21 February 2022

The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended)

Dear Operator

In response to recent feedback, we would like to clarify a few key points surrounding compliance with [The Producer Responsibility Obligations \(Packaging Waste\) Regulations 2007 \(amended\)](#) and the Conditions of Accreditation for reprocessors and exporters. This is a non-exhaustive summary. Where we identify non-compliance we consider all relevant information before determining an appropriate response. The Environment Agency's enforcement and sanctions policy can be found [HERE](#).

Operator responsibility in ensuring compliance

It is your responsibility to ensure compliance with all regulatory requirements applicable to your organisation and activities. Where Packaging Waste Recycling Notes (PRNs) / Packaging Waste Export Recycling Notes (PERNs) have been issued by a non-compliant operator, they may be deemed illegitimate. Illegitimate PRNs / PERNs may be discounted from the packaging regime via, for example (not exhaustive): cancellation, voluntary cancellation, waste adjustments via [NPWD](#). We encourage all operators who identify that they may have issued illegitimate PRNs / PERNs, to notify us and refer to their Condition of Accreditation no. 6 which is detailed in your Notice of Grant of Accreditation letter. Failure to comply with the Packaging Waste regulations, including Conditions of Accreditation and any other applicable regulations, may result in any PRNs or PERNs issued being deemed illegitimate and the suspension or cancellation of your accreditation. Other enforcement action may be taken.

Accreditation of reprocessors and exporters

The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) allows an accredited reprocessor or exporter to issue PRNs or PERNs against the UK packaging waste they receive for recycling or export for recycling, providing they comply with the Packaging Waste regulations, including Conditions of Accreditation, and all other applicable regulations. An accreditation under the Packaging Waste regulations does not authorise the receipt, treatment, or export of waste and it does not authorise the activities of an overseas recycling facility. These activities are subject to other regulatory controls. It is your responsibility to comply with all regulations applicable to your business activities. Failure to comply with the Packaging Waste regulations, including Conditions of Accreditation and any other applicable regulations, may result in any PRNs or PERNs issued being deemed illegitimate and the suspension or cancellation of your accreditation. Other enforcement action may be taken.

Compliance with Conditions of Accreditation

Regulation 25 of The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) requires accredited reprocessors and exporters to comply with the Conditions of Accreditation set out in Schedule 5 of the Packaging Waste regulations. Your Conditions of Accreditation are provided in Annex I of your Notification of Grant of Accreditation letter. It is your responsibility to comply with your Conditions of Accreditation. Failure to comply your Conditions of Accreditation may result in any PRNs or PERNs issued being deemed illegitimate and the suspension or cancellation of your accreditation. Other enforcement action may be taken.

Suspension and Cancellation of Accreditation

Suspension and cancellation of accreditation of reprocessors and exporters is provided for under Regulation 26 of The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended).

Regulation 26 states:-

26(1) The appropriate Agency may suspend ***or** cancel the accreditation of a reprocessor or exporter where it appears to it that –

The person who is accredited has failed to comply with any of the conditions specified in or under Schedule 5 ****Conditions of Accreditation** ; or

The person who is accredited has knowingly or recklessly supplied false information in his application for accreditation made under regulation 24 ****of the Packaging Waste regulations** or in connection with compliance with any of the conditions specified in or under Schedule 5 ****Conditions of Accreditation**

*highlighted for emphasis

**added for context

Conditions of Accreditation are provided in Annex I of an operator's Notice of Grant of Accreditation letter that all accredited operators receive upon having their application for accreditation granted. Under Schedule 5(1) q iii we may place additional Conditions of Accreditation upon operators, these are detailed in the Notice of Grant of Accreditation letter.

A cancellation may or may not be preceded by a suspension. Both are examples of sanctions available to us under the regulations. Suspensions and cancellations are further explained in our Notification of Grant of Accreditation letter under the section 'Suspension or cancellation of accreditation'.

An operator may be deemed cancelled if they cease to hold a relevant authorisation, cease to be a reprocessor/exporter or they request it. We do not send communications about operators who have been deemed cancelled. The [public register](#) will show them as cancelled.

Following a cancellation of accreditation you will not be able to re-apply for accreditation in the same year as the cancellation. You can re-apply in subsequent years. You may challenge a cancellation via our complaints process or by appeal.

Further details of the powers and duties of the appropriate Agency(s) can be found within [The Producer Responsibility Obligations \(Packaging Waste\) Regulations 2007](#) (amended).

Mis-description of waste

It is a legal requirement to correctly describe and classify waste. If an accredited reprocessor or exporter does not correctly describe and classify waste packaging and / or issues PRNs or PERNs on mis-described waste, this may result in non-compliance with the requirements of The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) including Conditions of Accreditation. PRNs / PERNs may also be deemed illegitimate. It may also result in the suspension or cancellation of your accreditation and further enforcement action being taken. See our [Guidance on correctly classifying and describing waste](#).

Source checks

Accredited Reprocessors and Exporters should detail how they will ensure they only issue PRNs / PERNs on eligible packaging waste, including that it originated in the UK, in their application for accreditation and sampling and inspection (S&I) plan. Where an operator is unable to clearly demonstrate the original source of their waste via an audit trail (e.g. Duty of Care Waste Transfer Notes etc) we expect to see additional measures taken by operators to demonstrate how they ensure that they only issue PRNs / PERNs on eligible packaging waste, including that it originated in the UK. Operators should retain auditable evidence and records to demonstrate how they are doing this in line with their application for accreditation, S&I plan, and Conditions of Accreditation. For example, such measures may include (not limited):

- Supplier Declarations (not sufficient alone)
- Checks/sampling/inspection of waste for obvious signs of non UK waste
- Supplier checks/audits

PRNs / PERNs that cannot be shown to have been issued on eligible packaging waste may result in non-compliance with The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) and Conditions of Accreditation. PRNs / PERNs may also be deemed illegitimate. It may also result in the suspension or cancellation of your accreditation. Other enforcement action may be taken.

Use of Photographs

Accredited reprocessors and exporters using images to support their issue of PRNs and PERNs should include a date and time stamp on the images. We consider this best practice that helps support an operator in demonstrating compliance with The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) and Conditions of Accreditation.

Accredited Exporters

Below are some key points that accredited exporters should be aware of. This is not an exhaustive list and it is your responsibility to ensure compliance with the Packaging Waste regulations including your Conditions of Accreditation and all other applicable regulations at all times.

Condition of Accreditation 3 (iv) (Schedule 5(1)(q)(iii)) – compliance with waste export regulations and overseas local controls

Accredited exporters of UK waste packaging must not issue PERNs on the waste unless it is exported in compliance with:

- The Transfrontier Shipment of Waste Regulations 2007, and the retained Waste Shipments Regulation EC No 1013/2006, as amended
- Overseas local controls – these are additional permanent or temporary controls implemented by the competent authority of a destination country or transit country, on the importation of waste

It is your responsibility to ensure compliance with your Conditions of Accreditation. Failure to comply with your Conditions of Accreditation may result in any PERNs issued being deemed illegitimate and the suspension or cancellation of your accreditation. Other enforcement action may be taken.

Condition of Accreditation 20 (Schedule 5(1)(q)(iii)) – exports of waste plastic packaging

Accredited exporters of UK waste plastic packaging must obtain and retain documentary evidence from the operator of the overseas recycling facility that the UK plastic packaging waste is recycled in a remelt process or have confirmation from the overseas competent authority that it has reached end of waste status. Failure to comply with your Conditions of Accreditation may result in any PERNs issued being deemed illegitimate and the suspension or cancellation of your accreditation. Other enforcement action may be taken.

Export of waste plastic (including packaging)

Exporters of waste plastic should ensure they meet the requirements for the [importing and exporting of waste plastic](#). Any waste exporter accredited under The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) who issues PERNs on packaging waste exported in breach of these requirements may be in breach of the Packaging Waste regulations, including their Conditions of Accreditation, and regulations concerning the [international shipment of waste](#). Failure to comply may result in any PERNs issued being deemed illegitimate and the suspension or cancellation of your accreditation. Other enforcement action may be taken.

Overseas recycling sites

Approval of an overseas recycling site in your accreditation allows PERNs to be issued against packaging waste exported to the site providing all applicable requirements are met. The final overseas recycling facility should have appropriate [Broadly Equivalent](#) standards in place demonstrating it is suitably authorised by the relevant competent authority to receive and recycle the waste. As part of our compliance monitoring activities we may request additional information on overseas sites and communicate with overseas competent authorities. We may request evidence of Broadly Equivalent standards and evidence of the recycling activity. A final overseas recycling facility is the site at which the waste is recycled. We do not consider interim sites to be final overseas

recycling facilities. PERNs may only be issued on packaging waste that has been exported in compliance with all applicable regulatory requirements to a final overseas recycling facility approved under a Part C of an application for accreditation under the Packaging Waste regulations. Failure to comply with the Packaging Waste regulations, including Conditions of Accreditation and any other applicable regulations, may result in any PERNs issued being deemed illegitimate and the suspension or cancellation of your accreditation. Other enforcement action may be taken. See [Guidance on International Waste Shipments](#).

Point of export

PERNs may only be issued once the packaging waste has been exported for recycling. Under The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended) we consider the point of export for issue of PERNs to be once the waste has cleared UK customs. Failure to comply may result in any PERNs issued being deemed illegitimate and the suspension or cancellation of your accreditation. Other enforcement action may be taken.

Correspondence Guidelines No 12 (CG12) on the classification of plastic waste

The Environment Agency does not use the contamination limits of CG12 in our assessment of waste plastics. We require minimal contamination levels when assessing whether or not waste is correctly described for export or import. See our [Guidance on International Waste Shipments](#).

General Queries

If you have any queries regarding The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (amended), please email us at packaging@environment-agency.gov.uk

Further guidance for accredited reprocessors and exporters can be found here: [Packaging waste: apply to be an accredited reprocessor or exporter - GOV.UK \(www.gov.uk\)](#)

If you have any queries regarding exporting waste, please email us at askshipments@environment-agency.gov.uk

Further guidance on waste exports can be found here: [Waste: export and import - GOV.UK \(www.gov.uk\)](#)

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