

Environment Bill

Waste & Resource Efficiency



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Introduction

- The proposed legislation would allow us to take a major step forwards in terms of enhanced environmental protection.
- But clear potential for very significant additional supply chain costs.
- Legislation sets out regulatory framework – detail will be set out in secondary legislation – so precise approach and full impact unknown until then.

How did we get here?

| HM Government

A Green Future: Our 25 Year Plan to
Improve the Environment



The Bill – the basics

- Waste & Resource Efficiency issues covered in Part 3 – which is broken down into four sections:
- *Producer responsibility*
- *Resource efficiency*
- *Managing waste*
- *Waste enforcement and regulation*

1. Producer responsibility

Breaks down into two sections:

- Section 48: *Producer responsibility obligations* -
- Section 49: *Producer responsibility for disposal costs*
- Links through to Schedule 4

Producer Responsibility Obligations (“PROs”) – Schedule 4

- General power:

The relevant national authority may by regulations make provision for imposing producer responsibility obligations on specified persons in respect of specified products or materials.

- Regulations may only be made for the purpose of:-
 - *preventing a product or material becoming waste, or reducing the amount of a product or material that becomes waste;*
 - *sustaining a minimum level of, or promoting or securing an increase in, the re-use, redistribution, recovery or recycling of products or materials.*

What will the regulations cover:

- Identifying the persons and products that will be subject to a PRO;
- Registration of persons subject to a PRO (including publication / inspection);
- Targets in relation to the proportion of products to be re-used, recovered, recycled etc (by weight, volume or otherwise);
- Circumstances in which the payment of money will discharge an PRO.

What the regulations will cover (cont ...)

- Compliance Schemes
 - *a scheme under which producer responsibility obligations of members of the scheme are discharged by the scheme operator on their behalf*
 - May be compulsory (seems almost inevitable)
 - Registration provisions

Limits on the power to make regulations

SS must be satisfied that:

- Regulations would be likely to achieve regulatory purposes;
- Regulations would produce significant environmental or economic benefits as against the likely cost of the imposition of the PRO;
- The burdens imposed on businesses are the minimum necessary to secure those benefits;
- The burdens are imposed on “*the persons most able to make a contribution to securing those benefits*” –
 - (i) having regard to the desirability of acting fairly between persons who manufacture, process, distribute or supply products or materials, and
 - (ii) taking account of the need to ensure that the proposed producer responsibility obligation is so framed as to be effective in achieving the purposes for which it is imposed.

Restriction on competition:

The relevant national authority must exercise the power to make regulations under this Part in the way it considers best calculated to secure that—

- (a) the regulations do not have the effect of restricting, distorting or preventing competition, or*
- (b) if the regulations are likely to have that effect, the effect is no greater than is necessary for achieving the environmental or economic benefits mentioned in paragraph 9(1).*

PROs - Enforcement

- Regulations will provide for:
- Enforcement Authority
- Compliance monitoring
- Records and information
- Powers of entry
- Sanctions – including criminal offences

Schedule 5 – Disposal Costs

General power:

The relevant national authority may by regulations make provision requiring the payment of sums by specified persons, in respect of specified products or materials.

Limitation

Regulations may be made only for the purpose of securing that those involved in manufacturing, processing, distributing or supplying products or materials meet, or contribute to, the disposal costs of the products or materials.

“Disposal Costs” and “Disposal”

- (1) ...“disposal costs” of products or materials means such costs incurred in connection with the disposal of the products or materials as may be specified in the regulations.
- (2) ... the “disposal” of products or materials includes their re-use, redistribution, recovery or recycling.
- (3) Disposal costs may include the costs of—
 - (a) collecting and transporting products or materials for disposal,
 - (b) sorting and treating products or materials,
 - (c) other steps preparatory to disposal of products or materials, and
 - (d) providing public information about the disposal of products or materials.
- (4) They may include costs incurred in relation to products or materials that have been disposed of unlawfully.

Disposal Costs cont ...

Regulations will provide for:

- Administration
- Enforcement (as per PROs)

2. Resource efficiency

General Power

The relevant national authority may by regulations make provision for the purposes of requiring specified persons, in specified circumstances, to provide specified information about the resource efficiency of specified products.

Exclusions

Medicinal, vet medicinal and food products are excluded, but not packaging for such products

What is *information about resource efficiency*?

Must be relevant to the product's impact on the natural environment; **AND** be information about:

- (a) the expected life of the product;
- (b) aspects of the product's design which affect its expected life;
- (c) the availability or cost of component parts, tools, or anything else required to repair or maintain the product;
- (d) whether the product can be upgraded, and the availability or cost of upgrades;
- (e) any other matter relevant to repairing, maintaining, remanufacturing or otherwise prolonging the expected life of, the product;
- (f) the ways in which the product can be disposed of at the end of its life(including whether and to what extent it can be recycled, and whether materials used in it can be extracted and reused or recycled). **OR** be information about:

...

- (a) the materials from which the product is manufactured;
- (b) the techniques used in its manufacture;
- (c) the resources consumed during its production or use;
- (d) the pollutants (including greenhouse gases within the meaning of section 92 of the Climate Change Act 2008) released or emitted at any stage of the product's production, use or disposal.

Who will be faced with these requirements?

- The regulations may impose requirements to provide information in relation to a product on a person only if the person is a person connected with the manufacture, import, distribution, sale or supply of the product.

SS's duties:

- (1) Before making regulations under this Part of this Schedule the relevant national authority must—
 - (a) consult any persons the authority considers appropriate, and
 - (b) have regard to the matters in sub-paragraph (2).

- (2) The matters are—
 - (a) the extent to which the proposed regulations are likely to reduce the product's impact on the natural environment at any stage of its production, use or disposal;
 - (b) the environmental, social, economic or other costs of complying with the regulations;
 - (c) whether exemptions should be given, or other special provision made, for smaller businesses.

Enforcement and sanctions:

- As per previous provisions ...

Schedule 7: Resource efficiency requirements

General Power:

The relevant national authority may by regulations make provision for the purposes of requiring specified products, in specified circumstances, to meet specified resource efficiency requirements.

Exclusions

Medicinal, veterinary medicinal, food – not including packaging

Definition is very similar, but not identical to definition of resource efficient information;

May be imposed on same class of persons

Examples of provision:

- Prohibition on sale / supply unless meets requirements;
- Requirement to provide information to others in supply chain;

SS's duties

- Before making regulations in relation to a new product the SS must be satisfied that:
 - (a) the product has a significant impact on the natural environment at any stage of its production, use or disposal,
 - (b) the proposed regulations would be likely to reduce the product's impact on the natural environment,
 - (c) the benefit of that would be significant as against the likely environmental, social, economic or other costs of the proposed regulations, and
 - (d) a reduction in the product's impact on the natural environment could not be achieved as effectively without making the regulations.
- And **must** consider exemptions etc. for “smaller businesses”

Schedule 8: Deposit schemes

General Power

The relevant national authority may by regulations establish deposit schemes for any of the following purposes—

- (a) sustaining, promoting or securing an increase in the recycling or reuse of materials;*
- (b) reducing the incidence of littering or fly-tipping.*

with teeth ...

- Enforcement provisions will provide for criminal sanctions

Charges for single use plastics

(1) The relevant national authority may by regulations make provision about charging by sellers of goods or services for items specified in the regulations.

(2) The regulations may specify only items which—

(a) are single use items,

(b) are made wholly or partly of plastic, and

(c) are supplied in connection with goods or services.

(3) A “single use item” is a manufactured item which is likely to be used only once, or used only for a short period of time, before being disposed of.

3. Waste management

Key points:

- Regulations under amended EPA 1990 will establish electronic waste tracking system
- New provisions in EPA 1990 allowing regulation of hazardous waste

Thank you for listening

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