



Producer Responsibility Obligations (Packaging Waste) Regulations 1997

SEPA Monitoring Plan for 2000

The Producer Responsibility Obligations (Packaging Waste) Regulations 1997 came into force in March 1997. They are enforced by the Scottish Environment Protection Agency in Scotland and the Environment Agency in England and Wales.

Regulation 25 of the Producer Responsibility Obligations (Packaging Waste) Regulations 1997 places a duty on SEPA to monitor compliance with the regulations in Scotland. Regulation 25A of the amended regulations requires SEPA to publish a plan which outlines the monitoring policy and strategy for each year.

Regulation 25A states that:

“The appropriate Agency shall take such steps as seem to it appropriate to publish, in relation to each year commencing with 2000, the following details of the monitoring carried out under Regulation 25 -

- (a) the Agency’s policy in relation to monitoring and enforcement of producer responsibility obligations; and
- (b) an indication of the minimum number of persons which it proposes to monitor in the course of that year

SEPA will publish its monitoring plan before 30th April of each year. The SEPA monitoring policy and plan for registration year 2000 is contained in this document.

Background to regulations

The packaging waste regulations directly affect most UK companies or groups of companies who have a turnover exceeding £2 million and who handle more than 50 tonnes of packaging. These companies must either register with the relevant agency or join a compliance scheme.

Complying through the individual registration route

Those who choose to register with the relevant agency must fulfill the following requirements (producer responsibility obligations).

- Register, submit data and pay fee. (If turnover exceeds £5 million a compliance plan must also be submitted).
- Recover and Recycle the appropriate amount of packaging waste.
- Submit Certificate of Compliance stating whether obligations have been met.
- Fulfill Certain 'Consumer Information Obligations' if main activity is 'seller/ retailer'

Complying through membership of an Agency Registered Compliance Scheme

Those who join a compliance scheme must submit data and a fee to the scheme who will then meet producer responsibility obligations on behalf of the company. There are currently around 18 registered compliance schemes in the UK of which one is registered with SEPA.

Accreditation of Reprocessors and Exporters

Individually registered companies and compliance schemes must obtain evidence of compliance that appropriate recycling and recovery has been carried out. Section 93 - 95 of the Environment Act give the Agencies power to publish statutory guidance in respect of the evidence of compliance that is an acceptable back up to Certificates of Compliance. The system which has been put in place is based on the accreditation of reprocessors and exporters of packaging waste who generate Recovery Notes (PRN or PERN) for each tonne of packaging waste that is reprocessed. Individually registered companies and compliance schemes can meet their recovery and recycling obligations by obtaining the correct amount and material of these Recovery Notes. A system for the use of evidence obtained by non accredited reprocessors and exporters is also in place but is seldom used.

SEPA Monitoring and Enforcement

SEPA is responsible for the monitoring and enforcement of those companies registered with it, the compliance schemes registered with it and the members of those compliance schemes. In addition it is also responsible for the accreditation of reprocessors and exporters of packaging waste in Scotland. In this registration year 2000 there are around 110 companies/ company groups registered individually with SEPA and 350 companies/ company groups who are members of the current SEPA registered compliance scheme. SEPA have accredited 25 reprocessors and 7 exporters of packaging waste in 2000.

The monitoring and enforcement duties carried out by SEPA relate to the main producer responsibility obligations shown above and are divided into the following categories:

- Registration Monitoring
- Certificate of Compliance Monitoring
- Routine Compliance Monitoring
- Non Registration/ Freeloader Monitoring

- Accreditation and Inspection of reprocessors and exporters

Registration Monitoring

Registration monitoring involves checking compliance with all registration requirements placed on those companies who wish to register individually with SEPA, namely;

- Accurate completion of application form
- Submission of data on packaging handled and correct calculation of recovery and recycling obligations based on information provided.
- Payment of appropriate fee
- Submission of compliance plan (where turnover exceeds £5 million)

Any problems encountered by companies often require some form of SEPA communication such as telephone call, letter or visit in order to solve the problem.

Registration monitoring is carried out on all companies who choose to register directly with SEPA.

Certificate of Compliance Monitoring

All SEPA registered companies must submit an annual Certificate of Compliance which states whether the company has met its recovery and recycling obligations for the previous registration year. SEPA registered companies are monitored to check that Certificates of Compliance have been submitted on time, that they contain the correct information and that there is appropriate evidence of compliance to back up the certificate. Any problems are followed up fully either by telephone, letter or visit.

Certificate of Compliance Monitoring is carried out on all companies who have registered directly with SEPA.

Routine Compliance Monitoring

Routine Compliance monitoring is carried out on both agency registered companies and compliance scheme members. These audits are generally carried out with a view to checking that

- the data submitted is correct.
- all parts of the company are accounted for.
- interpretation of the regulations etc. corresponds with SEPA's.
- 'consumer information obligations' have been met where relevant.

SEPA has developed an agreement with the Environment Agency which allows for the SEPA monitoring of Scottish companies who are members of EA registered Schemes and the EA monitoring of English/ Welsh companies who are members of SEPA registered schemes.

The method of choosing which companies to monitor is a mixture of random selection of companies and the selection of companies based on the following factors;

- whether or not they are first time registrants.
- their previous compliance history.
- whether they belong to particular industry sectors or they perform particular activities that are being targeted for investigation at that time.
- whether their data has changed significantly from one year to the next.
- whether or not they have large recovery and recycling obligations.
- whether or not they are declaring relatively large amounts of exports, third party exports, special packaging and use of reused packaging.
- whether or not they are part of a large company group.

Routine Compliance Monitoring is generally carried out on at least one third of those companies who are registered with SEPA or who are members of SEPA registered compliance schemes. It is not, however, the case that all registered companies will have a routine compliance visit once every three years. The frequency with which each company will be subject to routine compliance monitoring is dependent on the factors shown above.

Non Registration/ Freeloader Monitoring

Non registration/ freeloader monitoring is carried out on those companies who may be obligated under the regulations but have not registered. There are a number of ways in which SEPA collects information on potentially obligated but unregistered companies. Local knowledge and liaison with other organisations is used to some extent however the main method is through subscription to a 'Companies House' database which provides detailed information on all UK companies (except partnerships and sole traders). This can be used to identify all companies who exceed the turnover threshold and who perform a trade activity which may involve the handling of significant amounts of packaging. SEPA then contact these companies to enquire about potential obligations.

Non registration/ Freeloader Monitoring is carried out on an ongoing basis.

SEPA Enforcement of the regulations

Potential offences as follows are found under the regulations and the Environment Act 1995.

- Producer fails to register under reg 3(5)(a) and 5 in respect of a relevant year during which he is not a member of a compliance scheme - 34(1)(a)
- Producer fails to take reasonable steps to recover and recycle packaging waste in terms of reg 3(5)(b)(i) and Schedule 2 - 34(1)(b)

- Producer fails to furnish a certificate of compliance in terms of reg 3(5)(b)(ii) and reg 23 - 34(1)(c)
- Person furnishes a certificate of compliance knowing information to be materially false or misleading - 34(3)(a)(i) - or furnishes information recklessly which is materially false or misleading - 34(3)(a)(ii)
- Person fails without reasonable excuse to furnish information required by Director General of Fair Trading under reg 31(12) - 34(3)(b)
- Person furnishes information to agency / Secretary of State / Director General of Fair Trading knowing information to be materially false or misleading - 34(3)(c)(i) - or furnishes information recklessly which is materially false or misleading - 34(3)(c)(ii)
- Person intentionally delays or obstructs a person authorised by an appropriate agency in the exercise of reg 28 powers - 34(4)

Enforcement action under the regulations is centred on the above offences and is taken in accordance with the general SEPA enforcement policy. A copy of this policy is attached.

Accreditation of Reprocessors and Exporters of packaging waste

Reprocessors and exporters of packaging waste based in Scotland can apply to SEPA to become accredited. The main criteria for obtaining accreditation are that **packaging waste** (as defined in the regulations and agency guidance) is being **reprocessed** (as defined in the regulations and statutory guidance) and that an **adequate documentation system** is in place to record activities satisfactorily.

For each accredited reprocessor and exporter, SEPA normally carry out two inspections each year. One is the inspection which relates to the annual application; the other is a routine inspection carried out at some point during the year to ensure that laid down conditions of accreditation are being adhered to. In addition, accredited reprocessors and exporters are expected to submit a quarterly return detailing the reprocessing that has been carried out and the PRNs/ PERNs that have been issued. They must also submit an annual return which reveals the revenue that has been obtained through sale of PRNs and PERNs and the use to which that revenue has been put.

There are no specific offences which relate to accreditation as the system is incorporated in the statutory guidance rather than the regulations. Accreditation may be removed or suspended at any time if conditions are not being adhered to and, where fraud is suspected, the matter may be referred to the police.

Summary of SEPA monitoring plan for 2000

Based on the policy and figures given, SEPA intend to carry out the following monitoring activities

Monitoring Activity	Monitoring Target	Number of potential Companies
Registration of SEPA registrants	110	110
Certificate of Compliance Monitoring	110	110
Routine Compliance Monitoring (SEPA registered companies)	36 (at least)	110
Routine Compliance Monitoring (Scottish members of SEPA registered Compliance Schemes).	8	24
Routine Compliance Monitoring (Scottish members of EA registered Compliance Schemes).	40 (carried out by SEPA on behalf of EA).	120 (approx)
Routine Compliance Monitoring (Non Scottish members of SEPA registered Compliance Schemes)	40 (carried out by EA on behalf of SEPA).	317
Routine Compliance Monitoring (Non Scottish members of SEPA registered Compliance Schemes)	66	
Total Routine Compliance Visits to be carried out by SEPA	150	-
Non Registration/ Freeloader Monitoring	as required	-
Accredited Reprocessors/ Exporters	64	30

In addition, SEPA will also fulfill the following activities under the regulations.

- Other monitoring of SEPA registered compliance schemes.
- Maintenance of Public Register.
- Handling of all enquiries.
- Development of Policy and Guidance.
- Liaison with all relevant government and non government organisations.
- Reporting of all relevant data.