

**2022 No.**

**PLASTIC PACKAGING TAX**

**The Plastic Packaging Tax (General) Regulations 2022**

*Made* - - - - **\*\*\***

*Laid before the House of Commons* **\*\*\***

*Coming into force* - - *1st April 2022*

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by sections 47(5), 48(7), 49(10), 51, 53, 56(5), 58, 60, 61, 63, 66, 74, 75, 84(1) and 84(2) of, and paragraphs 2(4), 5(2) and (3), 10(4) and 15 of Schedule 9, paragraphs 7(3) and 10 of Schedule 10, and paragraph 12 of Schedule 13 to, the Finance Act 2021(a), make the following Regulations:

**PART 1**

**Preliminary**

**Citation and commencement**

1. These Regulations may be cited as the Plastic Packaging Tax (General) Regulations 2022 and come into force on 1st April 2022.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Finance Act 2021;

“accounting period” refers to the periods determined by regulation 31;

“chargeable event” refers to the production or importation of a chargeable plastic packaging component(b) within the meaning of section 43(1) of the Act;

“common properties” refers to the shared properties of components of identical design;

“finished plastic packaging components” means finished(c) plastic packaging components that are to be taken into account for the purposes of section 55(2) of the Act(d);

“identical design” means that two or more components are designed to be identical in respect of—

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(a) 2021 c. 26. [Sections \*\*] were commenced by the [\*\*\*\*] Regulations (S.I. 2021/\*\*\*\* (C. \*\*)), with effect from \*\*\*\*. [Sections [43, 55(1), 63 and 71] of, and Schedule [13] to, the Act were amended by [Schedule 11] to the Finance Act 2022 (c. \*\*). That Schedule makes other amendments to the Act, but they are not relevant to this instrument.

(b) “Chargeable plastic packaging component” is to be construed in accordance with section 47 of the Act.

(c) Whether a component is “finished” is determined in accordance with section 47(3) of the Act and regulation 8 below.

(d) Section 55(2) is to be read subject to section 55(3).

- (a) their input materials;
- (b) their weight;
- (c) their objective characteristics or functions; and
- (d) the result of—
  - (i) any determination under regulation 5(3);
  - (ii) any calculation under regulation 7(2); and
  - (iii) any measurement of weight under Chapter 2 of Part 4, relating to each component (whether or not that determination, calculation or measurement is carried out).

“indicative component” means—

- (a) a sample component of a product line; or
- (b) where the procedure in regulation 7(3) is applied, a sample component of a production run, the properties of which are derived by the modified calculation under paragraph 7(4);

“in writing” includes that thing in electronic form;

“product line” means a group of components with common properties;

“production run” means a single phase of production of components of a product line, including a phase of production that has commenced but has not been completed at the time of the chargeable event;

“return” means a return made under regulation 33.

### **Prescription by the Commissioners**

3. In these Regulations, “prescribed” means prescribed in a public notice published by the Commissioners and not withdrawn by a further notice<sup>(a)</sup> and “prescribe” is to be construed accordingly.

## PART 2

Determination of plastic and recycled content, meaning of “substantial modification” etc.

### **Plastic packaging component: substances other than plastic**

4. For the purposes of section 48(3) of the Act<sup>(b)</sup>, the single substances other than plastic<sup>(c)</sup> are—

- (a) aluminium;
- (b) steel;
- (c) any metal not within paragraphs (a) or (b);
- (d) glass;
- (e) paper and cardboard;
- (f) wood; or
- (g) any non-metal not within paragraphs (d) to (f).

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(a) Public notices made in respect of plastic packaging tax are available at [URL]. A hard copy is available on request from HM Revenue and Customs, Excise and Environmental Taxes Policy, 3rd Floor West, Ralli Quays, 3 Stanley Street, Salford, M60 9LA.

(b) Section 48(3) of the Act provides that a “plastic packaging component” is a packaging component that contains more plastic, when measured by weight, than any other single substance listed in regulation 4.

(c) “Plastic” is to be construed in accordance with section 49 of the Act. The term “plastic” includes “recycled plastic”.

### **Plastic packaging component: methodology of determination of plastic content**

5.—(1) This regulation applies for the purposes of providing how the Commissioners may be satisfied that a packaging component(a) that contains plastic is not a plastic packaging component.

(2) For the purposes of section 48(3) of the Act a producer or importer of packaging components that contain plastic must—

- (a) undertake a determination under paragraph (3); or
- (b) obtain that determination from another person,  
and keep a record of it in writing.

(3) A determination must state—

- (a) the weight of plastic contained in a plastic packaging component;
- (b) the weight of each of the single substances listed in regulation 4 contained in that component; and
- (c) whether the plastic packaging component contains more plastic, according to the weight given under sub-paragraph (a), than any other single substance in respect of each of which the weight is given under sub-paragraph (b).

(4) Where a plastic packaging component is within a product line, a determination under paragraph (3) may relate to an indicative component rather than to each packaging component within that product line.

(5) The determination under paragraph (3) must not include—

- (a) waste material produced and discarded during the production process;
- (b) waste or surplus material attached to the packaging component at the chargeable event;
- (c) goods contained within a packaging component, when that component is imported.

(6) When goods contained within an imported packaging component are other packaging components, an importer must undertake or obtain and keep a record of a determination in accordance with paragraph (3) in respect of those other packaging components.

(7) At the time that—

- (a) (if the procedure in paragraph (4) has been applied) the indicative component no longer accurately represents the common properties of a product line; or
- (b) a determination under paragraph (3) (or any further determination required by this paragraph) is inaccurate or no longer correct,  
the producer or importer must undertake or obtain such further determinations as may be required and keep a record of them in writing.

(8) In this regulation, “importer” means a person on whose behalf a packaging component is imported.

### **Provision of evidence that plastic is recycled plastic**

6.—(1) To satisfy the Commissioners that plastic is recycled plastic(b) in accordance with section 49 of the Act, a person must have sufficient evidence of that fact and keep a record of that evidence.

(2) For the purposes of paragraph (1), the Commissioners must prescribe what constitutes sufficient evidence.

(3) The matters which may be prescribed are—

- (a) the types of evidence required;

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(a) “Packaging component” is to be construed in accordance with section 48 of the Act and [S.I. 2021/\*\*\*\*].

(b) “Recycled plastic” is to be construed in accordance with section 49 of the Act. Section 49(7) provides that plastic is not to be taken as recycled plastic unless it is shown that it is recycled plastic. This regulation sets out the methodology, information or evidence by which this may be established.

- (b) the source of the evidence;
- (c) a requirement that the evidence must—
  - (i) be in writing;
  - (ii) indicate the date of the matters to which it refers;
  - (iii) (where relevant) relate to a product line that has been produced or imported;
  - (iv) where it relates to the input materials used in a recycling process, be an accurate reflection of the proportion of recycled plastic contained in the output materials of that recycling process;
  - (v) on each occasion on which there is a change to the common properties of a product line, comply with sub-paragraphs (i) to (iv).

**Chargeable plastic packaging component: method of calculation of recycled plastic content**

7.—(1) To establish that a plastic packaging component does not fall within section 47(1)(a) of the Act, a person liable to register<sup>(a)</sup> must—

- (a) undertake the calculation in paragraph (2) in respect of a plastic packaging component; or
- (b) obtain that calculation from another person,  
and keep a record of it in writing.

(2) The proportion of recycled plastic contained in the plastic packaging component, when measured by weight, must be calculated in accordance with the formula—

$$X(\%) = \frac{A}{B} \times 100$$

Where—

X is the proportion of recycled plastic contained in the plastic packaging component, expressed as a percentage.

A is the weight of recycled plastic used to produce the plastic packaging component.

B is the weight of plastic used to produce the plastic packaging component.

(3) Where plastic packaging components are part of a production run, a person liable to register may apply the calculation under paragraph (2) (as modified by paragraph (4)) to an indicative component of that production run, rather than for each plastic packaging component.

(4) Where the procedure in paragraph (3) is applied, the calculation in paragraph (2) must be modified by reading—

- (a) A as the total weight of recycled plastic used in the production run, divided by the number of plastic packaging components in that run; and
- (b) B as the total weight of plastic used in the production run, divided by the number of plastic packaging components in that run.

(5) At the time that—

- (a) (if the procedure under paragraph (3) has been applied) the indicative component no longer accurately represents the common properties of a production run; or
- (b) the calculation made under paragraph (2) (or any further calculation required by this paragraph) is inaccurate or no longer correct,  
a person liable to register must undertake or obtain such further calculations as may be required and keep a record of them in writing.

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(a) “Liable to be registered” has the meaning given by section 55(1) of the Act. Section 55(1) is relevantly amended by [paragraph 4 of Schedule 11 to] the Finance Act 2022.

### **Chargeable plastic packaging component: meaning of substantial modification**

**8.**—(1) For the purposes of section 47(3) of the Act, “substantial modification” means a chargeable modification to a plastic packaging component made by a relevant manufacturing process.

(2) In paragraph (1), a “chargeable modification” is a change to the—

- (a) shape;
- (b) structure;
- (c) thickness;
- (d) weight,

of a plastic packaging component.

(3) In this regulation, a “relevant manufacturing process” means any process of production of plastic packaging components other than—

- (a) blowing or forming from a pre-form;
- (b) cutting;
- (c) labelling;
- (d) sealing.

(4) Where any process within paragraph (3)(a) to (d) is carried out at the same time as a relevant manufacturing process, it is to be treated as a relevant manufacturing process.

(5) In paragraph (3)(a), “pre-form” means a plastic packaging component formed into a provisional shape or form prior to its subsequent expansion by blowing or forming.

## **PART 3**

### **Deferrals and credits**

#### **CHAPTER 1**

##### **Plastic packaging components intended for export**

#### **Application**

**9.** This Chapter applies to a person (“P”) to whom section 51 of the Act applies.

#### **Cancellation of liability**

**10.** For the purposes of section 51(1)(b) of the Act, the direct export condition ceases to be met in relation to a component as a result of it being exported from the United Kingdom before the end of the deferral period<sup>(a)</sup>, and P must have sufficient evidence of—

- (a) the fact that the component has been exported;
  - (b) the weight of the component that has been exported;
  - (c) the day on which it was exported,
- and keep a record of that evidence.

#### **Direct export condition: further conditions**

**11.** The further conditions specified under section 51(2)(c) of the Act are that—

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(a) Under section 51(5) of the Act, the “deferral period” is the period of 12 months beginning with the day on which the component is produced or imported.

- (a) before or at the time of production or importation, P holds sufficient evidence that they intend to export a chargeable plastic packaging component; and
- (b) P keeps a record of that evidence.

### **Deferrals: meaning of sufficient evidence**

**12.—**(1) The Commissioners must prescribe what they consider to be “sufficient evidence” for the purposes of this Chapter.

(2) The matters which may be prescribed to be sufficient include—

- (a) in respect of regulation 10—
  - (i) a document provided for the purposes of any other tax or duty that evidences that the component has been exported; and
  - (ii) any other document that evidences that export; and
- (b) in respect of regulation 11(a)—
  - (i) a document provided for the purposes of any other tax or duty that evidences intention to export the chargeable plastic packaging component; and
  - (ii) any other document that evidences that intention.

## CHAPTER 2

### Tax credits

### **Interpretation**

**13.** In this Chapter—

“case 1” refers to the case in section 53(1)(a) of the Act(**a**);

“case 2” refers to the case in section 53(1)(b) of the Act(**b**);

“liable person” means—

- (a) a person who is registered under section 56 of the Act at the time that case 1 or case 2 applies to a chargeable plastic packaging component; or
- (b) any other person, where the Commissioners are satisfied that that person is entitled to a tax credit by or under section 53 of the Act,

but paragraphs (a) and (b) are to be read subject to regulation 20;

“sufficient evidence” has the meaning given by regulation 16;

“tax credit” means the amount (“the credit amount”) of plastic packaging tax payable in respect of the production or importation of a chargeable plastic packaging component.

### **Entitlement to tax credit**

**14.—**(1) Where case 1 or 2 applies in respect of a chargeable plastic packaging component and the direct export condition(**c**) is not met in respect of that component, a liable person is entitled to a tax credit if—

- (a) they are liable to pay plastic packaging tax in respect of the chargeable plastic packaging component;
- (b) they have sufficient evidence that case 1 or 2 applies and they have kept a record of that evidence;

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(a) Section 53(1)(a) of the Act relates to a component that is exported from the United Kingdom.

(b) Section 53(1)(b) of the Act relates to a component that is converted into a different packaging component.

(c) The “direct export condition” has the meaning given by section 51 of the Act.

- (c) they make a claim for a tax credit in accordance with regulation 15; and
  - (d) where case 2 applies, a person is liable to pay plastic packaging tax in respect of a different packaging component<sup>(a)</sup>.
- (2) No tax credit may be claimed under these Regulations save in accordance with this Chapter.

**Claim for a tax credit: conditions, form etc.**

- 15.—(1) A claim for tax credit must be made by a liable person and must—
- (a) be included in the return for the accounting period in which a liable person first has sufficient evidence that case 1 or 2 applies to a chargeable plastic packaging component;
  - (b) show separately the total of the credit amounts for cases 1 and 2, where each arises in the same accounting period;
  - (c) identify in the credit amount the rate of plastic packaging tax charged on the chargeable plastic packaging component; and
  - (d) comply with such other requirements as to its form and manner as the Commissioners may prescribe.

(2) For the purposes of paragraph (1), the liable person may, in the return, deduct the credit amount from the amount of plastic packaging tax otherwise payable by them in respect of an accounting period.

(3) No claim may be made for a tax credit in respect of a chargeable plastic packaging component after the end of the period of 2 years beginning with the day on which the charge to tax arose in respect of that component.

**Tax credits: meaning of sufficient evidence**

16.—(1) For the purposes of regulations 14(1)(b) and 15(1)(a), the Commissioners must prescribe what constitutes “sufficient evidence”.

- (2) The matters which may be prescribed include—
- (a) where case 1 applies, evidence provided for the purposes of any other tax or duty that that a chargeable plastic packaging component has been exported; and
  - (b) where case 2 applies (and so far as relevant to that case), any of the matters in respect of which records are required to be kept under regulation 17.

**Records for tax credit claims**

17.—(1) A liable person who makes a claim for a tax credit must keep a record of the following matters in respect of the claim—

- (a) their grounds for claiming that case 1 or case 2 applies to the chargeable plastic packaging component;
- (b) confirmation of the accounting period in which they first have sufficient evidence that case 1 or 2 applies to a chargeable plastic packaging component;
- (c) where tax has been paid on the chargeable plastic packaging component in respect of which the tax credit claim is made, evidence of the amount, date and manner of that payment;
- (d) where case 2 applies, evidence as to whether a charge to plastic packaging tax has arisen in relation to the different plastic packaging component; and
- (e) such other information as the Commissioners may prescribe.

(2) A liable person must preserve the records in paragraph (1) for 6 years beginning with the day that the tax credit claim is made.

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(a) “Different packaging component” has the same meaning as it has in section 53(1)(b) of the Act.

### **Payment of tax credit claims**

**18.**—(1) Where the tax credit claimed by a liable person exceeds the amount of tax due from them for an accounting period, the Commissioners must repay the excess to the liable person.

(2) The Commissioners are not liable to make any repayment under paragraph (1)—

- (a) if any return the liable person is required to make has not been made;
- (b) to the extent that a tax credit has previously been claimed in respect of the chargeable plastic packaging component to which the repayment relates.

### **Repayment of tax credits**

**19.**—(1) Where a person has benefitted from a tax credit (whether or not payment has been made under regulation 18) to which they were not entitled, or to which they have ceased to be entitled, that person must repay the amount to the Commissioners.

(2) The amount due to be repaid by a person under paragraph (1) is to be recoverable on the basis that is an amount of plastic packaging tax due from them, payable on the day on which the person first benefitted from the tax credit.

### **Cessation of business etc.**

**20.**—(1) Where a liable person is no longer liable to pay plastic packaging tax as a result of becoming a member of a group<sup>(a)</sup> under section 71 of the Act—

- (a) they remain entitled under this Chapter to tax credits in respect of tax charged on chargeable plastic packaging components before the day on which they cease to be liable; and
- (b) the representative member of the group<sup>(b)</sup> is not.

(2) The Commissioners may prescribe the form and manner in which, and the conditions on which, tax credits may be claimed by a liable person who—

- (a) has ceased to carry on business; or
- (b) is no longer liable to pay plastic packaging tax, including under paragraph (1)(a), where they have ceased to be registered.

## **PART 4**

### **Registration and administration**

#### **CHAPTER 1**

##### **Registration**

### **Notification of liability to be registered: form, manner and content**

**21.**—(1) The Commissioners must prescribe—

- (a) the form and manner in which a person is to give a notification under section 56 of the Act; and
- (b) the information that person must include in such a notification.

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(a) “Group” has the meaning given by and under section 71 of and Schedule 13 to the Act, relevantly amended by [paragraph 6 of Schedule 11 to the Finance Act 2022].

(b) “Representative member of a group” is to be construed in accordance with section 71(2) of the Act, relevantly amended by [paragraph 6 of Schedule 11] to the Finance Act 2022.

- (2) The prescribed information given by a person under paragraph (1)(b) must include—
- (a) their name, correspondence address, telephone number and (where available) email address;
  - (b) where given by an officer or employee responsible for giving the notification on behalf of the person, their position in the business<sup>(a)</sup>, telephone number and (where available) email address;
  - (c) the address of their principal place of business (if different from sub-paragraph (a) above);
  - (d) whether their business is carried on by an individual, a limited company, partnership or other unincorporated body, or in any other capacity;
  - (e) the unique taxpayer reference allocated to them by the Commissioners (if any);
  - (f) whether the person is the representative member of a group;
  - (g) the date of the notification;
  - (h) the day on which they became liable to be registered;
  - (i) the estimated tonnage of finished plastic packaging components which they expect to produce or import in the period of 12 months beginning with the day on which the liability to notify arose;
  - (j) such further information as the Commissioners may require in connection with the registration of that person;
  - (k) a declaration that the matters stated in the notification are true and correct.

(3) Where the registration is made on behalf of a group, the information in paragraphs (2)(a) to (e) above must be given in relation to each member of the group.

(4) The Commissioners may prescribe that a notification is to be given electronically, subject to such exceptions as they may prescribe.

### **Correction of the register**

**22.—**(1) Paragraph (2) applies to a person—

- (a) who is registered under section 56(3) of the Act; or
- (b) who has made a notification under section 56 of the Act, where their liability to be registered has not been finally determined.

(2) Such a person must notify the Commissioners (“a further notification”) of—

- (a) any information they have given to the Commissioners which is inaccurate, incomplete or misleading; or
- (b) any change in circumstances,  
which may require a correction to be made to an entry made, or to be made, on the register.

(3) A further notification under paragraph (2) must be given to the Commissioners within a period of 30 days beginning, as the case requires, with—

- (a) the day after the person discovers that any information was inaccurate, incomplete or misleading; or
- (b) the day after the change in circumstances occurred.

(4) A further notification under paragraph (2) must be made electronically, subject to such exceptions as the Commissioners may prescribe.

(5) The Commissioners may correct the register as they see fit.

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(a) “Business” has the meaning given by section 43(2) of the Act.

## CHAPTER 2

### Measurement of Weight

#### Application and interpretation

**23.**—(1) This Chapter applies for the purposes of the measurement of the weight of any thing for the purposes of any provision in or under the Act.

(2) Regulations 24 to 28 apply to the measurement of weight undertaken or obtained by any person other than the Commissioners.

(3) This Chapter does not apply to the estimation of the weight of finished plastic packaging components for the purposes of section 55(2)(a) of the Act, or to regulation 21(2)(i).

(4) In this Chapter—

“agreed method” refers to an agreed method provided by regulation 25;

“specified rules” refers to the rules provided for by regulation 26.

(5) Where, in this Chapter, the weight of any thing is measured for the purposes of the procedure in regulation 7(3)—

(a) reference to a product line may be construed as if it were to a production run; and

(b) “indicative component” bears the same meaning as it does for the purposes of that regulation.

#### Measurement of weight: timing

**24.** For the purposes of this Chapter (apart from in regulation 27), the measurement of weight must be carried out—

(a) in the case of section 55(2)(b) of the Act(a), on or before the first day of any calendar month;

(b) where required by regulation 10(b), on or before the day of export of the chargeable plastic packaging component;

(c) under Chapter 3 of this Part, on or before the last day of the accounting period to which a return or account relates;

(d) in any other case, on or before the time of the chargeable event.

#### Agreed method of measurement of weight

**25.**—(1) The Commissioners may agree rules for measuring weight with any person in writing (an “agreed method”).

(2) The rules that may be agreed under paragraph (1) may (among other things) make provision—

(a) for the method by which weight is to be measured;

(b) for alternative times at which the weight of any thing may be measured in substitution for those specified by regulation 24 (but a rule providing for an alternative time must be agreed before any measurement of weight is made);

(c) for the evidence that must be kept of the measurement of weight;

(d) to disregard goods contained within a packaging component that is imported;

(e) relating to a product line to which the agreed method may be applied, including that—

(i) an agreed method may only be applied to prescribed product lines;

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(a) Section 55(2)(b) must be read subject to section 55(4) for the year beginning with 1st April 2022.

- (ii) except where regulation 27 applies, the weight of an indicative component may be applied to the measurement of the weight of any other component of that product line, without re-weighing that other component.
- (3) Rules agreed under paragraph (1) may only be applied—
  - (a) by the person with whom the Commissioners have agreed those rules; and
  - (b) where the Commissioners have not given a notification under paragraph (4), but they may be applied in relation to measurements of weight obtained by the person with whom the rules are agreed from another person.
- (4) Where the Commissioners believe that rules agreed under paragraph (1)—
  - (a) do not, or no longer, give an accurate indication of the weight of any thing;
  - (b) have not been complied with by the person with whom they have been agreed; or
  - (c) should no longer be applied for any other reason,  
they may decide that the rules no longer apply, in whole or in part, and notify the person with whom the rules were agreed of that fact.

### **Specified rules for the of measurement of weight**

- 26.—**(1) The Commissioners must prescribe specified rules for measuring weight when—
- (a) there is no agreement to use an agreed method;
  - (b) for any reason, an agreed method does not apply;
  - (c) an agreed method is not used by any person when that method would apply to the measurement of any thing; or
  - (d) a decision has been made by the Commissioners under regulation 25(4).
- (2) The specified rules under paragraph (1) may make provision—
- (a) for the method by which weight is to be measured;
  - (b) to disregard goods contained within a packaging component that is imported;
  - (c) relating to a product line to which the specified rules may be applied, including that—
    - (i) the specified rules may only be applied to prescribed product lines;
    - (ii) except where regulation 27 applies, the weight of an indicative component may be applied to the measurement of the weight of any other component of that product line, without re-weighing that other component;
  - (d) for alternative times at which the weight of any thing may be measured in substitution for those specified by regulation 24;
  - (e) providing for different rules to apply for different purposes.

### **Requirement to re-weigh**

**27.** A person who measures the weight of any thing must re-weigh that thing or obtain a further measurement of the weight of that thing when—

- (a) there is a change to the input materials used to produce that thing;
- (b) there is any change of common properties of a product line (including where an indicative component no longer accurately represents those common properties); or
- (c) when they first become aware of any other relevant change of circumstance that may affect the accuracy of the measurement of weight, and  
the provisions of this Chapter apply to the re-weighing of that thing.

### **Records of measurement**

**28.** Where the weight of any thing is measured for purposes in or under the Act, a record must be kept of—

- (a) the result of the weighing process, expressed in the unit of measurement in which the process was carried out;
- (b) the methodology used to carry out the measurement; and
- (c) if the result of the process is expressed in a unit of measurement other than metric units, the calculations showing the conversion of that result into metric units.

### **Determination of weight by the Commissioners**

**29.—**(1) Paragraph (2) applies where it appears to the Commissioners that a person has, for any purpose in or under the Act —

- (a) made an incorrect measurement of weight;
- (b) obtained a measurement of weight from another person that is incorrect;
- (c) failed to give the correct weight of any thing to the Commissioners;
- (d) failed to weigh (or re-weigh) any thing when required to do so;
- (e) failed to keep any records under this Chapter; or
- (f) failed to comply, where applicable, with an agreed method or (as the case may be) with specified rules.

(2) The Commissioners may—

- (a) determine the weight of any thing for purposes in or under the Act to the best of their judgement;
- (b) substitute that determination for any measurement or calculation of weight made by any person; and
- (c) notify the determination to that person.

(3) In making a determination under paragraph (2)(a), the Commissioners may—

- (a) make estimates or assumptions;
- (b) make comparisons between the thing to be weighed and products or materials that are similar in nature, and may rely on any evidence they may have as to the weight of such similar products or materials;
- (c) rely on samples taken under paragraph 1 of Schedule 12 to the Act;
- (d) rely on any information or documents (including obtained in the course of an inspection) under any other power that applies for the purposes of plastic packaging tax.

## **CHAPTER 3**

Accounting periods, payment, returns etc.

### **Interpretation**

**30.—**(1) In this Chapter, “P” refers to a person who is liable to be registered at any time in an accounting period to which any provision in this Chapter relates.

(2) In paragraph (1), it is immaterial whether P is, at any time, registered under section 56 of the Act.

### **Accounting periods**

**31.** The accounting periods for plastic packaging tax are the three-month periods ending with 31st March, 30th June, 30th September and 31st December.

## Payment

32.—(1) P must make payments of plastic packaging tax in respect of each accounting period.

(2) P must pay the total amount of plastic packaging tax payable in respect of an accounting period no later than the day by which they must make a return for that period under regulation 33(1).

(3) The Commissioners may, in such circumstances as they may prescribe, extend the period in paragraph (2) by notice in writing to P for such additional period as they see fit.

(4) The total amount of plastic packaging tax payable is the amount required to be stated in the return in respect of the period.

(5) Payment must be made by the method prescribed by the Commissioners.

## Requirement to make returns

33.—(1) For each accounting period, P must make a return to the Commissioners no later than the last working day of the month immediately following the end of the accounting period to which it relates.

(2) The Commissioners may extend the period in paragraph (1) by notice in writing to P for such additional period as they see fit.

## Form, manner and content of returns etc.

34.—(1) A return must be dated and made in the form and manner prescribed by the Commissioners.

(2) The Commissioners must prescribe the matters to be included in a return.

(3) The matters prescribed must include, in respect of the accounting period for which the return is made, each of—

- (a) the total weight of—
  - (i) chargeable plastic packaging components produced or imported; and
  - (ii) chargeable plastic packaging components in respect of which the direct export condition ceases to be met by or under section 51(1)(a) of the Act;
- (b) the total weight of—
  - (i) plastic packaging components produced or imported that are not chargeable to plastic packaging tax<sup>(a)</sup>; and
  - (ii) chargeable plastic packaging components within sub-paragraph (d);
- (c) the total weight of plastic packaging components produced or imported in respect of which it is shown that the components do not fall within section 47(1)(a) of the Act<sup>(b)</sup>;
- (d) the total weight of chargeable plastic produced or imported in respect of which the direct export condition is met by and under section 51(2) of the Act;
- (e) the total weight of plastic packaging components produced or imported that are exempt under section 52(4) of the Act;
- (f) the total value of tax credits claimed by and under section 53 of the Act, and  
the return must contain a declaration by P that the matters contained in it are true and accurate.

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(a) Section 43 of the Act (read in conjunction with section 52, apart from section 52(4), for these purposes) determines when a plastic packaging component is chargeable. Section 43 is relevantly amended by [paragraph 2 of Schedule 11 to] the Finance Act 2022.

(b) Section 47(2) states that a plastic packaging component is taken to fall within section 47(1)(a) unless it is shown that it does not. Regulation 7 above sets out the methodology by which this may be established.

(4) For the purposes of paragraph (3)(b)(i), the weight given must include plastic packaging components exempt from the charge to plastic packaging tax under section 52(4) of the Act.

(5) P must keep records in support of the matters to be included in a return in such manner as the Commissioners may prescribe.

(6) The Commissioners may prescribe under paragraph (5) requirements to keep records by reference to a product line.

### **Correction of returns**

**35.** P must correct any error made in a return for an accounting period—

- (a) in such manner as the Commissioners may prescribe; and
- (b) within a period of 2 years, beginning with the last day on which the return must be made under regulation 33(1).

### **Requirement to keep accounts**

**36.**—(1) For each accounting period, P must keep—

- (a) accounts for the purposes of plastic packaging tax; and
- (b) records in support of the details that must be included in those accounts under paragraph (2).

(2) The accounts must include, in respect of the accounting period for which the accounts must be kept, details of—

- (a) where liability to pay plastic packaging tax is deferred under section 51(1)(a) of the Act, the weight of chargeable plastic packaging components intended for export;
- (b) where liability to pay plastic packaging tax is cancelled under section 51(1)(b) of the Act, the weight of chargeable plastic packaging components exported;
- (c) the calculation of any tax credit claimed by or under section 53 of the Act;
- (d) whether that credit is claimed by or under section 53(1)(a) or section 53(1)(b) of the Act;
- (e) any adjustments or corrections made in respect of any previous accounting period, including the identification of that period;
- (f) where there has been a change in the rate of plastic packaging tax charged, the rate applied to any chargeable plastic packaging components from time to time;
- (g) the matters required to be included in the return.

(3) The accounts must state the total amount of plastic packaging tax payable in respect of the accounting period—

- (a) disregarding any amount of tax deferred under section 51(1)(a) of the Act; and
- (b) after the deduction of any tax credit claimed in accordance with regulation 15(2).

(4) P must preserve accounts for the period of 6 years beginning with—

- (a) the last day of the accounting period to which the accounts relate; or
  - (b) the day P pays the total amount of plastic packaging tax payable in respect of an accounting period,
- whichever is the later.

(5) The Commissioners may prescribe for the purposes of this regulation that records required to be kept under paragraph (1)(b) must be kept by reference to a product line.

## PART 5

### Preservation of records

#### Preservation of records

37.—(1) Where—

- (a) a record is required to be kept by or under the Act; and
- (b) that record relates to an accounting period,

the record must be preserved for the period of 6 years beginning with the last day of that accounting period.

(2) Where paragraph (1) does not apply, a person must preserve any record required to be kept by them by or under the Act for a period of 6 years beginning with the day on which the record is created.

(3) In paragraph (1)(b), a record relates to the accounting period in which the requirement to keep that record first arose.

(4) This regulation does not apply to records that must be kept under—

- (a) Chapter 2 of Part 3 (tax credits); or
- (b) Part 6 (repayments),

of these Regulations (which make separate provision).

## PART 6

### Repayments

#### Interpretation

38. In this Part—

“C” means a claimant;

“claim” means a claim made under paragraph 7 of Schedule 10 to the Act for repayment of an amount paid to the Commissioners by way of tax which was not due to them, and “claimed” is to be construed accordingly;

“reimbursement arrangement” is to be construed in accordance with paragraph 10(2) of Schedule 10 to the Act;

“relevant amount” means that part (which may be the whole) of the amount of the claim which C has reimbursed or intends to reimburse to other persons.

#### Form, manner and content of claims for repayment

39.—(1) A claim under paragraph 7 of Schedule 10 to the Act must be made—

- (a) in writing and in the form prescribed by the Commissioners; and
- (b) by reference to such documentary evidence as is in the possession of C, state the amount of the claim and the method by which that amount was calculated.

(2) The Commissioners may require C to provide additional information in support of a claim, as they may prescribe.

### **Reimbursement arrangements: general**

40. For the purposes of paragraph 8(2) of Schedule 10 to the Act (a) reimbursement arrangements made by C are to be disregarded except where they—

- (a) include the provisions described in regulation 41; and
- (b) are supported by the undertakings described in regulation 44.

### **Reimbursement arrangements: provisions to be included**

41. The provisions referred to in regulation 40(a) are that—

- (a) reimbursement for which the reimbursement arrangements provide will be completed by no later than 90 days after the repayment to which it relates;
- (b) no deduction will be made from the relevant amount by way of a fee or charge (however expressed or effected);
- (c) reimbursement will be made in a manner prescribed by the Commissioners;
- (d) any part of the relevant amount that is not reimbursed by the time mentioned in paragraph (a) will be repaid by C to the Commissioners;
- (e) any interest paid by the Commissioners on any relevant amount repaid by them will also be treated by C in the same way as the relevant amount falls to be treated under paragraphs (a) and (b); and
- (f) the records described in regulation 43(1) will be kept by C and produced by them to the Commissioners in accordance with that regulation.

### **Reimbursement arrangements: repayments**

42. C must, without prior demand, make any repayment to the Commissioners that C is required to make by virtue of regulation 41(d) or (e) within 14 days of the expiry of the period referred to in regulation 41(a).

### **Records relating to reimbursement arrangements: keeping and production**

43.—(1) C must keep records of the following matters—

- (a) the names and addresses of those persons whom C has reimbursed or whom C intends to reimburse;
- (b) the total amount reimbursed to each such person;
- (c) the amount of interest included in each total amount reimbursed to each person;
- (d) the date that each reimbursement is made.

(2) Where the Commissioners give C notice in accordance with paragraph (3) below, C must, in accordance with such notice, produce to the Commissioners the records that C is required to keep pursuant to paragraph (1).

(3) A notice given for the purposes of paragraph (2) must—

- (a) be in writing;
- (b) state the day on which and the place and time at which the records are to be produced;
- (c) be signed and dated by the Commissioners, and  
may be given before or after, or both before and after, the Commissioners have paid the relevant amount to C.

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(a) Paragraph 8(2) of Schedule 10 to the Act provides that it is a defence to a repayment claim that the repayment would unjustly enrich a claimant.

## Undertakings

44.—(1) The undertakings referred to in regulation 40(b) must be given to the Commissioners by C no later than the time at which C makes the claim for which the reimbursement arrangements have been made.

(2) The undertakings must be in writing and be signed and dated by C, and must be to the effect that—

- (a) at the day of the undertaking, C is able to identify the names and addresses of those persons whom C has reimbursed or intends to reimburse;
- (b) C will apply the whole of the relevant amount repaid to them (without any deduction by way of fee, charge or otherwise) to the reimbursement of such persons, no later than 90 days after C receives the amount (unless C has already properly reimbursed the persons);
- (c) C will apply any interest paid on the relevant amount repaid to C wholly to the reimbursement of such persons by no later than 90 days after that interest is received;
- (d) C will repay to the Commissioners without demand the whole, or such part, of the relevant amount repaid or any interest paid to C as C fails to apply in accordance with the undertakings mentioned in sub-paragraphs (b) or (c);
- (e) C will keep the records described in regulation 43(1); and
- (f) C will comply with any notice given in accordance with regulation 43(2) concerning the production of such records.

## PART 7

### CHAPTER 1

#### Secondary liability and assessment notices

## Interpretation

45. In this Chapter, “P” and “R” have the same meaning as in paragraph 1 of Schedule 9 to the Act.

### Secondary liability and assessment notices: factors that may be taken into account

46.—(1) This regulation applies for the purposes of determining the factors the Commissioners may take into account in considering whether they may give a secondary liability and assessment notice to R under paragraph 2(1) of Schedule 9 to the Act.

(2) The Commissioners may take into account—

- (a) the relationship between R and P, including—
  - (i) whether R and P are connected persons within the meaning of section 1122 of the Corporation Tax Act 2010(a);
  - (ii) whether R and P have any contractual or commercial relationship;
- (b) whether R has conducted due diligence in order to make themselves aware of P’s compliance with any requirement relating to plastic packaging tax, including whether R has—
  - (i) required any information or evidence from P;
  - (ii) kept any information or evidence which relates to P;
  - (iii) assessed the reliability or veracity of the information or evidence under sub-paragraphs (i) or (ii) with reasonable care;

- (iv) included any contractual terms in relation to ensuring the payment of plastic packaging tax in their commercial agreements with P;
- (c) the circumstances of the production, importation, transportation, storage or supply of, or R's dealing with, a chargeable plastic packaging component, including—
  - (i) R's reasons for having possession or control of the chargeable plastic packaging component;
  - (ii) R's conduct, including any refusal by R to disclose to the Commissioners the intended use of the chargeable plastic packaging component;
  - (iii) R's intended use of the chargeable plastic packaging component;
  - (iv) the content of any document or other information relating to the chargeable plastic packaging component;
  - (v) the extent of R's knowledge about P failing to pay plastic packaging tax;
  - (vi) the use or condition of the chargeable plastic packaging component, including any change to that use or condition (such as it becoming waste, or being filled with goods etc.);
  - (vii) the use or condition of any goods contained, handled, delivered or presented in or by the chargeable packaging component;
  - (viii) the number of chargeable plastic packaging components produced, imported, transported, stored, supplied or otherwise dealt with;
  - (ix) the open market price of the chargeable packaging component at the time that R deals with it;
  - (x) the open market price of the goods contained, handled, delivered or presented in or by the chargeable packaging component at the time that they are first contained, handled, delivered or presented in or by that component;
- (d) any other circumstance that appears to the Commissioners to be relevant.
- (3) The Commissioners may further prescribe for the purposes of paragraph (2)—
  - (a) the factors they may take into account in considering whether due diligence checks carried out by R are sufficient; and
  - (b) the form and manner of those checks.

**Secondary liability and assessment notices: applications to revoke or reduce amount**

47.—(1) An application under paragraph 5(1) of Schedule 9 to the Act by R to revoke or reduce a secondary liability and assessment notice must be made in writing in the form and manner prescribed by the Commissioners and contain the information in paragraph (2).

- (2) The information that must be supplied by R under paragraph (1) is—
  - (a) an explanation of why the revocation or reduction is appropriate;
  - (b) for an application under paragraph 5(1)(a) of Schedule 9 to the Act, an explanation of how R has taken all reasonable steps to establish that P had paid or intended to pay all the plastic packaging tax which P was liable to pay at the relevant time;
  - (c) for an application under paragraph 5(1)(b) of Schedule 9 to the Act—
    - (i) a calculation of the reduced amount that R claims it would be just and reasonable for R to pay; and
    - (ii) an explanation of why the reduced amount is just and reasonable.
- (3) The steps taken by R which are to be regarded as reasonable for the purposes of paragraph 5(1)(a) of Schedule 9 to the Act may include such further steps as the Commissioners may prescribe.
- (4) The Commissioners may by notice in writing require P or R—
  - (a) to provide information; or

- (b) to produce a document,  
if the information or document is reasonably required by the Commissioners for the purposes of determining whether a revocation or reduction of a secondary liability and assessment notice is appropriate.

## CHAPTER 2

### Joint and several liability notices

#### Interpretation

48. In this Chapter, “P” and “R” have the same meaning as in paragraph 9 of Schedule 9 to the Act.

#### Joint and several liability notices: factors that may be taken into account

49.—(1) This regulation applies for the purposes of determining the factors the Commissioners may take into account in considering whether they may give a joint and several liability notice to R under paragraph 10(1) of Schedule 9 to the Act.

(2) The Commissioners may take into account—

- (a) what business R carries out, including whether R is involved in transporting, storing or otherwise dealing with a chargeable plastic packaging component;
- (b) the relationship between R and P, including—
  - (i) whether R and P are connected persons within the meaning of section 1122 of the Corporation Tax Act 2010;
  - (ii) whether R and P have any contractual or commercial relationship;
- (c) the circumstances of the production, importation, transportation, storage, supply of, or R’s dealing with, a chargeable plastic packaging component, including—
  - (i) R’s reasons for having possession or control of the chargeable plastic packaging component, including transporting, storing or otherwise dealing with the component;
  - (ii) R’s knowledge of P’s lack of intention to pay plastic packaging tax;
  - (iii) R’s conduct, including—
    - (aa) R’s intended use of the chargeable plastic packaging component;
    - (bb) any refusal by R to disclose the intended use of the chargeable plastic packaging component;
  - (iv) the content of any document or other information R has kept relating to the chargeable plastic packaging component;
  - (v) the use or condition of the chargeable plastic packaging component, including any change to that use or condition (such as it becoming waste, or being filled with goods etc.);
  - (vi) the use or condition of any goods contained, handled, delivered or presented in or by the chargeable packaging component;
  - (vii) the number of chargeable plastic packaging components produced, imported, transported, stored, supplied or otherwise dealt with;
  - (viii) the open market price of the chargeable packaging component at the time that R deals with it;
  - (ix) the open market price of the goods contained, handled, delivered or presented in or by the chargeable packaging component at the time that they are first contained, handled, delivered or presented in or by that component;
- (d) any other circumstance that appears to the Commissioners be relevant.

(3) In a case where paragraph 10(2) of Schedule 9 to the Act applies, the Commissioners may also take into account whether R has conducted due diligence in order to make themselves aware

of P's compliance with any requirement relating to plastic packaging tax, including whether R has—

- (a) conducted any checks in relation to P's compliance with any such requirement;
- (b) required any information or evidence from P;
- (c) kept any information or evidence which relates to P;
- (d) assessed the reliability or veracity of information or evidence under sub-paragraphs (b) or (c) with reasonable care;
- (e) included any contractual terms in relation to ensuring the payment of plastic packaging tax in their commercial agreements with P.

#### **Joint and several liability notices: notifications and applications to revoke**

**50.**—(1) A notification made by R under paragraph 13(1) of Schedule 9 to the Act must—

- (a) be made in writing in a form and manner prescribed by the Commissioners; and
- (b) the information that must be supplied by R is—
  - (i) an explanation of why the revocation is appropriate and, in particular, why paragraph 10(2)(a) or (3)(a) of Schedule 9 to the Act do not apply, or have ceased to apply, to R; and
  - (ii) if relevant, the day on which either of those paragraphs ceased to apply to R.

(2) An application made by P under paragraph 14(1) of Schedule 9 to the Act must—

- (a) be made in writing in a form and manner prescribed by the Commissioners; and
- (b) P must supply an explanation of why the revocation is appropriate and, in particular, why the conditions in paragraph 10(2) or (3) of Schedule 9 to the Act do not apply to R —
  - (i) in relation to anything done or not done by P; or
  - (ii) in relation to the intention of P.

(3) For a notification or application made under this regulation, the Commissioners may by notice in writing require R or P—

- (a) to provide information; or
- (b) to produce a document,  
if the information or document is reasonably required by the Commissioners for the purposes of determining whether a revocation of a joint and several liability notice is appropriate.

## **PART 8**

### **Groups**

#### **Applications for group treatment**

**51.**—(1) The Commissioners must prescribe the form and manner in which an application for group treatment under paragraph 3 of Schedule 13 to the Act must be made.

(2) An application under paragraph (1) must include a declaration by the representative member on behalf of all bodies to be treated as members of the group that—

- (a) all bodies to be treated as members of the same group are eligible for group treatment under paragraphs 1(1), 1(3) and 2 of Schedule 13 to the Act;
- (b) the representative member is eligible under paragraph 1(2) of Schedule 13 to the Act; and
- (c) the matters stated in the application are true and correct.

(3) The Commissioners may prescribe that such applications are to be given electronically, subject to such exceptions as they may prescribe.

### **Other applications and notifications**

**52.**—(1) Applications under paragraph 5(1) of Schedule 13 to the Act(**a**) must be made in writing to the Commissioners and include such information as they may prescribe.

(2) A notification under paragraph 11 of Schedule 13 to the Act(**b**) must be made in writing to the Commissioners and include such information and particulars as they may prescribe.

(3) The notification required by paragraph (2) must be received by the Commissioners no later than 30 days from the day that—

- (a) any member becomes aware that it ceases to be eligible under paragraph 11(1) of Schedule 13 to the Act; or
- (b) the representative member ceases to have an established place of business in the United Kingdom.

### **Corrections to applications and notifications**

**53.**—(1) A person who has made an application or notification to the Commissioners under this Part must notify them of any information they have given which is, or becomes, inaccurate.

(2) A notification under paragraph (1) must be—

- (a) given to the Commissioners within a period of 30 days beginning with the day after the person discovers that the original notification is or has become inaccurate; and
- (b) made in such form and manner as the Commissioners may prescribe.

## **PART 9**

### **Miscellaneous matters**

#### **CHAPTER 1**

#### **Partnerships and other unincorporated bodies**

### **Unincorporated bodies: general**

**54.**—(1) Anything done or required to be done by or under the Act in respect of a business which is carried on by a partnership or another unincorporated body may be done in the name of that firm or body.

(2) Nothing in paragraph (1) affects any requirement by or under the Act that is the responsibility of a person listed in regulations 55(2) or 57(2).

### **Partnerships: compliance with requirements**

**55.**—(1) This regulation applies for determining by what person anything required to be done by or under the Act is to be done where, apart from this regulation, that requirement would fall on persons carrying on business in partnership.

(2) Any such requirement shall be the joint and several responsibility of every partner.

(3) Compliance with such a requirement by at least one of the partners shall suffice as compliance by all of them.

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(a) Paragraph 5(1) of Schedule 13 to the Act relates to applications to modify an existing group treatment.

(b) Paragraph 11 of Schedule 13 to the Act concerns notifications where a body treated as a member of a group ceases to be eligible to be a member of a group.

(4) In the case of a partnership whose principal place of business is in Scotland, compliance by a person duly authorised by the partnership shall suffice as compliance by the partners.

**Partnerships: changes of partners etc.**

**56.**—(1) Without prejudice to section 36 of the Partnership Act (rights of persons dealing with firm against apparent members of firm), where—

- (a) persons have been carrying on in partnership any business in the course or furtherance of which any chargeable plastic packaging component has been produced or imported; and
- (b) a person ceases to be a member of the firm,  
that person shall be regarded for the purposes of the Act (including paragraph (5) of this regulation) as continuing to be a partner until the day on which the change in the partnership is notified to the Commissioners.

(2) Without prejudice to section 16 of the Partnership Act (notice to acting partner to be notice to the firm), any notice, whether of assessment or otherwise, which—

- (a) is addressed to a firm by the name in which it is registered; and
- (b) is served in accordance with provisions by or under the Act,  
shall be treated for purposes by or under the Act, as served on the firm and, accordingly, where paragraph (3) applies, as served also on the former partner.

(3) Where a person ceases to be a member of a firm during an accounting period (or is treated as so ceasing by virtue of paragraph (1)) any notice, whether of assessment or otherwise, which—

- (a) is served on the firm for the purposes of any provision by or under the Act; and
- (b) relates to, or to any matter arising in, that period or any earlier period during the whole or part of which the person was a member of the firm,  
shall be treated as also served on that person.

(4) Subject to paragraph (5), nothing in this regulation shall affect the extent to which, under section 9 of the Partnership Act (liability of partners), a partner is liable for plastic packaging tax owed by the firm.

(5) Where a person is a partner in a firm during part only of an accounting period, their personal liability for plastic packaging tax incurred by the firm in respect of chargeable plastic packaging produced or imported in that period will include, but must not exceed, such proportion of the firm's liability as may be just and reasonable in the circumstances.

(6) In this regulation, “the Partnership Act” means the Partnership Act 1890(a).

**Other unincorporated bodies**

**57.**—(1) This regulation applies for determining by what persons anything required to be done by or under the Act is to be done where, apart from this regulation, that requirement would fall on persons carrying on business together as an unincorporated body other than a partnership.

(2) Any such requirement shall be the joint and several liability of—

- (a) every person holding office in that body as president, chairman, treasurer, secretary or other similar office;
- (b) if there is no such office holder, every person who is a member of a committee by which the affairs of that body are managed; or
- (c) if there is no such member, every person carrying on that business.

(3) Compliance with such a requirement by one or more of the persons referred to in paragraph (2) shall suffice as compliance with that requirement by all of them.

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(a) 1890 c.39.

## CHAPTER 2

### Death, incapacity etc.

#### Death, incapacity or insolvency

**58.**—(1) Paragraph (2) applies where a person (“T”) is registered under section 56(3) of the Act for the purposes of plastic packaging tax—

- (a) where T is an individual, they have died or become incapacitated;;or
- (b) where T is subject to an insolvency procedure, and  
in this regulation, the business of T is the business of producing or importing finished plastic packaging components.

(2) The person (“P”) who—

- (a) where T is an individual, carries on the business of T on behalf of, or in succession to, T;;  
or
- (b) acts as the insolvency practitioner in relation to the business of T,  
must notify the Commissioners of that fact no later than 21 days after the date on which P proceeded to carry on the business or proceeded to act as described in relation to the business.

(3) A notification under paragraph (2) must be in writing and include—

- (a) evidence (including the date) of the death of T, details of when and in what manner T became incapacitated, or of the date when T first became subject to an insolvency procedure and the nature of that procedure;
- (b) evidence of P’s authority to carry on, or act in relation to, the business.

(4) A failure by P to comply with paragraph (2) is to be treated as if it were a failure by P to comply with section 56(1) of the Act.

(5) The Commissioners may treat P as if they were T for the purposes of plastic packaging tax for a period of up to 6 months beginning with the day by which notification under paragraph (2) is required.

(6) The Commissioners may extend the period in paragraph (5) by notice in writing to P for such additional period as they see fit.

(7) In this regulation—

- (a) “insolvency practitioner” means—
  - (i) a trustee in bankruptcy;
  - (ii) in Scotland, a trustee (or interim trustee) in the sequestration of a person’s estate under the Bankruptcy (Scotland) Act 2016(a);
  - (iii) a liquidator;
  - (iv) a receiver;
  - (v) an administrator; or
  - (vi) anyone acting in an equivalent capacity in respect of an insolvency procedure;
- (b) “insolvency procedure” means—
  - (i) in respect of an individual in Scotland, the sequestration of that person’s estate under the Bankruptcy (Scotland) Act 2016; or
  - (ii) in any other case, bankruptcy, winding-up, receivership, administration or an equivalent procedure, including under the law of a jurisdiction outside the United Kingdom.

## Transfers of going concerns

### 59.—(1) Where—

- (a) a business carried on by a person (“P”) who is registered under section 56 of the Act is transferred to another person (“T”) as a going concern;
- (b) the registration of P has not been cancelled under section 57 of the Act;
- (c) the transfer requires that P’s registration be cancelled and that T be registered for plastic packaging tax under section 56 of the Act; and
- (d) an application is made by P or T in writing to the Commissioners notifying them of the transfer and its date,

the Commissioners may, with effect from the day of the transfer, cancel the registration of P and register T in their place with the registration number previously allocated to P.

### (2) Where the Commissioners cancel the registration of P and register T in their place—

- (a) any duties and liabilities of P existing at the day of the transfer to make a return or to pay plastic packaging tax shall become the duty and liability of T;
- (b) any right of P, whether or not existing at the date of transfer, to a tax credit or repayment by or under the Act shall become the entitlement of T; and
- (c) any other provision or circumstances by or under the Act, relating to plastic packaging tax, that applied to P before P’s registration was cancelled (or any such provision or circumstances that continues to apply to P after the cancellation) shall apply to T.

	<i>Name</i>
	<i>Name</i>
Date	Two of the Commissioners for Her Majesty’s Revenue and Customs

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Regulations make provision for plastic packaging tax, introduced by Part 2 of the Finance Act 2021 (c. 26) (“the Act”).

Regulation 1 provides for commencement, regulation 2 gives definitions used in the Regulations and regulation 3 defines the term “prescribed”.

Regulation 4 lists the substances that must be measured to determine whether a packaging component that contains plastic is a plastic packaging component in accordance with section 48(3) of the Act.

Regulation 5 sets out how to the Commissioners may be satisfied that a packaging component containing plastic is not a plastic packaging component.

Regulation 6 requires a person to have “sufficient evidence” that plastic is recycled plastic and for the Commissioners to prescribe what this constitutes.

Regulation 7 sets out the calculation a person liable to register must carry out to determine the recycled plastic content of a plastic packaging component.

Regulation 8 makes provision about the term “substantial modification” for the purposes of determining when a plastic packaging component is finished.

Regulation 9 sets out the scope of Part 3, Chapter 1.

Regulation 10 requires “sufficient evidence” to be kept if the direct export condition ceases to be met.

Regulation 11 specifies the further conditions that apply for the direct export condition (see section 51 of the Act) to be met.

Regulation 12 requires the Commissioners to prescribe what “sufficient evidence” means for the purposes of Part 3, Chapter 1.

Regulation 13 lists definitions used in Part 3, Chapter 2. Regulation 14 provides for the cases in which a liable person is entitled to a tax credit. Regulation 15 sets out the procedure for claiming a tax credit.

Regulation 16 provides for what amounts to “sufficient evidence” in order to make a claim for a tax credit. Regulation 17 sets out records required to be kept in relation to claims for tax credits.

Regulation 18 provides for the payment by the Commissioners of tax credits. Regulation 19 provides that a person must repay a tax credit to which they are not entitled or to which they have ceased to be entitled.

Regulation 20 sets out the entitlements to tax credits where a person becomes a member of a group. It also allows the Commissioners to prescribe when tax credits may be claimed by a person who ceases to carry on a business or is no longer liable to pay the tax.

Regulation 21 requires the Commissioners to prescribe the form and manner of a notification of liability to be registered (under section 56 of the Act). It also sets out the information that must be included in such a notification.

Regulation 22 provides the circumstances when a person must notify the Commissioners of any corrections to the register and for the register to be corrected by the Commissioners as they see fit.

Regulation 23 provides the application and definitions used in Part 4, Chapter 2 for the measurement of weight. Regulation 24 specifies the time by reference to which weight should be measured for the purposes of the Act and these Regulations.

Regulation 25 permits the Commissioners to agree a method for measuring weight of any thing for the purposes of the tax. Regulation 26 requires the Commissioners to prescribe specified rules for measuring weight where an agreed method is not used, not complied with, or that method does not apply.

Regulation 27 requires re-weighing in certain circumstances.

Regulation 28 sets out the records to be kept in relation to weighing.

Regulation 29 allows the Commissioners to determine the weight of any thing to the best of their judgement in certain circumstances and substitute their determination for any measurement or calculation of weight made by any person.

Regulation 30 applies the regulations on accounting and returns under Part 4, Chapter 3 to persons liable to be registered for the tax.

Regulation 31 sets out the accounting periods which apply to the tax.

Regulation 32 provides for when payment of the tax must be made and for the Commissioners to prescribe the method by which payment must be made.

Regulation 33 requires persons liable to be registered for the tax to make a return to the Commissioners for each accounting period and provides for the day by which returns must be made.

Regulation 34 requires the Commissioners to prescribe the form, manner and contents of a return.

Regulation 35 requires errors in a return to be corrected as prescribed by the Commissioners and sets out the date by which this must be done.

Regulation 36 requires persons liable to be registered for the tax to keep accounts for each accounting period and provides for the contents of those accounts and the period for which accounts must be preserved.

Regulation 37 provides for the period for which records required to be kept by or under the Act must be preserved.

Regulation 38 gives the definitions used in Part 6. Regulation 39 provides for the form and content of claims for the repayment of overpaid tax.

Regulations 40 and 41 set out the provisions that must be included in reimbursement arrangements made by the claimant of a repayment claim for the arrangements be considered for the purposes of unjust enrichment (a defence by the Commissioners under paragraph 8(2) of Schedule 10 of the Act). Regulation 42 requires payments under these reimbursement arrangements to be made within a certain period.

Regulation 43 sets out records required to be kept and produced for reimbursement arrangements.

Regulation 44 provides for the undertakings that must be given to the Commissioners for reimbursement arrangements.

Regulation 45 gives the definitions used in Part 7, Chapter 1. Regulation 46 provides for the factors the Commissioners may take into account in considering whether they may give a secondary liability and assessment notice (under paragraph 2(1) of Schedule 9 to the Act).

Regulation 47 provides the form and manner of an application to revoke a secondary liability and assessment notice and the information that must be supplied.

Regulation 48 gives the definitions used in Part 7, Chapter 2. Regulation 49 provides for the factors the Commissioners may take into account in considering whether they may give a joint and several liability notice (under paragraph 10(1) of Schedule 9 to the Act).

Regulation 50 provides the form and manner of notifications and applications to revoke a joint and several liability notice and the information that must be supplied.

Regulation 51 requires the Commissioners to prescribe the form and manner for applications for group treatment. It also sets out the content of the declaration that must be made by the representative member.

Regulation 52 provides the form for other applications and notifications relating to group treatment.

Regulation 53 requires inaccuracies in an application or notification relating to group treatment to be corrected as prescribed by the Commissioners and sets out the date by which this must be done.

Regulation 54 provides that anything required to be done under the Act by a partnership or unincorporated body may be done in the name of that firm or body. This does not affect the legal responsibilities of partners or members etc. of unincorporated bodies.

Regulation 55 provides that anything required to be done by or under the Act is the joint and several responsibility of every partner, in the case of partnerships.

Regulation 56 sets out the treatment of partners where there has been a change in the membership of the partnership.

Regulation 57 sets out, for an unincorporated body other than a partnership, who will be held joint and severally responsible for anything required to be done by or under the Act.

Regulation 58 makes provision for the death, incapacity or insolvency of a person registered for the purposes of plastic packaging tax.

Regulation 59 provides for the position when a business is transferred as a going concern to another person.

A Tax Information and Impact Note covering this instrument was published on [\*\*\*\*] and is available on the website at [URL]