

Temporary Regulatory Position Statement

The Packaging Waste (Data Reporting) (Scotland) Regulations 2023

1. Background

- 1.1 On 28 February 2023 the Packaging Waste (Data Reporting) (Scotland) Regulations 2023 came into force in Scotland (the Data Reporting Regulations). The Data Reporting Regulations impose requirements on producers who are established in Scotland to collect data on the packaging they supply to others, and, in some cases, to report some of that information to the Scottish Environment Protection Agency (SEPA). These requirements do not apply to exempt packaging as defined in Regulation 12 of the Data Reporting Regulations.
- 1.2 This Temporary Regulatory Position Statement applies to:
- (i) large producers (as defined in the Data Reporting Regulations) who are subject to the packaging data reporting obligations under Regulation 17(1) as specified in Regulation 15(3)(b) and (5)(b)); and
 - (ii) operators of registered schemes (OS) (in terms of Regulation 20(1) of the Data Reporting Regulations).
- referred to in this Temporary Regulatory Position Statement as ‘a producer’.
- 1.3 It only relates to the requirement for a producer to submit:
- the first packaging data report to SEPA on or before 1st October 2023; and
 - the second packaging data report to SEPA on or before 1st April 2024.

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under Regulations 17(2), 17(3)(a) and 20(1) and in accordance with Regulation 17(1) of the Data Reporting Regulation

- 1.4 The Data Reporting Regulations were introduced to facilitate the reporting of information in advance of the new obligations for Packaging Extended Producer Responsibility coming into force under the main legislation (which will replace the Data Reporting Regulations). SEPA have adopted this Temporary Regulatory Position in recognition of the delay to the main legislation and the new obligations coming into force.
- 1.5 This Temporary Regulatory Position Statement will be published on our website.

2. SEPA Position

- 2.1 Subject to a producer complying in full with the conditions set out in Section 3 of this Temporary Regulatory Position Statement, any failure by that producer to comply with the regulatory packaging data reporting requirements referred to in paragraph 1.3 will not be treated by SEPA as a non-compliance for compliance assessment or enforcement purposes.
- 2.2 This Temporary Regulatory Position Statement only applies to those matters set out (a) in paragraph 1.3 and (b) covered by conditions set out in Section 3. It does not apply to any other regulatory requirements and does not detract from any other statutory requirements applicable under the Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (which remain in force) and the Data Reporting Regulations.

3. Conditions That Apply

Specific conditions

- 3.1 You must:
 - 3.1.1 submit the first packaging data report (in terms of Regulation 17(2) and/or Regulation 20(1)) containing the information listed in Regulation 17(1), on or before 31st May 2024; and

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- 3.1.2 submit the second packaging data report (in terms of Regulation 17(3)(a) and/or Regulation 20(1)) containing the information listed in Regulation 17(1), on or before 31st May 2024; and
- 3.1.3 submit the first and second packaging data reports to SEPA as two separate reports, and not as a single combined report.

General conditions

- 3.2 You must:
 - 3.2.1 notify SEPA in writing without delay if you cannot comply, or think you may not be able to comply, with the conditions of this Temporary Regulatory Position Statement.
 - 3.2.2 notify SEPA in writing as soon as possible if you cannot comply with any of the regulatory requirements referred to in paragraph 2.2 of this Temporary Regulatory Position Statement. Any correspondence should be emailed to producer.responsibility@sepa.org.uk
 - 3.2.3 keep written and dated records to show that you have complied with the conditions of this Temporary Regulatory Position for at least 7 years after the date on which the first and second packaging data reports are submitted to SEPA – these must be made available to SEPA on request.
- 3.3 This Temporary Regulatory Position Statement applies from 05 September 2023 until the date it is withdrawn.
- 3.4 The terms of this Temporary Regulatory Position Statement may be subject to periodical review and may be varied or withdrawn at any time.
- 3.5 SEPA reserves its discretion to depart from this Temporary Regulatory Position Statement and to take appropriate action as necessary.

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