

# CONSOLIDATED EXTENDED PRODUCER RESPONSIBILITY REGULATIONS

**DISCLAIMER:** Please note, this is Petco's consolidation of the relevant gazetted EPR regulations. If any errors are noticed, please report to [junaid.francis@petco.co.za](mailto:junaid.francis@petco.co.za)

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## Petco consolidated EPR regulations

The below document represents a consolidated view of all EPR regulations published in South Africa. It reflects government notice R 1184 (published in Government Gazette No. 43879 on the 05 November 2020), called *Regulations regarding Extended Producer Responsibility*, and government notice R 1187 (published in government Gazette No. 43882), called *Extended Producer Responsibility Scheme for Paper, Packaging and some Single Use Products*, amended as per government notice R20 (published in Government Gazette No. 44078 on the 15 January 2021), and R400 (published in Government Gazette No. 44539 on the 5 May 2021).

## Summary of South Africa's EPR regulations

**Producers** are integral to the successful implementation of EPR. According to the EPR regulations, Producers are obliged to:

- Register on the DFFE [South African Waste Information Centre \(SAWIC\)](#) by the 5<sup>th</sup> of November 2021.
- Either establish an EPR scheme or join an existing PRO where Producers will be accountable for the performance of the scheme.
- Conduct a life cycle assessment in relation to the identified product by November 2026.
- Develop a broad-based black economic empowerment charter by May 2023.
- Implement mandatory take back of identified products where relevant as well as implement environmental labels for identified products by November 2024.

**Producer Responsibility Organisations** are responsible for implementing EPR on behalf of their members. Their key responsibilities are noted as follows:

- Register on the DFFE [SAWIC website](#) by the 5<sup>th</sup> of November. Petco was registered on the 17<sup>th</sup> of May 2021 with registration number 19/7/5/P/PRO/20210517/001.
- Determine a fair EPR fee and ensure that this is publicly accessible on the PRO's website.
- Develop and maintain a register of all members and ensure this is publicly available.
- Contract for the collecting, recycling and recovery of identified products placed on the market by PRO members.
- Collaborate with municipalities by November 2024.
- Promote the empowerment of waste collectors, reclaimers and pickers by integrating them into the post-consumer value chain and compensating them for their services by November 2022.
- Keep record on behalf of members of all identified product placed on the market, collected, sorted, recycled and recovered and submit this to the SAWIC website.
- Develop and establish secondary markets for post-consumer products.
- Prioritise the promotion of small businesses and entrepreneurs with a special focus on women, youth and persons living with disabilities.
- Encourage cleaner production measures through product design with recyclability in mind as well as waste minimisation and waste avoidance in the production process.



## Contents

Petco consolidated EPR regulations.....	2
Summary of South Africa's EPR regulations.....	2
REGULATIONS REGARDING EXTENDED PRODUCER RESPONSIBILITY .....	4
1) Definitions .....	4
2) Purpose of the Regulations.....	5
3) Application of the Regulations .....	5
4) Registration of producers .....	6
5) Extended producer responsibility measures to be implemented by producers .....	6
5.A) Obligations of a producer responsibility organisation that establishes and implements an extended producer responsibility scheme .....	7
5.B) Obligations of a producer that establishes and implements its own scheme.....	8
6) Minimum requirements and criteria for extended producer responsibility schemes to operate ..	9
7) Financial arrangements for an extended responsibility scheme .....	9
7.A) Obligations of a producer that establishes and implements their own scheme .....	10
8) Monitoring, reporting and evaluation .....	11
9) Performance review of the extended producer responsibility scheme .....	13
10) Registration of producer responsibility organisations .....	13
11) Requirements and criteria for producer responsibility organisations to operate .....	13
12) Offences .....	14
13) Penalties .....	14
14) Short title and commencement.....	14
EXTENDED PRODUCER RESPONSIBILITY SCHEME FOR PAPER, PACKAGING AND SOME SINGLE USE PRODUCTS .....	15
1) Definitions .....	15
2) Purpose of the Notice .....	16
3) Scope of the Notice .....	17
4) The identification of a product or class of products to which extended producer responsibility applies .....	17
5) Identification of the person or category of persons responsible for developing and implementing an extended producer responsibility scheme.....	18
6) Responsibilities of producers .....	18
7) Targets for each identified waste stream for the products listed in paragraph 4 of this Notice	19
8) Annexure 1 .....	19
9) ABOUT PETCO .....	20



# REGULATIONS REGARDING EXTENDED PRODUCER RESPONSIBILITY

## 1) Definitions

In these Regulations any word or expression to which a meaning has been assigned in the Act bears that meaning and, unless the context otherwise indicates-

- "**brand owner**" means a person, category of persons or company who makes and/or sells any identified product under a brand label;
- "**circular economy**" means a regenerative system in which resource inputs and waste, emissions, and energy leakage are minimised by slowing, closing, and narrowing energy and material loops which can be achieved through long-lasting design, maintenance, repair, reuse, remanufacturing, refurbishing, and recycling and which is in contrast to a linear economy which is a 'take, make, dispose' model of production;
- "**collection**" means the gathering of an identified product at the end of its life, at the place of its generation or storage by a waste picker, collector or reclaimer or service provider;
- "**collection service fee**" means the agreed fee payable to the waste collectors, reclaimers or pickers through the extended producer responsibility scheme;
- "**cost recovery**" means the recovery of operational and maintenance costs of the producer responsibility organisations, i.e. costs related to the collection, storage and treatment of waste products, as well as the administrative and awareness raising costs of the producer responsibility organisations;
- "**department**" means the national Department responsible for the environment;
- "**extended producer responsibility**" means that a producer's responsibility for an identified product is extended to the post -consumer stage of an identified product's life cycle;
- "**extended producer responsibility scheme**" means a system that puts into effect obligations under which producers take accountability in implementing the extended producer responsibility;
- "**free rider**" means a producer who benefits from the actions or efforts of another producer, in relation to an extended producer responsibility scheme without fully complying with the requirements of the extended producer responsibility scheme;
- "**full cost**" means all the direct fixed and variable costs associated with the extended producer responsibility scheme on waste collection, storage, treatment and some administration and awareness raising costs;
- "**identified products**" means products that are identified in terms of section 18(1)(a) of the Act and published in the Government Gazette by the Minister;



- **"importer"** means a person or category of persons who brings identified products or items that contain identified products into the country from abroad and including but not limited to the one that first places them into the market for sale;
- **"interim performance report"** means a report to be submitted for the period 1 January until 30 June;
- **"nett cost"** means the full cost less the revenue from the sales of the collected material;
- **"producer"** means any person or category of persons, including a brand owner, who is engaged in the commercial manufacture, conversion, refurbishment (where applicable) or import of new or used identified products as identified by the Minister by Notice in the Government Gazette in terms of section 18(1) of the Act, and a producer includes, where relevant, the same as defined in the specific section 18 Notice for each of the identified products as gazetted by the Minister in terms of section 18(1) and (2) of the Act;
- **"producer responsibility organisation"** means a non-profit organisation established by producers or any person operating in any of the industrial sectors covered in the Notices published in terms of the Act to support the implementation of their extended producer responsibility scheme and may represent either individual or collective producers;
- **"small business"** carries the meaning as defined in National Small Business Act, 1996 (Act No. 102 of 1996);
- **"waste picker"** means a person who collects identified products from residential and commercial waste bins, landfill sites and open spaces in order to revalue them and generate an income; and
- **"the Act"** means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

## 2) Purpose of the Regulations

The purpose of these regulations is-

- 1) to provide the framework for the development, implementation, monitoring and evaluation of extended producer responsibility schemes by producers in terms of section 18 of the Act;
- 2) to ensure the effective and efficient management of the identified product at the end of its life; and
- 3) to encourage and enable the implementation of the circular economy initiatives.

## 3) Application of the Regulations

These Regulations-

- 1) apply to the identified products in terms of section 18(1)(a) of the Act and to the producers of those identified products published in the Government Gazette by the Minister;



- 2) apply to the identified products in terms of section 18(1)(a) of the Act and to the producers of those identified products published in the Government Gazette by the Minister, that were placed on the market prior to these Regulations coming into effect; and
- 3) do not apply to the identified products in terms of section 18(1)(a) of the Act and to the producers of those identified products published in the Government Gazette by the Minister, to that portion which is exported only or that produce the identified products for export purposes only.

#### 4) Registration of producers

- 1) All existing producers of identified products, at the time these Regulations come into effect, **must register with the department within 6 months of the publication** of the Government Notice in the Government Gazette in terms of section 18(1) of the Act by completing the online registration process accessible via the South African Waste Information Centre website ([www.sawic.environment.gov.za](http://www.sawic.environment.gov.za));
- 2) All new producers of identified products, who commence producing after these Regulations come into effect, must register with the department within 3 months of being established, by completing the online registration process accessible via the South African Waste Information Centre website ([www.sawic.environment.gov.za](http://www.sawic.environment.gov.za)).
- 3) The department must consider all producer registration application forms and issue a registration number for each producer that has submitted such form, **within 30 days of receipt** of a form in which all sections are correctly completed.

#### 5) Extended producer responsibility measures to be implemented by producers

- 1) The producer of a product or class of products, as identified by the Minister in terms of section 18(1) of the Act must—
  - a) establish and implement an extended producer responsibility scheme that includes the entire value chain or join another extended producer responsibility scheme that includes the entire value chain or appoint a producer responsibility organisation to establish and implement an extended producer responsibility scheme that includes the entire value chain;
  - b) be accountable for the operation and performance of their extended producer responsibility scheme;
  - c) conduct a life cycle assessment, in relation to the identified product, in accordance with the applicable standards within 5 years of implementation of their extended producer responsibility scheme;
  - d) through the life cycle assessment as a minimum focus on the following:
    - i. Minimisation of material used in the identified product;
    - ii. Design of the product to facilitate reuse; recycling or recovery, without compromising the functionality of the product; and
    - iii. Reduction of environmental toxicity of the resulting post -consumer waste stream;
  - e) collaborate as producers of an identified product and in consultation with the Department responsible for Trade, Industry and Competition , to develop a broad-based black economic empowerment transformation charter with targets, timelines and implementation measures, within two years of the publishing of the Notice, which transformation charter must comply with section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 (Act 53 of 2003) and must include a special focus on women, youth and people living with disabilities;
  - f) where specified in the section 18(1) Notices, implement mandatory take back of their identified products at the end of their lives; and



- g) implement environmental labels and declaration for the identified products in accordance with SANS 14021 and SANS 14024 within a period of 3 years.

## **5.A) Obligations of a producer responsibility organisation that establishes and implements an extended producer responsibility scheme**

- 1) The producer responsibility organisation must-
  - a) develop and maintain a system to collect the extended producer responsibility fees;
  - b) conduct internal biannual financial audits and make these audit reports available to the department upon request;
  - c) make the internal biannual audit reports available to the external auditor;
  - d) appoint an independent financial auditor to annually-
    - i. conduct an external audit of the financial records; and
    - ii. include the internal biannual audit findings in the annual audit report;
  - e) submit this annual audit report to the Department within 60 days after finalisation of the audit, which annual audit report will be uploaded onto the South African Waste Information Centre (SAWIC) for public access;
  - f) develop and maintain a register of its members, in the event that the scheme has two or more members;
  - g) collect, record, manage and submit data to the South African Waste Information System as required in regulation 8 of these Regulations;
  - h) by agreement with the board of directors, contract with the existing downstream value chain before outsourcing;
  - i) contract for the collection, recycling and recovery of the identified products, if outsourced, through a fair and transparent process;
  - j) keep records of the quantity of identified products:
    - i. placed on the market by members of the producer responsibility organisation;
    - ii. collected;
    - iii. sorted;
    - iv. recycled; and
    - v. recovered;
  - k) manage services that have been awarded to service providers in particular, these services include the fulfilment of collection and recycling by waste management companies;
  - l) co-operate with all municipalities (where applicable), within 3 years of implementation of their extended producer responsibility scheme, to increase the recovery of identified products from municipal waste;
  - m) integrate informal waste collectors, reclaimers and pickers into the post-consumer collection value chain;
  - n) develop and establish secondary markets for recycled content;
  - o) utilise new and existing infrastructure across extended producer responsibility schemes in a collaborative manner where feasible, or establish and operate new infrastructure within 3 years after completion of feasibility studies, where the initial feasibility study must be undertaken within 2 years of implementation of the extended producer responsibility scheme, that identifies the need for additional infrastructure;
  - p) compensate waste collectors, reclaimers or pickers, who register with the National Registration Database, for collection services and environmental benefits, through the collection service fee by November 2022. The collection service fee and the National Registration Database shall be reviewed annually by the national Department responsible for Environmental Affairs;





- q) implement transformation within those entities with whom they contract, with a special focus on women, youth and persons living with disabilities; and
- r) prioritise the promotion of small businesses and entrepreneurs with a special focus on women, youth and persons living with disabilities.

## **5.B) Obligations of a producer that establishes and implements its own scheme**

- 1) The producer that establishes and implements their own scheme must –
  - a) allocate funding for implementation of the extended producer responsibility scheme;
  - b) conduct internal biannual financial audits and make these audit reports available to the department upon request;
  - c) make the internal biannual audit reports available to the external auditor;
  - d) appoint an independent financial auditor to annually:
    - i. conduct an external audit of the financial records; and
    - ii. include the internal biannual audit findings in the annual audit report;
  - e) submit this annual audit report to the Department within 60 days after finalisation of the audit, which annual audit report will be uploaded onto the South African Waste Information Centre (SAWIC) for public access;
  - f) collect, record, manage and submit data to the South African Waste Information System as required in regulation 8 of these Regulations;
  - g) where external services are required, contract with the existing downstream value chain before outsourcing, where the value chain comprises the collection of the identified products, sorting and processing thereof;
  - h) where external services are required, contract for the collection, recycling and recovery of the identified products, if outsourced, through a fair and transparent process;
  - i) keep record of quantity of identified products:
    - i. placed on the market by the producer;
    - ii. collected;
    - iii. sorted;
    - iv. recycled; and
    - v. recovered;
  - j) manage services that have been awarded to service providers in particular, these services include the fulfilment of collection and recycling by waste management companies;
  - k) co-operate with all municipalities (where applicable), within 3 years of implementation of their extended producer responsibility scheme, to increase the recovery of identified products from municipal waste;
  - l) integrate informal waste collectors, reclaimers and pickers into the post-consumer collection value chain;
  - m) develop and establish secondary markets for recycled content;
  - n) utilise new and existing infrastructure across extended producer responsibility schemes in a collaborative manner where feasible, or establish and operate new infrastructure within 3 years after completion of feasibility studies, where the initial feasibility study must be undertaken within 2 years of implementation of the extended producer responsibility scheme, that identifies the need for additional infrastructure;
  - o) prioritise the promotion of small businesses and entrepreneurs with a special focus on women, youth and persons living with disabilities;
  - p) compensate informal waste collectors, reclaimers and pickers, who register with the National Registration Database, for collection services and environmental benefits, through the





collection service fee by November 2022. The collection service fee shall be reviewed annually by the Department of Environment, Forestry, and Fisheries; and

- q) implement transformation within those entities with whom they contract, with a special focus on women, youth and persons living with disabilities.

## **6) Minimum requirements and criteria for extended producer responsibility schemes to operate**

The extended producer responsibility scheme contemplated in these Regulations must as a minimum include requirements for—

- 1) cleaner production measures that must include as a minimum but not limited to—
  - a) design for recyclability; and
  - b) waste minimisation and waste avoidance;
- 2) waste reduction including as a minimum but not limited to –
  - a) composition of products; or
  - b) volume of products; or
  - c) weight of products to be restricted and reduced with associated timeframes;
- 3) reuse;
- 4) recycling;
- 5) recovery for beneficial use;
- 6) treatment;
- 7) disposal;
- 8) implementation and reporting on the following instruments to complement the scheme—
  - a) minimum recycled content standards;
  - b) secondary materials utilisation rate requirements; and
  - c) recovery rates; and
- 9) compliance with the requirements for programmes planned to contribute to government priorities, including but not limited to-
  - a) job creation; and
  - b) inclusive economic growth.

## **7) Financial arrangements for an extended responsibility scheme**

- 1) The producer responsibility organisation that establishes and implements an extended producer responsibility scheme must, together with its members, determine the proposed extended producer responsibility fee and apply the extended producer fee proportionally to all members based on the identified products placed on the market.
- 2) The proposed extended producer responsibility fee must be submitted electronically to the Minister, including the motivation, justification and any other relevant information, who must obtain concurrence on the proposed extended producer responsibility fee from the Minister responsible for finance within 60 days of submission.
- 3) The extended producer responsibility fee must be based on nett cost recovery including a differentiated rate per item category, of each product or class of product, which must be paid by a producer to fund extended producer responsibility schemes and be dependent on the following:
  - a) weight of product;
  - b) ease of recyclability;
  - c) current demand for the material for recycling purposes;
  - d) costs for establishing a collection system for the identified products;
  - e) collection, transport, storage and treatment costs for separately collected waste;



- f) administrative costs;
  - g) costs for public communication and awareness raising (on waste prevention, litter reduction, separate collection, etc.);
  - h) costs for the appropriate surveillance of the system (including auditing); and
  - i) less revenues from recycled material sales.
- 4) The latest extended producer responsibility fee must, at all times, be publicly available on the website of the producer responsibility organisation.
- 5) The producer responsibility organisation that establishes and implements an extended producer responsibility scheme must submit, to the department, an annual financial plan and an annual budget –
- a) within 60 days of implementation for the first year of implementation or within 60 days of implementation, in the event that implementation occurs after 30 June in the first year, for the following year; and
  - b) by 30 November for the following year.
- 6) The annual financial plan and annual budget must include, as a minimum, the following information:
- a) Estimated revenue (extended producer responsibility fees) from the various product streams;
  - b) The manner in which the contributions (extended producer responsibility fees) are calculated and assessed;
  - c) the total amount of the contributions (extended producer responsibility fees) that cover the nett cost of the obligations incumbent on the producer responsibility organisation applying for registration;
  - d) The revenue collection method for each product stream;
  - e) The conditions and procedures for revising the contributions to reflect changes in the obligations incumbent on the registered producer under this Regulations; and
  - f) The methodology for allocating and disbursing revenue for implementing the extended producer responsibility scheme amongst the collection, waste minimisation, recycling, waste reuse and any other relevant component of the extended producer responsibility scheme.
- 7)
- a) The administration cost of the EPR scheme will be limited to the following:
    - i. Salaries of the producer responsibility organisation staff;
    - ii. Overhead costs (utilities and rent); and
    - iii. Information Technology and Systems.
  - b) The administration cost of the extended producer responsibility scheme must not exceed –
    - i. 20% of the revenue collected in calendar year 1 of implementation;
    - ii. 15% of the revenue collected in calendar year 2 of implementation; and
    - iii. 12% of the revenue collected in calendar year 3 of implementation.
  - c) The administration fee must be reviewed in calendar year 3 of implementation and annually thereafter, and a Notice must be published in the Government Gazette by the Minister determining the administration fee for extended producer responsibility schemes.

## **7.A) Obligations of a producer that establishes and implements their own scheme**

- 1) The producer that establishes and implements their own scheme must determine and allocate appropriate extended producer responsibility funding, which will hereafter be referred to as an extended producer responsibility fee, and resources to ensure an effective extended producer responsibility scheme;



- 2) The proposed extended producer responsibility fee, including the motivation, justification and any other relevant information, must be submitted electronically to the Minister who may obtain concurrence on the proposed extended producer responsibility fee from the Minister responsible for finance within 60 days of submission.
- 3) The extended producer responsibility fee must be equal to:
  - a) costs for establishing a collection system for the identified products; plus
  - b) collection, transport and treatment costs for separately collected waste; plus
  - c) administrative costs; plus
  - d) costs for public communication and awareness- raising (on waste prevention, litter reduction, separate collection, etc.); plus
  - e) costs for the appropriate surveillance of the system (including auditing); and
  - f) less revenues from recycled material sales;
- 4) The latest extended producer responsibility fee must, at all times, be publicly available on the Producer's website.
- 5) The producer that establishes and implements their own scheme must submit, to the department, an annual financial plan and an annual budget-
  - a) within 60 days of implementation for the first year of implementation or within 60 days of implementation, in the event that implementation occurs after 30 June in the first year, for the following year; and
  - b) by 30 November for the following year.
- 6) The annual financial plan and annual budget must include, as a minimum, the following information:
  - a) Extended producer responsibility fee allocation;
  - b) The manner in which the extended producer responsibility fee is calculated;
  - c) The total amount of the contributions (extended producer responsibility fees) that cover the nett cost of the obligations incumbent on the producer applying for registration;
  - d) The conditions and procedures for revising the extended producer responsibility fee to reflect changes in the obligations incumbent on the registered producer under this Regulation; and
  - e) The methodology for allocating and disbursing revenue for implementing the extended producer responsibility scheme amongst the collection, recycling, reuse and any other relevant component of the extended producer responsibility scheme.

## 8) Monitoring, reporting and evaluation

- 1) The following are the requirements for a producer responsibility organisation that implements an extended producer responsibility scheme:
  - a) The producer responsibility organisation that establishes and implements their own scheme must submit an interim performance report on the scheme measured against the individual targets in the relevant published Government Notice in terms of Section 18(1) of the Act.
  - b) The interim performance report must be submitted to the Department within four weeks of the conclusion of the 6 months period namely January to June of the calendar year, by the producer responsibility organisation, and the interim performance report must include the following but is not limited to:
    - i. Unaudited interim performance against the published targets;
    - ii. Unaudited breakdown of the allocation of the extended producer responsibility fee; and
    - iii. Unaudited performance on all finance matters.
  - c) Annual performance audit reports must be submitted to the Department within 3 months of the conclusion of the year end, which is on 31 December.



- d) An annual external performance audit report must be submitted to the Department containing the following minimum requirements:
    - i. Performance against the published targets;
    - ii. Breakdown of the allocation of the extended producer responsibility fee;
    - iii. Performance on all finance matters;
    - iv. Governance report; and
    - v. Number of jobs created.
  - e) All producer responsibility organisation that establishes and implement their own scheme and a producer who establish and implement their own scheme must record and report, as a minimum on an annual basis, to the South African Waste Information System the quantities of the identified product that are:
    - i. placed on the market by members of the producer responsibility organisation or by the producers who implement their own scheme;
    - ii. collected;
    - iii. diverted away from landfill (recycled, reused, recovered, refurbished);
    - iv. exported;
    - v. landfilled; and
    - vi. number of jobs created.
  - f) The Department may conduct verification audit on the obligations of the producer responsibility organisations.
  - g) In year 1 of implementation of these Regulations, the following will apply:
    - i. For subregulation (1)(a) and (b), the period will be from the date of business commencement until end June of the calendar year;
    - ii. Subregulation (1)(a) and (b) will not be applicable in the event business commencement occurs after June of the calendar year; and
    - iii. For subregulation (1)(c), (d) and (e), the period will be from the date of business commencement until December of the calendar year.
- 2) The following are the requirements for a producer that establishes and implements their own scheme:
- a) The producer that establishes and implements their own scheme must submit an interim performance report on the scheme measured against the individual targets in the relevant published Government Notice in terms of Section 18(1) of the Act.
  - b) The interim performance report must be submitted to the Department within four weeks of the conclusion of the 6 month period, namely January to June of the calendar year, by the producer.
  - c) The interim performance report must include only:
    - i. Unaudited interim performance against the published targets;
    - ii. Unaudited breakdown of the allocation of the extended producer responsibility fee; and
    - iii. Unaudited performance on all finance matters.
  - d) Annual external performance audit reports must be submitted to the Department within 3 months of the conclusion of the year end, which is on 31 December.
  - e) An annual external performance audit report must be submitted, by the producer, to the department containing the following minimum requirements:
    - i. Performance against the published targets;
    - ii. Breakdown of the allocation of the extended producer responsibility fee;
    - iii. Performance on all finance matters; and
    - iv. Number of jobs created.



- f) The producer that establishes and implements their own scheme must record and report, as a minimum on an annual basis, to the South African Waste Information System the quantities of the identified product that are:
  - i. placed on the market by the producer;
  - ii. collected;
  - iii. diverted away from landfill (recycled, reused, recovered, refurbished);
  - iv. exported;
  - v. landfilled; and
  - vi. number of jobs created.
- g) The Department may conduct verification audits on the obligations of the producer.
- h) In year 1 of implementation of these Regulations, the following will apply:
  - i. For subregulation (2)(a), (b) and (c), the period will be from the date of business commencement until end June of the calendar year;
  - ii. Subregulation (2)(a), (b) and (c) will not be applicable in the event business commencement occurs after June of the calendar year; and
  - iii. For subregulation (2)(d), (e) and (f) the period will be from the date of business commencement until December of the calendar year.

## **9) Performance review of the extended producer responsibility scheme**

- 1) Performance of the extended producer responsibility scheme must be reviewed at 5-year intervals by the Department.
- 2) The Department may at any time review the extended producer responsibility scheme based on its performance.
- 3) Producer responsibility organisations or the producer that establishes and implements their own scheme may approach the Department for an earlier review due to non-achievement or over-achievement of targets.

## **10) Registration of producer responsibility organisations**

- 1) All existing producer responsibility organisations must register with the Department within 6 months of the publication of these Regulations in the Government Gazette by completing the prescribed form from the Department.
- 2) All newly established producer responsibility organisations, after the coming into effect of these regulations, must register with the Department within 3 months of being established by completing the prescribed form from the Department.

## **11) Requirements and criteria for producer responsibility organisations to operate**

- 1) The department may only register a producer responsibility organisation if such organisation meets the minimum requirements contemplated in subregulation (2).
- 2) A producer responsibility organisation-
  - a) must be an autonomous body established by producers by following a due process,
  - b) must be a registered not-for-profit company;
  - c) must be managed by a board of directors comprised of representatives from producers; and
  - d) adhere to the Companies Act 2008 (Act No. 71 of 2008) in terms of good corporate governance and management of conflicts of interest.



## **12) Offences**

- 1) A person commits an offence if that person contravenes or fails to comply with regulations 4(1) and (2), 5, 5A, 5B, 6, 7(1), 7(2), 7(3), 7(4), 7(5), 7(6), 7(7), 7A, 8(1)(a), 8(1)(b), 8(1)(c), 8(1)(d), 8(1)(e), 8(2)(a), 8(2)(b), 8(2)(c), 8(2)(d), 8(2)(e), 9(3), 10 or 11 of these Regulations.
- 2) A producer responsibility organisation commits an offence if that producer responsibility organisation contravenes or fails to comply with regulations 4(1) and (2), 5, 5A, 5B, 6, 7(1), 7(2), 7(3), 7(4), 7(5), 7(6), 7(7), 7A, 8(1)(a), 8(1)(b), 8(1)(c), 8(1)(d), 8(1)(e), 8(2)(a), 8(2)(b), 8(2)(c), 8(2)(d), 8(2)(e), 9(3), 10 or 11 of these Regulations.

## **13) Penalties**

- 1) A person convicted of an offence under these Regulations is liable to:
  - a) imprisonment for a period not exceeding 15 years;
  - b) an appropriate fine; or
  - c) both a fine and imprisonment.
- 2) A registered producer who does not comply with these Regulations may have their registration as contemplated in these Regulations revoked and/or be compelled to join another extended producer responsibility scheme.
- 3) A registered producer responsibility organisation that does not comply with the requirements as contemplated in these Regulations may have their registration revoked.

## **14) Short title and commencement**

These Regulations are called the Extended Producer Responsibility Regulations, 2020, and come into effect on 5 May 2021.



# EXTENDED PRODUCER RESPONSIBILITY SCHEME FOR PAPER, PACKAGING AND SOME SINGLE USE PRODUCTS

## 1) Definitions

In this notice any word or expression to which a meaning has been assigned in the Act and in the Extended Producer Responsibility Regulations, 2020, bears that meaning, and unless the context indicates otherwise-

- **“biodegradable products”** mean products that degrade by biological activity, resulting in a specific change in the chemical structure of the material. Degradation can occur under aerobic or anaerobic conditions. The end products are gas (carbon dioxide or methane), water, biomass and mineral components;
- **“brand owner”** means a person, category of persons or company who makes and/or sells any identified product under a brand label;
- **“compostable products”** mean a group of biodegradable products that break down in an aerobic composting process through the actions of naturally occurring microorganisms and do so to a high extent within a specified timeframe. The biological processes yield carbon dioxide, water, inorganic compounds and biomass, leaving no visible contaminants or toxic residue;
- **“extended producer responsibility”** means that a producer’s responsibility for an identified product is extended to the post-consumer stage of an identified product’s life cycle;
- **“importer”** means a person or category of persons that brings identified products or items that contain identified products into the country from abroad and including but not limited to the one that first places them into the market for sale;
- **“packaging”** means any material, container or wrapping or corrugated cases, used for the containment, transport, handling, protection, promotion, marketing or sale of any products or substance, which may be primary packaging, containing the actual product or secondary packaging or tertiary packaging, typically containing products already packaged in primary packaging, but excludes-
  - a) shipping containers used solely for the transportation of any consumer commodity in bulk to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;
  - b) packaging made of timber and textile; and
  - c) plastic pallets and industrial bulk containers with a capacity exceeding 1000 litres;
- **“paper”** means any substance made from wood pulp, rags, straw, or other fibrous material used for writing, printing or as a wrapping material;
- **“pre-consumer materials”** means materials diverted from the waste stream during a manufacturing process, excluding materials, such as rework, regrind or scrap generated in a process, capable of being reclaimed within the same process that generated them and which are reutilized;





- **"post-consumer material"** means material generated by households or by commercial, industrial and institutional facilities in their role as end-users of the product which can no longer be used for its intended purpose. This includes returns of material from the distribution chain;
- **"producer"** means the entity, person or category of persons identified by the Regulations as being responsible for extended producer responsibility in terms of Section 18. Producers who place in excess of 10 tonnes of identified products onto the market on an annual basis, responsible for extended producer responsibility under the regulations shall be identified subject to the following criteria:
  - a) In the case where branded goods, either are identified products or are sold accompanied by or within identified products and the registered owner of the brand operates an enterprise, domiciled in South Africa, that makes and/or sells such goods, the producer shall be the paper, packaging and single use product manufacturer, converter and/or the brand owner.
  - b) In the case where branded goods, either are identified products or are sold accompanied by or within identified products and the registered owner of the brand does not operate or have a controlling interest in an enterprise domiciled in South Africa, that makes and or /sells such goods, the Producer shall be either –
    - i. the licensed agent of the branded goods, or
    - ii. where no official agency agreement may be in place, the importer of the branded goods as depicted on the Bill of Lading;
  - c) In the case of all other identified products not covered by subparagraphs (i) and (ii) the producer shall be the Retailer;
- **"recycled content"** means the proportion, by mass, of post-consumer recycled material in a product or packaging excluding any pre-consumer waste;
- **"recyclate"** means post-consumer waste or material used for recycling purposes;
- **"single-use products"** means items/materials designed to be commonly used for products or packaging and include items intended to be used only once before they are thrown away or recycled and could be made from any material;
- **"the Act"** means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008); and
- **"the Regulations"** means the Extended Producer Responsibility Regulations, 2020, issued under section 69(1)(b), (g), (i), (l), (o), (dd) and (ee) of the Act.

## 2) Purpose of the Notice

- 1) The purpose of this Notice is to require a producer of products or class of products listed in paragraph 4 of this Notice to set up procedures, processes and invest resources to implement the extended producer responsibility measures linked to-
  - a) collection of their products in the post-consumer stage;
  - b) reuse;
  - c) recycling;
  - d) recovery; and
  - e) disposal of their products in the post-consumer stage.



- 2) This Notice must be read in conjunction with the Extended Producer Responsibility Regulations, 2020, published in the Government Gazette by the Minister.

### 3) Scope of the Notice

This Notice applies to the following identified products at the end of their life –

- 1) paper & paper packaging material;
- 2) plastic packaging;
- 3) biodegradable and compostable packaging;
- 4) single-use products;
- 5) single-use compostable products;
- 6) single-use biodegradable products;
- 7) glass packaging; and
- 8) metal packaging containers; but excludes
- 9) plastic carrier bags and plastic flat bags

### 4) The identification of a product or class of products to which extended producer responsibility applies

- 1) Extended producer responsibility applies to the following identified products or class of products:
  - a) Paper & paper packaging material:
    - i. Liquid board packaging – filled and unfilled;
    - ii. Paper packaging;
    - iii. Paper packaging boards – unprinted;
    - iv. Paper packaging boards – printed;
    - v. Paper – corrugated case materials;
    - vi. Paper, including but not limited to (cardboard);
    - vii. Laminated, printing and writing paper;
    - viii. Plastic coated paper;
    - ix. Labels; and
    - x. Paper sack.
  - b) Plastic packaging (both printed and unprinted):
    - i. Type 2,4,5, Polyolefin – rigid;
    - ii. Type 2,4,5 Polyolefin – flexible;
    - iii. PolyEthylene Terephthalate (PET) – rigid;
    - iv. PolyEthylene Terephthalate (PET) – flexible/strapping;
    - v. Polystyrene (including expanded polystyrene protective packaging and high impact polystyrene packaging);
    - vi. Poly Vinyl Chloride (PVC) (Resin Code 3)
    - vii. Vinyls (rigid and flexible); and
    - viii. Other (multilayer plastic packaging including those with residue code 7).
  - c) Biodegradable and compostable packaging (approved compostable raw materials complying to relevant SABS and/or ISO standards 17088).
  - d) Single use products:
    - i. Films/Flexibles: agricultural mulch films, garbage bags, pallet wrap;
    - ii. Injection moulded products: cups, tubs, cutlery (knives, forks, and spoons), stirrers;
    - iii. Blow moulded products: bottles, containers, jars;
    - iv. Extruded products: straws, sheets; and



- v. Thermoformed products: trays, punnets, cups, various packaging.
- e) Single use compostable products:
  - i. Compostable Films/Flexibles: agricultural mulch films, garbage bags, pallet wrap;
  - ii. Compostable Injection moulded products: cups, tubs, cutlery (knives, forks, and spoons), stirrers;
  - iii. Compostable Blow moulded products: bottles, containers, jars;
  - iv. Compostable Extruded products: straws, sheets; and
  - v. Compostable products: trays, punnets, cups, various packaging.
- f) Single use biodegradable products:
  - i. Biodegradable Films/Flexibles: agricultural mulch films, garbage bags, pallet wrap;
  - ii. Biodegradable Injection moulded products: cups, tubs, cutlery (knives, forks, and spoons), stirrers;
  - iii. Biodegradable Blow moulded products: bottles, containers, jars;
  - iv. Biodegradable Extruded products: straws, sheets; and
  - v. Biodegradable products: trays, punnets, cups, various packaging.
- g) Glass packaging:
  - i. Glass (Bottles and Jars); and
- h) Metal packaging including:
  - i. Tinplate (Ferrous); and
  - ii. Aluminium (non-Ferrous).

## **5) Identification of the person or category of persons responsible for developing and implementing an extended producer responsibility scheme**

Producers of the items listed in paragraph 4 of this Notice will be responsible for developing and implementing an extended producer responsibility scheme.

## **6) Responsibilities of producers**

- 1) A producer, in operation at the time of the commencement of this Notice in the Gazette, of any of the products listed in paragraph 4 of this Notice, must on or before 5 November 2021, either-
  - a) develop and submit an extended producer responsibility scheme to the Minister; or
  - b) establish a producer responsibility organisation which must prepare and submit an extended producer responsibility scheme to the Minister.
- 2) A producer of any of the products listed in paragraph 4 of this Notice that commences operations after publication of this Notice in the Gazette must either-
  - a) develop and submit an extended producer responsibility scheme according to the Extended Producer Responsibility Regulations, 2020, to the Department within 6 months of commencing operations; or
  - b) subscribe to an existing extended producer responsibility scheme within 3 months of commencing operations.



## 7) Targets for each identified waste stream for the products listed in paragraph 4 of this Notice

The targets for each identified waste stream for the products as contained in Annexure 1 to this Notice apply for a period of 5 years from the date of the implementation of the extended producer responsibility scheme.

## 8) Annexure 1

Product or class of Products	Year	Product Design (recycled content) [%]	Collection Target [%]	Recycling Target [%]
PET Beverage bottles	1	10	60	54
	2	12.5	64	58
	3	13	66	59
	4	15	68	61
	5	20	70	65
PET Oil bottles	1	0	7	6
	2	0	13	12
	3	0	25	23
	4	0	32	29
	5	0	39	35
Thermoformed PET	1	0	9	8
	2	0	13	12
	3	0	19	17
	4	0	27	24
	5	0	35	30
PET (Flexible)	1	50	10	9
	2	55	20	18
	3	60	30	27
	4	70	40	36
	5	80	50	45
Polyolefins Rigid polyolefin packaging	1	0	55	39
	2	0	57	42
	3	0	60	45
	4	0	61	48
	5	0	64	52
Polyolefin (flexible)	1	0	58	44
	2	0	60	46
	3	0	62	48
	4	0	64	50
	5	0	66	52
Single use Products (HDPE, PET & PP)	1	8	60	30
	2	12	65	35
	3	14	70	40
	4	17	75	45
	5	20	80	50



## 9) ABOUT PETCO

Petco Producer Responsibility Organisation NPC is a Producer Responsibility Organisation (PRO), incorporated in 2004, that administers Extended Producer Responsibility (EPR) schemes on behalf of its members for various identified products in the packaging sector. Petco serves as a national organisation responsible for driving recycling activities, unlocking the collection and recycling value chain, guiding product design, stimulating end-use markets for recycled material, carrying out education and awareness initiatives and building the required local recycling infrastructure and capacity.

Petco is a collective organisation, set up and owned by our producer members to fulfil their extended producer responsibility obligations, by taking accountability for their products throughout its entire life cycle, as mandated by Section 18 of the National Environmental Management: Waste Act. Petco is committed to driving change towards a circular economy in South Africa's packaging industry.

### CONNECT WITH US

Petco has registered as a PRO on the DFFE SAWIC website on the 17<sup>th</sup> of May 2021 with registration number 19/7/5/P/PRO/20210517/001.

To sign up as a member with Petco, please contact [junaid.francis@petco.co.za](mailto:junaid.francis@petco.co.za)

To follow us on social media:

<b>Call toll free:</b>	011 615 8875 (JHB)/ 021 794 6300 (CPT)
<b>Website:</b>	<a href="http://www.petco.co.za">www.petco.co.za</a>
<b>Facebook:</b>	Petco.Official
<b>X:</b>	Petco.Official
<b>Instagram:</b>	petco.official
<b>YouTube:</b>	Petco.Official
<b>LinkedIn:</b>	petco-official

