

Original version including Producer Responsibility Organisations

National Environmental (Extended Producer Responsibility) Regulations, No. ... of 2024

1. These Regulations may be cited as the National Environmental (Extended Producer Responsibility) Regulations, No. ... of 2024.

2. In these regulations unless the context otherwise requires-

“Authority” means the Central Environmental Authority established in terms of the National Environmental Act;

“collective EPR Compliance Scheme” means producers collectively carrying out their extended producer responsibility obligations in a Producer Responsibility Organisation;

“deposit refund system” means a collection system that requires a monetary deposit on a product at the point of sale where consumers redeem the deposit when they return the product. It shall also be referred to as DRS in these regulations;

“extended producer responsibility” means an environmental management approach in which a producer’s responsibility for a product is extended to the post-consumer stage of a product life cycle. It shall also be referred to as EPR in these regulations;

“packaging” means the material in which an item for sale is enclosed, wrapped or covered with at the point of sale, while being displayed for sale, or while being transported or stored for the purpose of sale in order to protect such item or to prevent it from being contaminated or for purposes of marketing. Packaging shall also be considered a product for the purpose of these regulations;

“producer” means a person or an entity that introduces products and packaging set out in the First Schedule to these regulations into the market in Sri Lanka through manufacturing, importing, distributing, converting, selling or re-selling or offering for sale or otherwise;

“producer responsibility organisation” means a producers membership organization set up to assume the obligation to give effect to the extended producer responsibility on behalf of its members in a collective EPR Compliance Scheme. It shall also be referred to as PRO in these regulations;

3. (1) Every producer that introduces products and packaging listed in the First Schedule to these Regulations into the market in Sri Lanka through manufacturing, importing, distributing, converting, re-packing, selling or re-selling or offering for sale or otherwise is subject to, the extended producer responsibility of reducing the pollution and the environmental and health impacts of the products and packaging that are so introduced into the market by meeting the compliance targets set out in the Second Schedule.

(2) In order to fulfill its extended producer responsibility, the producer shall set up an individual EPR Compliance Scheme or collective EPR Compliance Scheme(s) or join collective EPR Compliance Scheme(s) approved by the Authority and registered in terms of these regulations.

(3) An EPR Compliance Scheme may include post-consumer collection and take back schemes which may include a deposit refund system.

4. (1) No producer shall introduce into the market in Sri Lanka and / or continue to allow to remain in the market in Sri Lanka any one or more products or packaging listed in the First Schedule of these Regulations unless such producer has obtained extended producer responsibility registration from the Authority having complied with these regulations, subject to the provisions of regulation 4 (2).

- (2) A producer with existing product(s) or packaging listed in the First Schedule of these Regulations in the market in Sri Lanka at the time these regulations come into force shall obtain extended producer responsibility registration from the Authority and be in compliance with these regulations within six months of these regulations coming into force.
- (3) A producer shall apply to the Authority for extended producer responsibility registration by making an application in the manner and form set out for that purpose by the Authority and be subject to the payment of the fee determined for such purpose by the Authority.
5. An EPR Compliance Scheme shall apply to the Authority for EPR compliance scheme registration by making an application in the manner and form set out for that purpose by the Authority and shall be subject to the payment of the fee determined for such purpose by the Authority.
6. (1) An individual EPR Compliance Scheme shall be approved by the Authority initially for a maximum period of three years and thereafter renewed for a period not exceeding three years at a time where the Authority is satisfied that the individual EPR Compliance Scheme demonstrates proof of operational, technical, managerial and financial capacity to meet the EPR obligations of the producer.
- (2) A collective EPR Compliance Scheme shall be approved by the Authority initially for a maximum period of three years and thereafter renewed for a period not exceeding three years at a time where the Authority is satisfied that the collective EPR Compliance Scheme demonstrates proof of operational, technical, managerial and financial capacity to meet the EPR obligations of its members.
7. The Authority shall issue each approved EPR Compliance Scheme a Certificate of Registration.
8. Every approved EPR Compliance Scheme shall submit to the Authority, a two-year operating plan in order to achieve the compliance targets set out in the Second Schedule. The two-year operating plan shall comply with the format set out for that purpose by the Authority and shall include matters that may be determined by the Authority by way of guidelines.
9. (1) Where the Authority is satisfied with the two-year operation plan submitted by the EPR Compliance Scheme, the Authority shall issue an operating license to each such EPR Compliance Scheme.
- (2) Every license issued under this provision shall-
- a. be in such form as shall be specified by the Authority for that purpose,
 - b. be subject to these regulations and to such terms and conditions that shall be specified in such license,
 - c. be valid for such period as shall be specified in such license, provided, it shall not be for more than a period of two years,
 - d. be renewable.
- (3) Every approved EPR Compliance Scheme shall apply for renewal of the operating license at least two months prior to the expiry of the current license.
- (4) Upon application, the operating license shall be renewed by the Authority where the Authority is satisfied that the EPR compliance Scheme has met its performance targets in compliance with the approved operating plan and fulfilled its reporting obligations.
10. (1) Where the holder of an operating licence has failed to meet its performance targets or has failed to fulfill its reporting obligations or is in violation of the license conditions or the provisions of

these regulations, the Authority shall in the first instance issue a notice in writing giving the holder of the operating license not less than 4 weeks and not more than 8 weeks to remedy same to the satisfaction of the Authority. If further time is requested by the holder of the operating license, the Authority may in writing afford such holder of the operating license a further period of time as set out in such writing but not exceeding a further period of 8 weeks, where the Authority is satisfied with the reason adduced for such request.

(2) Where, after expiry of the time given in the notice or extended time as aforesaid, the holder of the operating license has failed to take adequate steps to the satisfaction of the Authority, the Authority may, after affording the license holder an opportunity of being heard;

(a) cancel or revoke such licence; or

(b) suspend such licence.

Provided that where the Authority acts in terms of this sub-section, it shall not be a defence that the notice in terms of sub-section (1) above has not been received.

(3) Whenever a licence is cancelled, revoked, or suspended, or where, upon application, the Authority has refused to renew the operating license or where the licensee has failed to renew its license, the EPR Compliance Scheme shall not be proceeded with. Notwithstanding the cancellation, revocation or suspension of such operating license the relevant producer of an individual EPR Compliance Scheme and each individual member of the collective EPR Compliance Scheme as the case may be shall continue to be responsible in meeting its EPR obligations.

(8) Where the Authority cancels, revokes or suspends a licence in accordance with this section, the reasons for same shall be given to the licensee in writing.

11. (1) The producer responsibility organisation shall be responsible for carrying out the extended producer responsibility obligations by meeting the compliance targets on behalf of its members.

(2) The producer responsibility organization shall assume the operational, organizational and management responsibility on behalf of its members for the collection, sorting, material recovery, recycling, treatment and end of life management of its members' products and packaging.

(3) Notwithstanding the fact that a Producer has set up or joined an individual or collective EPR Scheme, the Producer shall continue to be subject to its EPR responsibility.

12. (1) Members to a collective EPR compliance scheme shall pay extended producer responsibility fees to the PRO in addition to any other membership fees that may be applicable.

(2) The PRO shall submit to the Authority EPR fee structure applicable. The Authority may issue guidelines for the said fee structure.¹

13. (1) The extended producer responsibility fees paid into the PRO shall be used for—

(a) Putting in place post-consumer products or packaging collection, logistics, recycling, recovery and safe disposal measures in respect of products and packaging set out in the First Schedule;

(b) Engagement of downstream partners who take back, recycle, treat and perform end-of life disposal of product and packaging set out in the First Schedule;

¹ This can take into account the nature of the product and complications in the managing of the product as well as the quantities involved i.e., high value recyclable product v. low value non-recyclable product.

- (c) Consumer education and public awareness on sustainable waste management practices;
- (d) Training and capacity building;
- (e) Management and administrative overheads of the extended producer responsibility system;
- (f) Develop secondary markets and uses for the products and packaging set out in the First Schedule;
- (g) Fund research and development programs and on emerging technologies to improve material recovery removal of pollutants and effective systems for handling post-consumer products and packaging in respect of the products and packaging set out in the First Schedule;
- (h) Machinery and equipment to support collection, recovery and disposal; and
- (i) Awareness and other measures to reduce post-consumer litter;
- (j) Guide members on environmentally friendly design for their products and recycler-friendly packaging.

(2) The fees recovered under regulation (1) above shall not be used for profit making purposes.

14. An approved EPR Compliance Scheme shall enter into formal agreements with their members, waste service providers, recyclers and other key actors as the case may be, as required by the EPR compliance scheme and the approved operating plan.

15. Members of a Producer Responsibility Organisation are responsible for the management of the Producer Responsibility Organization.

16. Unless otherwise determined by the Authority for valid reasons, there shall be only one Producer Responsibility Organisation per product.

(2) Notwithstanding regulation (1) of this Regulation, the Authority may allow and recognize more than one Producer Responsibility Organisation per product to accommodate material variation of a product or for other reasons which shall be published in the Gazette.

17. (1) The renewal of the Certificate of Registration shall be done at the end of the three-year period subject to the review of the annual reports by the Authority.

(2) Any de-registered producer responsibility organization may re-apply subject to fulfilling the conditions and requirements thereto.

18. The Authority shall establish a reporting mechanism for all approved EPR Compliance Schemes and producers.

19. (1) All producers shall maintain updated records of products managed, and compliance with the operating plan.

(2) All EPR Compliance Schemes shall maintain updated records of products managed, and agreements entered into by licensed waste service providers and recyclers, and compliance with the operating plan.

(3) All EPR Compliance Schemes shall publish their annual extended producer responsibility reports by 15th January of the following year.

(4) All EPR Compliance Schemes shall submit up-to date annual report of the preceding year to the Authority by January 31st of every year.

20. The Authority shall monitor the operation of approved EPR Compliance Schemes.

21. (1) The Authority shall establish a Review Committee, consisting of the following members:

- a. a representative from the Central Environmental Authority,
- b. a representative from the Ministry of Finance,
- c. a representative from the Ministry of Industries,
- d. a representative from the Ministry of Environment,
- e. a representative from the Ministry of Health,
- f. an environmental economist,
- g. an Attorney-at-Law with experience in environmental matters,
- h. A Scientist with ...

(2) The functions of the Committee shall be:

- a. to advise the Authority in implementing these regulations,
- b. to provide advice on the products and packaging to be included in the First Schedule,
- c. to provide advice on determining the compliance standards to be set out in the Second Schedule,
- d. to advise the Authority on any other matter relating to extended producer responsibility, referred to the Committee by the Authority.

(3) The Review Committee may, with the consent of the Authority, consult with experts, the Producers or any segment of Producers, the Public or any sector of the public.

22. The Authority may amend or update the First and Second Schedules from time to time.

23. (1) It shall be an offence for an individual EPR Compliance Schemes or a producer responsibility organization or producer to willfully fail to undertake their obligation.

(2) It shall be an offence for a producer or Producer Responsibility Organization to under-declare or give false information in reporting including under-declaration or giving false information in respect of products and packaging and / or quantities held or managed under the EPR Compliance Scheme.

(3) A producer who has products or packaging set out in First Schedule to these regulations in the market and is not a member of a related producer responsibility organization nor implementing an approved EPR Compliance Scheme is guilty of an offence.

24. Any person who violates the provisions of these Regulations commits an offence and is liable on conviction to

FIRST SCHEDULE

SECOND SCHEDULE