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NATIONAL ENVIRONMENTAL MANAGEMENT: WASTE ACT 59 OF 2008

EXTENDED PRODUCER RESPONSIBILITY REGULATIONS, 2020

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GN 20 GG 44078 20210115

GN 400 GG 44539 20210505

GN 5520 GG 51513 20241106

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, hereby in terms of section 69(1)(b), (g), (i), (l), (o), (dd) and (ee) of the National Environmental Management: Waste Act, 2008, make the Regulations regarding extended producer responsibility, as set out in the Schedule hereto.

Signed

BARBARA DALLAS CREECY

MINISTER OF FRESTRY, FISHERIES AND THE ENVIRONMENT

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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 indicates otherwise-

"**brand owner"** means a person, category of persons or company who makes and/or sells any identified product under a brand label;

[Definition of "brand owner" substituted by GN 400/2021 w.e.f. 5 May 2021]

"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;

[Definition of "collection" inserted by GN 400/2021 w.e.f. 5 May 2021]

"collection service fee" means the agreed fee payable to the waste collectors, reclaimers or pickers through the extended producer responsibility scheme;

[Definition of "collection service fee" inserted by GN 400/2021 w.e.f. 5 May 2021]

"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;

[Definition of "cost recovery" inserted by GN 400/2021 w.e.f. 5 May 2021]

"decent work" .....

[Definition of "decent work" deleted by GN 400/2021 w.e.f. 5 May 2021]

"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;

[Definition of "extended producer responsibility" substituted by GN 400/2021 w.e.f. 5 May 2021]

"extended producer responsibility scheme" means a system that puts into effect obligations under which producers take accountability in implementing 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 tolly complying with the requirements of the extended producer responsibility scheme;

[Defenitin of "free rider" substituted by GN 400/2021 w.e.f. 5 May 2021]

"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;

[Definition of "full cost" inserted by GN 400/2021 w.e.f. 5 May 2021]

"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;

[Definition of "identified products" inserted by GN 400/2021 w.e.f. 5 May 2021]

"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;

[Definition of “importer” substituted by GN 400/2021 w.e.f. 5 May 2021]

"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;

[Definition of “nett cost” inserted by GN 400/2021 w.e.f. 5 May 2021]

"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 teims of section 18(1) and (2) of the Act;

[Definition of "producer" substituted by GN 400/2021 w.e.f. 5 May 2021]

"producer responsibility organisation" means a not-for-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;

"refurbishment" .....

[Definition of "refurbishment" deleted by GN 400/2021 w.e.f. 5 May 2021]

"small business" cames the meaning as defined in the 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;

[Definition of "waste picker" inserted by GN 400/2021 w.e.f. 5 May 2021]

"the Act" means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008); and

"waste collection" .....

[Definition of "waste collection" deleted by GN 400/2021 w.e.f. 5 May 2021]

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

[Subr. (2) substituted by GN 400/2021 w.e.f. 5 May 2021]

(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;

[Subr. (1) substituted by GN 400/2021 w.e.f. 5 May 2021]

(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 toe Government Gazette by the Minister, that were placed on the market prior to these Regulations coming into effect; and

[Subr. (2) substituted by GN 400/2021 w.e.f. 5 May 2021]

(3) do not apply to the identified products in terms of section 18(1)(a) of toe 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.

[Subr. (3) inserted by GN 400/2021 w.e.f. 5 May 2021]

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 toe publication of the Government Notice in the Government Gazette in terms of section 18(1) of the Act by completing the on line registration process accessible via the South African Waste

Information Centre website (www.sawic.environment.gov.za).

[Subr. (1) substituted by GN 20/2021 and GN 400/2021 w.e.f. 5 May 2021]

(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 on line registration process accessible via the South African Waste Information Centre website (www.sawic.environment.gov.za).

[Subr. (2) substituted by GN 400/2021 w.e.f. 5 May 2021]

(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) .....

[Para. (c) deleted by GN 400/2021 w.e.f. 5 May 2021]

(d) .....

[Para. (d) deleted by GN 400/2021 w.e.f. 5 May 2021]

(e) .....

[Para. (e) deleted by GN 400/2021 w.e.f. 5 May 2021]

(f) .....

[Para. (f) deleted by GN 400/2021 w.e.f. 5 May 2021]

(g) .....

[Para. (g) deleted by GN 400/2021 w.e.f. 5 May 2021]

(h) .....

[Para. (h) deleted by GN 400/2021 w.e.f. 5 May 2021]

(i) .....

[Para. (i) deleted by GN 400/2021 w.e.f. 5 May 2021]

(j) .....

[Para. (j) deleted by GN 400/2021 w.e.f. 5 May 2021]

(k) 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;

[Para. (k) substituted by GN 400/2021 w.e.f. 5 May 2021]

(l) 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;

[Para. (l) substituted by GN 400/2021 w.e.f. 5 May 2021]

(m) .....

[Para. (m) deleted by GN 400/2021 w.e.f. 5 May 2021]

(n) .....

[Para. (n) deleted by GN 400/2021 w.e.f. 5 May 2021]

(o) .....

[Para. (o) deleted by GN 400/2021 w.e.f. 5 May 2021]

(p) .....

[Para. (p) deleted by GN 400/2021 w.e.f. 5 May 2021]

(q) .....

[Para. (q) deleted by GN 400/2021 w.e.f. 5 May 2021]

(r) .....

[Para. (r) deleted by GN 400/2021 w.e.f. 5 May 2021]

(s) .....

[Para. (s) deleted by GN 400/2021 w.e.f. 5 May 2021]

(t) .....

[Para. (t) deleted by GN 400/2021 w.e.f. 5 May 2021]

(u) .....

[Para. (u) deleted by GN 400/2021 w.e.f. 5 May 2021]

(v) .....

[Para. (v) deleted by GN 400/2021 w.e.f. 5 May 2021]

(w) 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 of2003) and must include a special focus on women, youth and people living with disabilities;

[Para. (w) substituted by GN 400/2021 w.e.f. 5 May 2021]

(x) .....

[Para. (x) deleted by GN 400/2021 w.e.f. 5 May 2021]

(y) where specified in the section 18(1) Notices, implement mandatory take back of their identified products at the end of their lives; and

[Para. (y) substituted by GN 400/2021 w.e.f. 5 May 2021]

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

[Para. (z) substituted by GN 400/2021 w.e.f. 5 May 2021]

5A. 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 servioes 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.

[Reg. 5A inserted by GN 400/2021 w.e.f. 5 May 2021]

5B. 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 ail 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 tee by November 2022. The collection service foe 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.

[Reg. 5B inserted by GN 400/2021 w.e.f. 5 May 2021]

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 or 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 requirements to complement the scheme-

(a) minimum recycled content standards;

(b) secondary materials utilisation rate; 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.

[Subr. (9) substituted by GN 400/2021 w.e.f. 5 May 2021]

7. Financial arrangements for an extended producer 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.

[Subr. (1) substituted by GN 400/2021 w.e.f. 5 May 2021]

(2) The proposed extended producer responsibility fee, including the motivation, justification and any other relevant information, must be submitted electronically to the Minister, who must obtain concurrence on the proposed extended producer responsibility fee from the Minister responsible for finance.

[Subr. (2) substituted by GN 400/2021 w.e.f. 5 May 2021 and GN 5520/2024 w.e.f. 6 November 2024]

(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.

[Subr. (3) substituted by GN 400/2021 w.e.f. 5 May 2021]

(4) The latest extended producer responsibility fee must, at all times, be publicly available on the website of the producer responsibility organisation.

[Subr. (4) substituted by GN 400/2021 w.e.f. 5 May 2021]

(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.

[Subr. (5) substituted by GN 400/2021 w.e.f. 5 May 2021]

(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;

[Para. (c) substituted by GN 400/2021 w.e.f. 5 May 2021]

(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.

[Subr. (7) substituted by GN 400/2021 w.e.f. 5 May 2021]

(8) The administration fee must be reviewed in calendar year 2 of implementation, and a Notice must be published in the Government Gazette by the Minister prescribing the administration fee for extended producer responsibility schemes.

7A. 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 must obtain concurrence on the proposed extended producer responsibility fee from the Minister responsible for finance.

[Subr. (2) substituted by GN 5520/2024 w.e.f. 6 November 2024]

(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.

[Reg. 7A inserted by GN 400/2021 w.e.f. 5 May 2021]

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 establish 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 audits 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.

[Subr. (1) substituted by GN 400/2021 w.e.f. 5 May 2021]

(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 ali 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.

[Subr. (2) substituted by GN 400/2021 w.e.f. 5 May 2021]

(3) .....

[Subr. (3) deleted by GN 400/2021 w.e.f. 5 May 2021]

(4) .....

[Subr. (4) deleted by GN 400/2021 w.e.f. 5 May 2021]

(5) .....

[Subr. (5) deleted by GN 400/2021 w.e.f. 5 May 2021]

(6) .....

[Subr. (6) deleted by GN 400/2021 w.e.f. 5 May 2021]

(7) .....

[Subr. (7) deleted by GN 400/2021 w.e.f. 5 May 2021]

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.

[Subr. (3) substituted by GN 400/2021 w.e.f. 5 May 2021]

10. Registration of producer responsibility organisations

(1) All existing producer responsibility organisations must register with the Department within 6 months of the coming into effect of these regulations by completing the form obtainable from the Department.

[Subr. (1) substituted by GN 20/2021 w.e.f. 5 May 2021]

(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.

[Subr. (2) substituted by GN 400/2021 w.e.f. 5 May 2021]

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.

[Subr. (1) substituted by GN 400/2021 w.e.f. 5 May 2021]

(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.

[Subr. (2) inserted by GN 400/2021 w.e.f. 5 May 2021]

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.

[Subr. (2) substituted by GN 400/2021 w.e.f. 5 May 2021]

(3) A registered producer responsibility organisation that does not comply with the requirements as contemplated in these Regulations may have their registration revoked.

[Subr. (3) substituted by GN 400/2021 w.e.f. 5 May 2021]

14. Short title and commencement

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

[Reg. 14 substituted by GN 20/2021 w.e.f. 5 May 2021]