

Newsletter

Issue Four

February 2010

Producer Responsibility

Keeping you up to date with the latest news from the Environment Agency



Welcome to the fourth issue of our newsletter for customers and stakeholders with an interest in Producer Responsibility.

Producer Responsibility uses the polluter pays principle, making businesses who place products on the market take on some of the waste management costs of their products when they reach the end of their life. WEEE, Packaging and Batteries were considered as priority waste streams which needed tackling due to growing concerns about their impact on the environment. The UK must meet its national targets for recovery and recycling of these wastes set under each EU Directive. The Producer Responsibility legislation regimes regulated by the Environment Agency now include the waste streams; Packaging, WEEE and Batteries. The packaging legislation has been enforced by the Environment Agency since 1997 and the WEEE legislation since 2006. The batteries regulations are a new addition which the Environment Agency is partially responsible for regulating.

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Environment Agency and Natural England given new Enforcement Powers



The Environment Agency and Natural England have become the first regulators to be given new civil powers that will give them greater flexibility to enforce environmental law, making the system more efficient and effective for both regulators and businesses.

The range of new civil powers - which have been welcomed by the

NFU (*National Farmers Union*)

and EEF (*the manufacturers' organisation*) - given under the Regulatory Enforcement and Sanctions Act 2008, will increase the options available to regulators and include fixed and variable monetary penalties and compliance notices. The sanctions will provide an alternative to criminal prosecutions for regulators which is more proportionate and reflects the fact that the majority of non-compliance by businesses is unintentional. Environment Secretary, Hilary Benn, said:

"These new powers will help make the system fairer for the law-abiding majority of businesses and will give regulators a practical and effective alternative to prosecution. The Environment Agency and Natural England, the first bodies to be given these powers, will have access to flexible and proportionate sanctions that will strengthen the protection of the environment and human health when tackling businesses who break the law."



Ian Lucas, Minister for Business and Regulatory Reform, said:

"Creating a more flexible and proportionate regulatory system is at the heart of the Government's better regulation agenda. The award of these new powers is a significant step forward that will provide an alternative to costly and time consuming criminal proceedings. It will mean businesses will benefit from a more straightforward process with sanctions that better fit their non-compliance and send a clear signal that the worst offenders should receive the toughest criminal penalties."

The powers, conceived by Professor Richard Macrory, were designed to create a modern and targeted system that will give regulators greater flexibility to impose more appropriate sanctions on non-compliant businesses. The Environment Agency and Natural England will be able for the first time to accept a voluntary commitment from a business to

remedy non-compliance. The existing system was considered to be too reliant on costly and time consuming criminal prosecutions. The new powers will not replace existing informal methods such as advice and guidance. Businesses and individuals will have access to an appeals process through an independent and impartial tribunal. The criminal courts already have substantial powers to impose proportionate sanctions for environmental offences. The Government also has plans for new sentencing powers to enable the courts to put restoration ahead of monetary penalties. Courts would be able to remove the financial benefit from non-compliance and order environmental restoration and restitution to local communities.



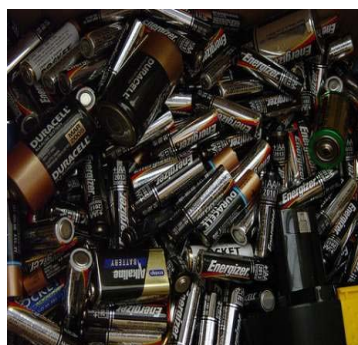
Gareth Stace, Head of Climate & Environment Policy at EEF, the manufacturers' organisation, said:

"We support the Government's aims to create a fairer, more effective and more proportionate enforcement regime. Defra's Fairer and Better Environmental Enforcement (*FBEE*) project has actively engaged with manufacturers on the introduction of these new civil powers for environmental non-compliance and has done

a successful job in addressing a number of manufacturer concerns. We remain encouraged that the transition of civil sanctions from legislature to regulator can now be fairly and equitably applied."

Andrew Clark, Head of Policy Services, the National Farmers' Union said: "We appreciate the work that Defra and its regulators have put in to develop a more flexible and proportionate approach to environmental enforcement, and for their having involved us in that work. The availability of sanctions other than just criminal prosecution in dealing with businesses which do not comply with the law is long overdue."

Packaging - WEEE - Batteries



Defra appoints new packaging advisory committee

From *Packaging news*

Environment minister Dan Norris has announced the 10 industry experts who have been appointed to the new, restructured Advisory Committee on Packaging (ACP). Local authority waste management expert Robert Lisney OBE is to lead the body as chair. The committee will advise the government over the next four years on how to achieve its ambitions outlined in the UK's Packaging Strategy, entitled 'Making the most of packaging'.

This will include: the functioning of the producer responsibility regulations for packaging waste; packaging optimisation including embedding eco-design and promoting greater use of recycled materials; incorporating carbon and life cycle analysis considerations into the producer responsibility system; and maximising the environmental benefits of recycling packaging waste. The new body is made up of representatives from throughout the packaging supply chain (see table below) and includes four re-appointments and six new appointments. The body was due to be appointed in January, but due to difficulties in filling all the places, this process was extended until February 5. Re-appointments include Andy Doran from aluminium manufacturer Novelis, Andrew Green from British Polythene Industries PLC, Paul Smith from Coca-Cola Enterprises and Steve Gough from compliance and recycling specialist Valpak. The three new members, from industry, are: David Williams of steel giant Corus; Helene Roberts from Marks and Spencer; and, Paul Van Danzig from producer compliance scheme Wastepack. Notably, there are also three new members from the local authority sector - representing a break away from the traditional industry-only focus of the body. These are: former chair of the Local Authority Recycling Advisory Committee Lee Marshall; Lisa Foster from trading standards at Lincolnshire county council; and, Mr Lisney. This change is expected to be welcomed by councils, some of whom have felt that industry has had too much influence over packaging policy in the past and want a more balanced debate - especially with regards to over packaging and ensuring that the producer pays principle is enforced.

Career



Mr Lisney set up his own consultancy business, LRL, in 2005 after a long and successful career in the public sector working as assistant director for the environment at Hampshire county council. He was instrumental in the development of the award-winning public/private network of 13 local authorities and contractors known as Project Integra to deal with Hampshire's domestic waste and has also helped to inform national debate. Commenting on his appointment, he praised the "magnificent" work done by his predecessor and former chair John Turner, (*see article below*) who had years of experience working in the packaging industry. He said: "I have known John for a long time. I worked a lot with him in the National Waste Awareness Initiative - a forerunner of the Recycle Now programme - making the case for government investment in

national recycling. Ten years ago John was a packaging head and brought a lot of knowledge to the debate." Mr Lisney said that he himself had been involved in the packaging debate for over 20 years and was always interested "in the need for a broker between public concern over packaging and the need for good packaging."

Targets

The ACP has traditionally been focused on advising the government on matters relating to meeting European and domestic packaging recycling targets. However, Mr Lisney said that the recovery of packaging should not just about meeting targets. He said: "Packaging targets are all very well in their own right but I'm also very keen to go for what's the most effective recycling route for material and energy." He added: "The packaging industry has a fantastic amount of knowledge about their products. If the committee can debate all these things and advise the secretary of state on policies that will be a really good achievement over the next few years." Looking forward, Mr Lisney said he did not expect the work of the ACP to change dramatically but that commercial and industrial waste was perhaps something the committee may have to look at, following a government statement in October 2009 ([see letsrecycle.com story](http://letsrecycle.com/story)). A consultation is also expected later this month on changes to the packaging producer responsibility regulations, including future recycling targets, which the ACP will be expected to help implement. The committee will start work on March 1 2010 and appointments are for a term of four years. All members of the committee, except the chair, are unpaid.

The full membership of the new ACP is as follows

ACP position

Chairman

Name

Robert Lisney

Company

LRL Consultancy Services Ltd

Raw material manufacturer or reprocessor accredited under the Packaging Regulations (two positions)

Andy

Doran

David

Williams

Novelis Recycling

Corus

Converter

Andrew

Green

British Polythene Industries Plc

Packer filler

Paul Smith

Coca-Cola Enterprises

Retailer

Helene

Roberts

Marks and Spencer

Paul Van

Danzig

Steve

Gough

Wastepack

Valpak

Compliance scheme (2 positions)

Local authority

Lee

Marshall

Powys county council and LARAC

Consumer representative

Lisa Foster

Packaging team leader,

tradingstandards, Lincolnshire county council

Influential ACP chairman steps down

From *Packaging news*



John Turner, who has been one of the driving forces behind the development of the packaging waste regulations in the UK, decided not to re-apply for his post during the committee's routine re-selection process in order to concentrate on other business interests. He also left his post as chairman of the Advisory Committee on Farm Plastics, a subsidiary of the ACP which has been advising the government on the development of draft producer responsibility regulations governing material such as silage wrap and crop covers, which were published for consultation this month ([see letsrecycle.com story](https://letsrecycle.com/story)).

Mr Turner had been ACP chairman for seven years since succeeding the late Sir Peter Parker in 2002 ([see letsrecycle.com story](https://letsrecycle.com/story)) and for five years before that was chief executive of the Valpak packaging compliance scheme.

Coca-Cola

He also spent about four years at the very early stages of the packaging regulation development as manufacturing and purchasing director at Coca-Cola and Schweppes Beverages.

His work saw him recognised in the 2005 New Year's Honours List, when he was awarded an OBE ([see letsrecycle.com story](https://letsrecycle.com/story)). Speaking to *letsrecycle.com* on the eve of his departure, Mr Turner explained that he was involved with the design of the packaging waste recovery note (PRN) system from the very early stages when there was lots of debate about how the obligations of the EC Directives on Packaging and Packaging Waste should be divided up between different parties in the packaging supply chain.

And, he said that the success of the system was evident when the UK met its European target to recycle 60% of packaging waste by the end of 2008 ([see letsrecycle.com story](https://letsrecycle.com/story)) - up from approximately 30% in 1998. This was something which he explained had taken a lot of hard work on all sides.

He said: "The main achievement is that at the end of 2008 the UK met its EU targets. That was by design. We were watching every step of the way, making alterations to the regulations and improving them and dealing with issues as and when they arose. "The system has now been amply tested under varying conditions and, this year, under extreme conditions with particular regard to steel."

Issues

To help reach this point, Mr Turner said that there had been a lot of fine-tuning of the legislation and the ACP had had to deal with various material-specific issues and those relating to exports. He added that the creation of the National Packaging Waste Database (NPWD) - an online PRN and PERN trading platform set up in 2006 - helped to revolutionise the whole system. The database was set up with £500,000 from industry and was delivered with help from the Packaging Federation by a joint ACP and Environment Agency Task Force. "While this took a bit of delivering," said Mr Turner, "we managed to get rid of paper PRNs and PERNs at that time. Now it is by electronic trading which has made great improvements to the efficiency of the system".

Achievements

When asked to sum up what he thought were some significant achievements, Mr Turner said that he was pleased to have been among a core group of people who had helped deliver a producer responsibility system at least cost to business - something he said that he hoped would remain the case going forward. He said: "It is a shared approach to delivering compliance with the targets at least cost to industry. There is no-one that could argue that that has not been achieved. That would be my memory of it. There were lots of hiccups along the way but we got there and industry managed to do that at much lower cost compared to other European states, such as Germany."



Mr Turner helped compile a report in 2008 entitled Packaging in Perspective to help counter what he calls the often negative publicity surrounding packaging

Looking to the future, Mr Turner argued that it was still a big challenge to engage local authorities with the packaging regulations because half of all packaging arose in the domestic waste stream but councils were not obligated under the legislation. Public frustration about the lack of standardisation with regards to local authority recycling services and varying quality of material which government needs to address, according to the outgoing chairman. His view is clear: "They really do need to do something about that to ensure

there is a standard approach and that the quality of material including from MRFs (materials recycling facilities) is sorted out." Mr Turner added that there was a general perception that councils received no funds from producers to help recycle packaging when in fact the whole process was subsidised by PRNs, and that creating more transparency was paramount. This issue is to be addressed on a consultation on the packaging regulations early in 2010 which would also look at increasing business targets from 2011-2020.

He said: "Government wants to increase performance - they want to get to the 70-75% mark and I want to support that. But nothing is done for nothing and the trick is to ensure that it is achieved at sensible cost."

Indebted

Overall, Mr Turner said that he was "indebted" to members of the ACP who had given up so much of their time to dealing with challenges over the years and also to those who had taken part in the many task forces set up to deal with particular issues.

He said: "We were lucky having a team of people who were very committed to making a difference."

For further details about the ACP, please [click here](#)

WEEE

WEEE Amendment Fact Sheet now available



This document identifies the main changes to the WEEE Regulations implemented by the recent amendments and how these changes affect AATFs (*Approved Authorised Treatment Facilities*) AE's (*Approved exporters*) and producer compliance schemes. Please click on the link provided for more details [click here](#)

Batteries

Waste Batteries & Accumulators Regulations 2009 – update

Website

Our Battery web pages are currently being updated but you can still access them by clicking [here](#). If you have any questions regarding the Batteries Regulations then please refer to our *Frequently Asked Questions* (FAQ's) section. You can also sign up to the Batteries a-alert via batteries@environment-agency.gov.uk

Battery Compliance Schemes and Producers

373 'large' producers of portable batteries have joined the 6 compliance schemes. Originally there were 7 schemes but DHL's approval was withdrawn in December and we are making sure all their members join another scheme. Schemes will be invoiced shortly. 569 'small' producers of portable batteries have registered directly on NPWD. (*National Packaging Waste Database*)

We recently met with and spoke to some of the newly-approved schemes which proved very valuable and enabled us to gain some useful feedback. We are continuing to do work using data from Experian to identify unregistered producers.

Battery Treatment Operators and Exporters

We have granted approval to a number of battery treatment operators and battery exporters. You can see who is currently approved by viewing the public register [here](#). We are still receiving applications and are currently assessing a number of new applications for approval.



News from the courts

Recent prosecutions from October to December 2009

COVERWORLD UK LIMITED

DIESEL (LONDON) LIMITED

DYNAMIC CASSETTE INTERNATIONAL LIMITED

GAFOOR POULTRY PRODUCTS LIMITED

GREENHALGH'S CRAFT BAKERY LIMITED

H J EVERETT (CHEMIST) LIMITED

JOSEPH PARR (ALCO) LIMITED

JOSEPH PARR (MIDDLESBOROUGH) LIMITED

MILES BRAMWELL EXECUTIVE SERVICES LIMITED

PAPER 4 PRINT LIMITED

PARR ROCHDALE LIMITED

RALPH LIVESEY LIMITED

ROCHFORD GARDEN MACHINERY LIMITED

T DOBSON & SONS (PRODUCE) LIMITED

W & H S EMERY LIMITED

Fact: Did you know that between 1999 and the end of July 2009, The Environment Agency have taken 431 prosecutions under the packaging regulations?

Help and Advice

To visit our **Waste Packaging and Producer Responsibility internet pages** please click [here](#)

To visit our **WEEE pages** please click [here](#)

To visit our **Batteries pages** please click [here](#)

How to contact Producer Responsibility Regulatory Services

packaging.waste@environment-agency.gov.uk

weee@environment-agency.gov.uk

batteries@environment-agency.gov.uk

Reporting Free Riders

If you have information on non compliant businesses that you want to pass on to us you, for example business you believe should be registered (*free riders*), you can do this via a free phone number - **0800 023 2090**. This number links to a voicemail system and so you do not have to speak directly with us. Alternatively you can use the contact e-mail addresses given above to send information to us.

Need further help or advice?

Our National Customer Contact Centre is on hand to advise you. Call them on **08708 506506**

Netregs - environmental guidance for your business



NetRegs provides free environmental guidance for small and medium-sized businesses in the UK. We will help you to understand what you need to do to comply with environmental law and protect the environment. We may even help you to save money by showing you ways to use your resources more efficiently. Please [click here](#)

www.netregs.gov.uk



You tell us

Have you found this newsletter useful? We welcome your feedback and suggestions. Tell us what you want to hear about by e-mailing the editor [please click here](#) (please put NEWSLETTER in the subject line).

Issue No 5 is due out on the 8th April 2010