

Consolidated Comments on Proposed EPR Amendments

1. Definitions (Regulation 1)

Comments:

- "**extended producer responsibility fee**": The proposed definition lacks clarity on whether it applies to waste management cost only or the total / entire cost of elimination of waste (product lifecycle), culminating in, at a minimum meeting the "recycling" targets in Annexure 1, in addition to the other EPR scheme objectives.
- "**extended producer responsibility monitoring programme**": The proposed definition is ambiguous and circular, providing no concrete framework or scope.
- "**producer**": The proposed definition is inconsistent, especially around brand owners' obligations. It should be clear that all brand owners that sell goods (placed on the market) packaged in an identified product fall under the producer definition.

Conclusions:

- PROs agree that vague definitions lead to inconsistent interpretation and enforcement.
- Definitions do not adequately reflect the broader goals of EPR or the responsibility of various stakeholders.

Recommendations:

1. Define **Extended Producer Responsibility Fee** to include its linkage to recyclability and environmental impact to ensure that the fee covers all elements required to meet the extensive EPR objectives and targets.
2. Clearly define and set out the **Extended Producer Responsibility Monitoring Programme**, specifying scope, funding, elements and enforcement mechanisms.
3. Refine the definition of **Producer** to explicitly include the requirement that brand owners assume all producer responsibilities.

2. Audit and Reporting Requirements (Regulations 5, 5A(1)(b), 5A(1)(d))

Comments:

- Biannual audits impose unnecessary administrative and financial burdens.
- The EPR Regulations and proposed amendments require a duplication of reporting for interim and annual reports.

Conclusions:

- PROs agree that current reporting and audit requirements divert resources from operational goals.
- Streamlined reporting is necessary to reduce administrative inefficiencies.

Recommendations:

1. Reduce audit frequency to **annual submissions** and eliminate duplication in reporting requirements.
2. Develop a **standardised methodology** for waste collector service fee / compensation reviews every three years.

3. Centralised Waste Picker Database (Regulation 5A(1)(p))

Comments:

- The responsibility for managing a centralised database is proposed to be shifted entirely to PROs without government support.
- No transition plan exists for the handover from DFFE to PROs.

Conclusions:

- PROs agree this creates significant logistical and financial challenges.
- A lack of clear guidelines and transitional support risks inefficiencies and impossibility of compliance.

Recommendations:

1. A Centralised / National Database is required. Voluntary PRO databases should also be catered for.
2. Retain **DFFE responsibility** for developing and managing the database, with PROs providing operational support.
3. Include an **extended transition period** to allow PROs to adapt to their new roles.
4. Ensure the **voluntary registration** of waste pickers to maintain inclusivity and minimise barriers, which must be decided by the DFFE led Waste Picker Integration (WPI) Committee.

4. Earmarked Funds for Waste Management Bureau ("WMB") (Regulations 7(7)(b), 7(7)(c), 7(7)(d))

Comments:

- The proposed mandatory 5% payment of EPR fees and surplus EPR fees funds to the WMB provides no clarity on the intended use for these funds.
- The proposed blanket cap on administrative costs (at 12%) does not take into account the complexities and difficulty of each PRO waste stream value chain.

Conclusions:

- PROs agree that the 5% EPR fee allocation to fund the WMB should not be the responsibility of PROs.
- There is potentially distortion of funding between PRO schemes and Producer owned schemes.
- Details and requirements regarding the WMB activities and funding must be determined before a source of funding is decided upon.
- The payment of 5% of the surplus funds of a PRO is not supported by any rationale, and in any event is disingenuous. These costs have already been budgeted for by National Treasury to go to DFFE.

Recommendations:

1. Remove the **5% mandatory allocation** to WMB and instead leverage existing levies.
2. Remove the 5% surplus fund payment to the WMB.
3. Replace the 12% administrative cost cap with a **range-based cap** reflective of operational complexities, with a minimum floor of 20%. Should there be concerns that funds could be misappropriated or abused, then this should be dealt with separately.
4. Require public **annual performance reports** from WMB detailing activities, cost, and outcomes.
5. These recommendations must be applicable to all PROs including member led and producer led PROs.

5. The recognition and inclusion of the Deposit Refund System ("DRS") as part of the Extended Producer Responsibility Scheme – noted in paragraph 1 of the Extended Producer Responsibility Scheme for Paper, Packaging and Some Single Use Products – GN 1187/2020.

Comments:

- **DRS** has not been defined in the context of the proposed amendments.
- If the intention is to refer to deposit systems for single use packaging, insufficient independent research has been carried out regarding the suitability of such a mechanism in South Africa.
- Brand owners and other key stakeholder consultations have not taken place in relation to the implementation of a DRS.
- Compulsory DRS's risk a very significant inflationary cost (>R5bn) to consumers and risk displacing waste pickers by undermining their livelihoods.
- The proposed amendments set out in to be incorporated under paragraph 1 of the Extended Producer Responsibility Scheme for Paper, Packaging and Some Single Use Products - GN 1187/2020 are supported.

Conclusions:

- PROs are aligned in opposing premature inclusion of DRS due to a lack of independent research, consultation, the considerable risk of failure of implementation, the socio-economic cost and inflationary impact.
- Despite a clear need for the implementation of compulsory separation of waste at source / households, to improve waste collection and diversion from landfill, there has been no progress on implementing such requirements to date.

Recommendations:

1. Prioritise **mandatory separation-at-source legislation** before mandating DRS to achieve recycling goals.
2. Conduct compulsory DRS independent research and **extensive consultations** with all stakeholders, including brand owners, the waste collectors and waste pickers, before including DRS into the EPR legislation.
3. As part of the independent research, develop an **impact assessment** to evaluate the social and economic consequences of DRS in South Africa.

6. Targets and Compliance Mechanisms (Regulation 5(2))

Comments:

- Rigid compliance targets do not account for market variability or lack of infrastructure.
- Municipal roles in facilitating EPR activities are unclear.

Conclusions:

- PROs emphasise the need for flexibility in achieving targets through alternative mechanisms, coupled with the implementation of mandatory separation at source. The original targets were premised on the implementation of separation at source.

Recommendations:

1. Mandate **municipal infrastructure support**, including collection points and integration with informal waste pickers.

2. Revise paper and packaging targets to align with technical constraints, infrastructure, and resource availability including mandatory separation at source and that parameters have changed since targets were set.

7. Financial Plan and Budget (Regulation 7A)

Comments:

- The EPR Regs and proposed amendments lack flexibility for unforeseen, macro- and micro-economic and market changes, and expenses.
- The requirements of public disclosure of financial plans by PROs risks exposing commercially sensitive information to competitors and the public.

Conclusions:

- PROs agree that flexibility and confidentiality in financial planning are essential for sustainability.

Recommendations:

1. Allow **mid-year budget adjustments** to accommodate operational variances.
2. Protect **commercially sensitive information** while ensuring public transparency and accountability for key metrics.
3. Include provisions requiring **municipal budget allocations** for waste management infrastructure.
4. There must be a mechanism to resolve deadlocks on submissions of financials including EPR fees.

8. Liquidation Proceedings (Regulation 9)

Comments:

- No contingency plans are provided for in the proposed amendments to ensure continuity of waste management services during and post liquidation.

Conclusions:

- PROs agree that continuity planning is critical to maintain service delivery and avoid operational disruptions.

Recommendations:

1. Mandate **contingency plans** for uninterrupted waste management in the event of PRO liquidation.
2. Require **public notification** of liquidation proceedings via SAWIC for stakeholder awareness.

9. Revocation of Registration (Regulation 13A)

Comments:

- No criteria or processes are proposed for reinstating PRO registrations post-compliance.
- The Municipalities' non-compliance with waste picker integration or separation-at-source remains unaddressed.

Conclusions:

- PROs support clearer guidelines for revocation and reinstatement processes, coupled with accountability for municipalities.

Recommendations:

1. Define **clear criteria for reinstatement** of PRO registrations.
2. Add provisions to incentivise **municipal compliance** with EPR regulations.

10. National Waste Picker Registration System (Proposed Regulation 9A)

Comments:

- No clear delineation of responsibilities between DFFE and municipalities is proposed.

Conclusions:

- PROs support formalising waste pickers through a robust, government-led registration system.

Recommendations:

1. Establish a **National Waste Picker Registration System** led by the DFFE, with mandatory municipal support that enables commercial transaction capture and service fee payment.
2. Voluntary PRO data bases should also be catered for.
3. Mandate municipalities to allocate resources for registration logistics and infrastructure.
4. Notwithstanding the above, a system incorporating registration, commercial transactions and payment needs to be agreed to enable redrafting of the regulations. The DFFE is aware that this process has started with the revival of the Waste Picker Integration Committee meetings led by the DFFE.