



EXTENDED PRODUCER RESPONSIBILITY REGULATIONS: Roles and Responsibilities and Impacts



forestry, fisheries
& the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA



BACKGROUND

Section 24 of the Constitution provides that everyone has the right to have an environment that is not harmful to their health or well-being and to have the environment protected for the benefit of present and future generations through reasonable legislative and other measures.

Waste Act as a legislative measure whose objective is to protect the health, well-being and the environment by providing reasonable measures for minimising the consumption of natural resources, minimising generation of waste, by promoting reducing , re-using, recycling and recovering waste.

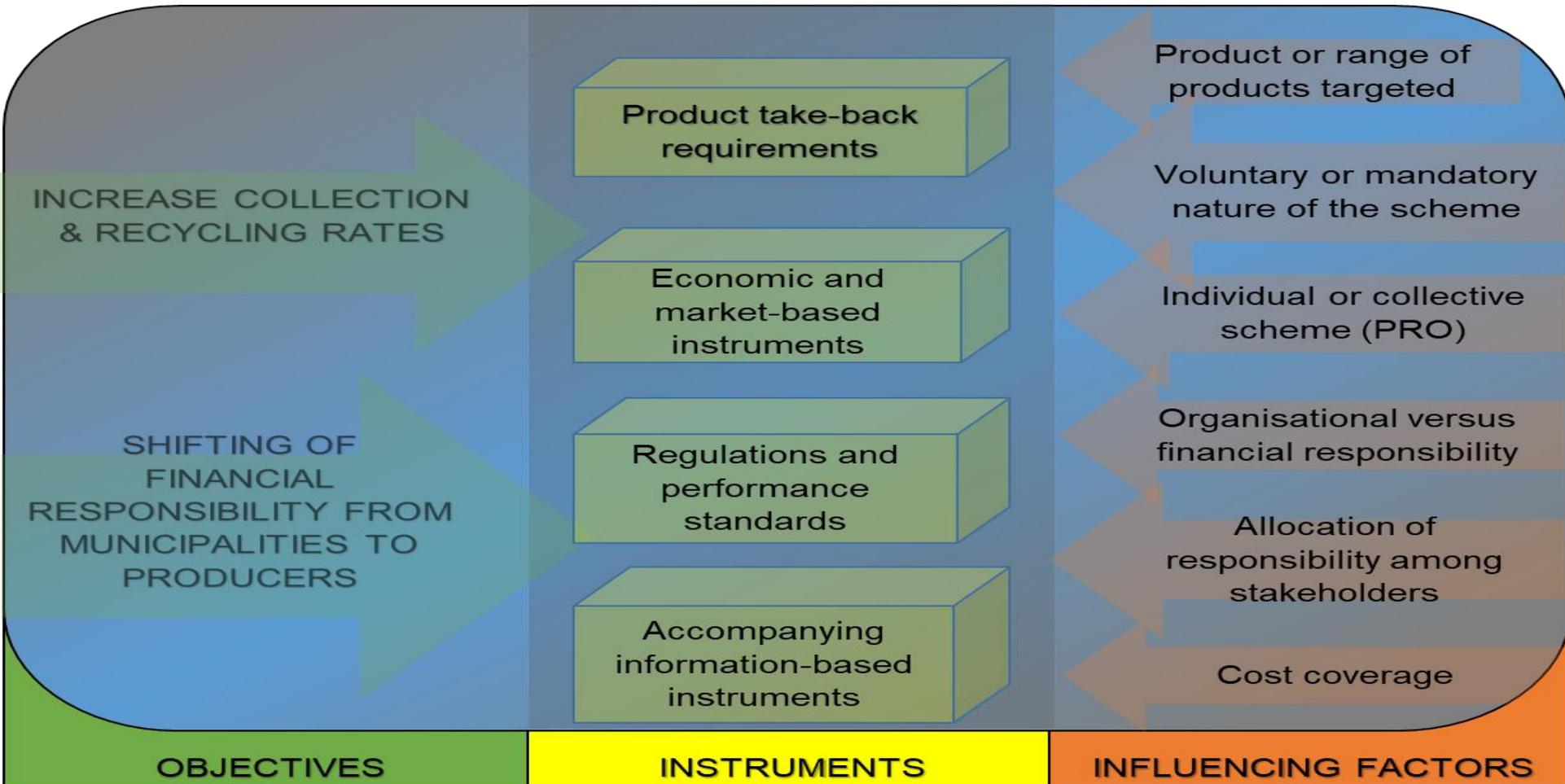


Background

- **National Waste Policy Context:**
 - National Environmental Management Waste Act No. 59 of 2008
 - National Waste Management Strategy
 - National Pricing Strategy
- **The Minister of Forestry, Fisheries and the Environment published the Extended Producer Responsibility Regulations on 5 November 2020** in the *Government Gazette*, in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) (Waste Act), for implementation.
- The implementation of the Extended Producer Responsibility Regulations was subsequently postponed and amended with a revised **implementation date of 5 May 2021**.
- Currently, **three priority waste streams** and products within the different waste categories are subject to EPR fees as per the published Government Notices 1185 – 1187, namely:
 - **Electrical and Electronic Equipment** i.e., large equipment (any external dimension more than 100cm), medium equipment (any external dimension between 50 and 100cm), small equipment (no external dimension more than 50cm) and batteries (excluding portable/single use batteries)
 - **Paper, Packaging and some Single-use plastics** i.e., plastics, paper, metals and glass
 - **Lighting** i.e., Gas Discharge Lighting - all light emitting diode (LED) lighting source and types; laser, pixel and ultraviolet irradiation (UVI) or ultraviolet germicidal; automotive lighting and luminaires; and incandescent (filament) light bulbs and halogen.



EPR Policy Rationale and Design



CONTENT OF REGULATIONS

1. Definitions
2. Purpose of the Regulations
3. Application of the Regulations
4. Registration of producers
5. Extended producer responsibility measures to be implemented. Obligations of producers and producer responsibility organisations
6. Minimum requirements and criteria for extended producer responsibility schemes to operate
7. Financial arrangements for an extended producer responsibility scheme
8. Monitoring, reporting and evaluation
9. Performance review of the extended producer responsibility scheme
10. Registration of producer responsibility organisations
11. Requirements for producer responsibility organisations
12. Offences
13. Penalties



1. DEFINITIONS – PRODUCER AND PRODUCER RESPONSIBILITY ORGANISATION

- “producer” means any person or category of persons or a brand owner who is engaged in the commercial manufacture, conversion, refurbishment **(where applicable)** or import of new and / 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 Notices 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 not-for-profit company 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;



2. PURPOSE

- (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

ROLES AND RESPONSIBILITIES:

PRODUCERS AND PRODUCER RESPONSIBILITY ORGANISATIONS



forestry, fisheries
& the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA



4. & 10. REGISTRATION

- Existing Producers/PRO's – registered by **05 November 2021**.
- New Producers/PRO's – must register within 3 months of establishment.
- Registration on South African Waste Information Centre (SAWIC) via the following link:
<https://sawic.dffe.gov.za/SAWIC/EPR>



5. EPR MEASURES - PRODUCERS

- The producer of a product or class of products, must-
 - establish and implement an extended producer responsibility scheme
 - or join another extended producer responsibility scheme
 - or appoint a producer responsibility organisation to establish and implement an extended producer responsibility scheme that includes the entire value chain;
- be accountable for the operation and performance of their extended producer responsibility scheme;



5. EPR MEASURES - PRODUCERS

- 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;
- 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;



5A. OBLIGATIONS OF PRO'S THAT ESTABLISH SCHEMES

- The producer responsibility organisation must-
- develop and maintain a system to collect the EPR fees;
- Maintain register of its members;
- Conduct internal and external financial audits and submit to the Department;
- collect, record, manage and submit data to the South African Waste Information System;
- Contract with the downstream value chain for services needed and ensure that the contracting process is fair and transparent.



5A-B. OBLIGATIONS OF PRO'S AND PRODUCERS THAT ESTABLISH EPR SCHEMES

- 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 integrate informal waste collectors, reclaimers and pickers into the post consumer collection value chain;
- develop and establish secondary markets for recycled content;
- utilise new and existing infrastructure across extended producer responsibility schemes in a collaborative manner where feasible;
- Compensate informal sector for the environmental service they are doing. This must be implemented by **November 2022**.
- Transform the sector. Focus on women, youth and persons with disabilities. Focus on small business and entrepreneur development.



7. EPR FEE

PRO ESTABLISHED SCHEME

- PRO together with members determine the fee and apply fee proportionally to all members based on the identified products placed on the market.
- The latest extended producer responsibility fee must be publicly available on the PRO website.
- The administration cost of the EPR scheme will be limited the following:
 - (i) Salaries of the producer responsibility organisation staff;
 - (ii) Overhead costs (utilities and rent); and
 - (iii) Information Technology and Systems.



7. ADMINISTRATION COSTS PRO ESTABLISHED SCHEME

- 20% of the revenue collected in calendar year 1 of implementation;
- 15% of the revenue collected in calendar year 2 of implementation; and
- 12% of the revenue collected in calendar year 3 and beyond of implementation.



7A. PRODUCER-ESTABLISHED SCHEME

EPR FEE

- 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.

7A. PRODUCER-ESTABLISHED SCHEME

EPR FEE

- The extended producer responsibility fee must be equal to:
 - costs for establishing a collection system for the identified products; plus
 - collection, transport and treatment costs for separately collected waste; plus
 - administrative costs; plus
 - costs for public communication and awareness - raising (on waste prevention, litter reduction, separate collection, etc.); plus
 - costs for the appropriate surveillance of the system (including auditing); and
 - less revenues from recycled material sales;



7A. PRODUCER-ESTABLISHED SCHEME EPR FEE

- The latest extended producer responsibility fee must, at all times, be publicly available on the Producer's website.
- The producer that establishes and implements their own scheme must submit, to the department, an annual financial plan and an annual budget.



7A. PRODUCER-ESTABLISHED SCHEME EPR FEE

- 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;



8. MONITORING AND EVALUATION PRO & PRODUCER

- 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 submitted by July every year.
- Focus areas of report:
 - Unaudited interim performance against the published targets;
 - Unaudited breakdown of the allocation of the extended producer responsibility fee; and
 - Unaudited performance on all finance matters.



8. MONITORING AND EVALUATION PRO & PRODUCER

- 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.
- An annual external performance audit report must contain the following minimum requirements:
 - Performance against the published targets;
 - Breakdown of the allocation of the extended producer responsibility fee;
 - Performance on all finance matters;
 - Governance report; and
 - Number of jobs created.



8. MONITORING AND EVALUATION PRO AND PRODUCER

- All producer responsibility organisations and producers 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:
 - placed on the market by members of the producer responsibility organisation or by the producers who implement their own scheme;
 - collected;
 - diverted away from landfill (recycled, reused, recovered, refurbished);
 - exported;
 - landfilled; and
 - number of jobs created.



9. PERFORMANCE REVIEW OF THE EXTENDED PRODUCER RESPONSIBILITY SCHEME

- Performance of the extended producer responsibility scheme must be reviewed at 5 year intervals by the department.
- The department may at any time review the extended producer responsibility scheme based on its performance.
- 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.



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

- A person convicted of an offence under these Regulations is liable to -
 - imprisonment for a period not exceeding 15 years;
 - an appropriate fine; or
 - both a fine and imprisonment.
- 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.
- A registered producer responsibility organisation that does not comply with the requirements as contemplated in these Regulations may have their registration revoked.



Late EPR Registration and motivation

- Late registrations are subjected to section 47C of the National Environmental Management Act (NEMA) which empowers the Minister to condone failure by a person to comply with a stipulated registration period.
- An e-mail notification is sent to the applicant/Producer/PRO informing them of the lateness of their application and instructing them to submit a request for condonation with written reasons for such lateness to the Department.
- When deciding on requests for condonation, the Department will consider the following factors :



Late EPR Registration and motivation

- The degree of lateness;
- Details of explanation of the reasons for the lateness;
- Whether and to what extent other persons will suffer prejudice if the period is extended or failure to comply with a period is condoned; and
- Details of the explanation of the merits of the application for extension or condonation.
- Once condonation is granted, a letter signed by the DDG is sent to the applicant/Producer/PRO and a registration application of the Producer or PRO will be processed on the EPR system.
- Upon successful registration, the Producer/PRO will then receive an e-mail notification with an EPR registration number issued.



EPR REGISTRATION STATS

Total number of Producer and PROs Registered on EPR system

Sector	EEE	Lighting	P&P	Total
PRO	6	5	26	37
Producer	157	60	946	1163
Total	163	65	972	1200

Grand Total
Number of
Registrations



forestry, fisheries
& the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA



THANK YOU!

Thank You



forestry, fisheries
& the environment

Department:
Forestry, Fisheries and the Environment
REPUBLIC OF SOUTH AFRICA

