



Agreed positions and technical interpretations - producer responsibility for packaging

A summary of technical decisions for interpretation of producer responsibility for packaging

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This document covers technical issues which are not dealt with in other, topic-specific guidance (such as Accreditation Application Guidance, Compliance Monitoring Guidance). We haven't repeated that guidance here. This document brings together and clarifies technical interpretations made by the Agencies (Environment Agency, Scottish Environment Protection Agency, Northern Ireland Environment Agency) over a number of years, and summarises the current methodologies.

This document is based on information in the 2007 regulations (as amended) and associated guidance. It may change in the light of regulatory changes, future government guidance or experience in regulating this type of waste. The principal purpose of this document is to enable the agencies' officers to interpret and enforce the regulations. In the interests of transparency, it is available to others but it has no status other than as internal guidance to our staff.

All references to the regulations in this document refer to The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 (as amended).

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1. Accreditation

ACC-GN01: Guidance note for accreditation of reprocessors and exporters of UK packaging waste gives information on the packaging content of mixed waste, reprocessor efficiencies, agreed percentage packaging content for mixed waste paper, mixed steel scrap, energy from waste (EfW), clinical EfW, business plans, revenue reports and general guidance for reprocessors and exporters.

Recyclates as raw materials

Raw materials manufacturers who are also reprocessors, such as paper mills, will attract producer obligations on their total output of packaging materials including the recyclate content (that is, recyclates used as raw materials count in the same way as virgin raw materials).

Example: A reprocessor blends virgin material with recyclate to make a packaging raw material. It incurs a manufacturer obligation (6%) on the total output. The supplier of the virgin raw material to the reprocessor has no obligation on the materials supplied, because the reprocessor picks up the manufacturer's obligation.

Recyclate sold to converters as a packaging raw material (in competition with virgin materials) should be treated as packaging manufacturing output and attracts a 6% manufacturing obligation.

2. Registrations

Group registrations

Groups can register through the holding company or each subsidiary that handles packaging can register individually. Even if the subsidiary handles less than 50 tonnes or has a turnover below £2m they must be covered by a registration if the group is over the turnover and tonnage thresholds as a whole.

Multi-site registrations

Multi-site registrations are not accounted for within the packaging regulations, therefore each producer must only have one registration and one NPWD code. They must either be a direct registrant or registered with one scheme. There is no option to register separate divisions or departments of the same company or legal entity. Where a company has a number of divisions and packaging data is collected separately, this must be aggregated before being submitted to the agency.

Supply and ownership issues

Some examples for guidance on interpretation:

1. Converters handling packaging materials they do not own.

A converter is manufacturing packaging that their packer-filler customer owns. The obligations for the conversion process falls on that packer-filler, because the converter is acting as an agent.

2. Rolled-up importer's obligations.

These fall on the first company, based in Great Britain (GB), that owns the materials or packaged products. An importing agent does not own the packaging if they merely acted as an 'order-taker'. They could be simply the sales office of the foreign-based principal.

A test on ownership is to ask to whom the money is paid for the imports. If the payment is made direct by the buyer to an overseas supplier, the obligated importer is the GB buyer.

If the payment is made to a sales office based in GB, then that suggests that the sales office have effectively taken ownership of the products between the overseas provider and their buyer and that the sales office is the importer.

3. Contracted-out packer-filler activities - packaging owned by the principal (that is, the company contracting out the activity).

The obligation for that activity falls on the owner of the packaging, that is, the principal. It is important to establish who owns the packaging at the point of pack/filling. If the contractor purchases the packaging materials, pack/fills and then invoices the principle company for the materials, the **contractor** is the owner of the packaging and thus picks up the obligation (as in 4 below).

4. Contracted-out packer-filler activities - packaging owned by the contractor.

Again, the obligation for that activity falls on the owner of the packaging - in this case, the contractor.

5. Transit packaging owned by a third party.

Some re-usable crate systems and pallets used by the packer-filler are hired over a time period or for a single journey from the system's owner (for example, a leasing-finance company). The system owner picks up the pack/filler and seller obligation (85%) as a 'service provider'.

6. What obligations arise when the owner, who is also the end user of packaging, gives it to its supplier for pack/filling and for supply back to itself?

Where the packaging is for one trip only, no pack/fill or sell obligation arises. The pack/filler does not own the packaging and thus is not obligated. The owner and eventual end user cannot supply itself, thus there is no seller obligation. If the packaging is part of a re-use system then the owner of the packaging would pick up the rolled up service provider obligation of 85%, as the packaging is considered a class g supply.

Exemptions

Regulation 3 states that charities are exempt from the packaging regulations.

Note: Where charities also have trading operations which supply packaging in the course of their business that part of the business is **not** exempt. For example, retail shops run by charities such as Oxfam would not be exempt.

Registration of subsidiaries and associated packaging handled

In each compliance period, a small number of situations have arisen relating to the registration of holding companies and their associated subsidiaries. In some cases, subsidiary names have not been included in the original registration; in others, one or more subsidiaries data has not been included. We have set out below how we intend to deal with these situations from now onwards.

Scenario 1

Holding company registers all packaging handled data but fails to provide complete list of subsidiaries.

Holding company can add additional subsidiary details, at a later date, to its registration. Pay the additional subsidiary fee(s).

Scenario 2

Holding company fails to include a subsidiary and its data in the initial registration. Holding company can add additional subsidiaries and data to its registration. Pay the additional subsidiary fee(s) and data resubmission fees.

Scenario 3

Group acquires/divests itself of a subsidiary following registration. Follow the midyear change requirements set out in the regulations.

Scenario 4

Business details change within the holding company and/or its subsidiaries, for example, addresses, telephone numbers, contact names. Details updated with us. No fees payable.

Rounding issues with the data

NPWD calculates both the recovery obligation and the material specific obligations from the whole tonnes data entered in the data tables. Packaging data must be entered in whole tonnes. If a producer handles less than 500kg of a material they should round it down to 0 and not include it in the obligation. They should not add any rounded down figures to another material, as this is no longer supported by regulation. Scheme members should also round their data into tonnes before supplying to the schemes to ensure consistency.

3. Activities

Conversion

The 2010 amendment regulations removed the restriction of 'at the same time' for situations where a conversion and pack fill activity is occurring as part of the same process. It is the interpretation of the agencies that where a conversion and pack/filling activity is taking place on the same packaging **as part of the same process** by the same business, the conversion obligation will pass back to the person who has 'part converted' the packaging material.

Examples

Preforms - plastic bottles are often provided to bottling plants as a preform i.e. not the fully blown bottle. Bottling plants will then blow the preform to the final shape and pass it on for filling, **as part of the same continuous process**. In such cases the bottling plant will only attract the pack/filling obligation. The conversion obligation will fall to the preform manufacturer.

Packing crisps - crisp bags are formed (converted) from a continuous roll of film at the same time as the crisps are added (pack/filled) to the bags, as part of the same continuous process. The conversion obligation will fall to the film manufacturer.

Flow wrapping - products, for example baked goods, are sealed between two layers of thermo-formable films. Where this is undertaken as a part of a continuous process, only the pack/fill obligation will be picked up. The conversion obligation will fall to the film manufacturer.

Heat treated labels - company A buys in reels of pre-cut labels which have thermal reactive coating on them. The labels are heat treated to generate information on the label and applied to the packaging as a part of the same continuous process. Company A will attract the pack filling obligation for the label, as

the final conversion and pack fill activities are part of the same process. The conversion obligation for the label will fall to the label manufacturer.

Printing on labels and pack filling - where labels are printed and applied to packaging as part of the same continuous process, only the pack/fill obligation will be picked up. The conversion activity will fall to the final converter. If Company B prints labels and at some later stage applied these labels to packaging, this would not be considered to be part of the same process. Company B would therefore have both converter and pack/filler obligations in relation to these labels.

Export and subsequent import of packaging

Exports - packaging exported, pack-filled, then imported by the same producer

The rolled up import obligation applies, unless the producer can demonstrate that the raw material manufacturer and conversion obligations have already been picked up in the UK.

4. Long-term/durable packaging

We regard packaging which is designed to stay with the product for its life as long-term storage. It will not be obligated.

Examples: boxes for board games, first aid kit boxes, boxes for tools.

5. Overseas issues

Great Britain/Northern Ireland

Great Britain (GB) consists of England, Scotland and Wales. The United Kingdom (UK) consists of GB plus Northern Ireland (NI). The Channel Islands and Isle of Man are outside the UK.

Movements between GB and NI do not constitute exports and imports. So transfers of packaging and packaging materials from NI into GB bring no 'rolled up' obligation (even if originally imported from outside the UK). This is because you cannot 'import' into GB from another part of the UK. The company which originally imported the goods into NI picks up the rolled up obligations.

Packaging and packaging materials sent to NI are not exports for the purposes of these regulations.

Packaging that is shipped from GB to NI and subsequently exported should be declared as third party exports. Transfers of packaging waste into GB (which has originated in Northern Ireland) can be used to fulfill recovery and recycling obligations, as can packaging waste sent from GB to NI for reprocessing.

Registration of overseas producers

The regulations apply only to Great Britain so anyone within GB that is doing an activity covered by the regulations is subject to their provisions. They do not apply to businesses situated outside GB. We have previously taken the view that an overseas company operating in GB should be registered with Companies House as an overseas company under the Companies Act 2006 before we would consider registering them under the packaging regulations. We have reviewed and changed our position on this matter.

We will now accept, where an overseas company is operating in England and Wales **and** has a presence here, an application to register with us, irrespective of whether it has complied with the Companies Acts. In such situations, we are taking the view that presence means an address.

That might be a PO box, an office or even someone's domestic premises, if they are used for the purpose of the business.

Turnover of overseas companies

In the case of a company, the packaging regulations require turnover to be determined by reference to audited accounts. A company's audited accounts are treated as being available when they are filed with Companies House. For overseas companies, they will only have an obligation to submit accounts to Companies House once regulations requiring submission of accounts are made. Regulations have not yet been made. So, for overseas companies we can determine turnover by referring to the latest available accounts. Assess turnover on the company's total turnover. There is no need to separate out turnover for the UK only. This position is consistent with the way we assess UK registered companies, where we do not discount any overseas activities.

Groups

Our position for group registration is that the holding company and the relevant subsidiary company(ies) must be operating and present in GB.

However, we are applying the same rules to groups as to other overseas companies. So we don't require the holding company to have a registration with Companies House.

Example: Holding company X (incorporated in Germany) has a presence (an office) here. Two of its subsidiary companies operate here and have a presence here (they may even be UK registered companies). X can register as a group as there is a group presence in the UK. However, if X didn't have a presence here, it can't make a group registration and the two subsidiaries must be considered separately.

Handling packaging in NI

The regulations require a person to determine if they are a producer by assessing the amounts of packaging handled in the UK (GB + NI). Until 2007, if a producer handled over 50 tonnes, they were required to register the amounts handled in GB and NI separately (that is, a registration in each) with the relevant authorities, even if below 50 tonnes in either location. For 2009 and future registrations, the Agencies will allow businesses that meet the registration threshold through their combined operations in GB and NI, but who handle less than 50 tonnes in one or both locations, to make one registration with the Agency where their business is based. The single registration will cover packaging handled in GB and NI. A business that operates in GB and NI and handles 50 tonnes or more packaging in each location must still make two separate registrations for GB and NI.

Airlines - food packaging - obligated or not?

Item	Obligated	Comments
Disposable tray	Yes	Protects and presents food
Durable tray	No	No packaging function
Knives and forks	No	No packaging function

End users

Where supply takes place in UK (usually on domestic flights), passengers are the end users.

So for domestic flights, airlines are the sellers, regardless of whether it is a direct sale or included in ticket price.

For overseas flights, where waste is not returned to the UK, food packaging is destined for export and

carries no obligations. Primary packaging around goods sold or consumed on board aircraft destined for the UK from overseas carry no obligations.

Duty free shops

The Agencies are aware of the abolition of duty free privileges in the EC. Duty free rules still apply for other destinations.

HM Customs exercises strict control on duty free goods. Any goods sold in duty free shops (in airports, on ships and on international journeys), and on which no duty has been paid, **must be taken out of the UK**. Consequently, the Agencies consider that duty free goods are exported by the seller, who therefore has no obligation for them under the regulations. Primary packaging around goods sold or consumed on board ships, trains and Aircraft destined for GB carry no obligations.

6. Medical/healthcare packaging

NHS Trusts and NHS hospital pharmacies are generally not acting in the course of business when supplying packaging and therefore would not pick up any obligations. They may either be the end-user of packaging where they supply drugs to patients on wards or the obligation is lost, for example where they supply dispensed drugs in packaging and in a paper bag to a patient being discharged.

Healthcare goods supplied to the NHS from an intermediary company (logistics or healthcare companies) will have the selling obligation where the NHS is the end user.

We regard persons providing treatment and/or healthcare directly to patients at, or on behalf, of medical, nursing, dental, veterinary or similar establishments, whether in the public or private sector as the end user of any packaging materials associated with the delivery of that healthcare. For practical reasons, we regard them as the end user even in respect of healthcare products given to and unwrapped by patients, including healthcare products taken home by patients upon their discharge. So the companies supplying these establishments will be performing (at least) the seller activity.

We regard ancillary retailing activities at healthcare establishments (for example, independent pharmacies, restaurants, newsagents, coffee shops, sales of dental products at dentists, sales of pet food at vets and so on) where goods are supplied 'over the counter' to customers or patients as sellers of the associated packaging. These persons may also carry out any other relevant packaging activities, such as pack/filling. These companies may have obligations if they meet the standard threshold and turnover tests. Where private healthcare companies are providing or dispensing medicines to out-patients, for example to patients in their own homes, the healthcare companies will be the sellers of packaging around any medicines subject to the usual rules of ownership and supply.

Table of specific medical packaging and obligations

Item	Obligated	Comments
Inhaler - plastic holder	No	Product
Inhaler - cartridge	Yes	Packaging
Inhaler - whole unit disposable (for one trip) - for example asthma or nasal	Yes	All packaging
Urine bags	No	Not part of sales unit. Urine is not classed as "goods."
Blood bags	No	Not part of sales unit. Blood is not classed as "goods".
Dosage delivery caps	Yes	If integral part of container (for example if it forms part of the closure)
Spoons/leaflets with medicines	No	No packaging functions
Sterile medical packaging	Yes	Packaging carries out a protection function. The fact that it is sterile does not remove the potential for it to be obligated.
Saline bags	Yes	Sales unit containing product
Syringe (empty - used for drawing up)	No	Product (although wrapping around syringe will be packaging)
Syringe (pre-packed with medicine)	Yes	Syringe and any labels, wrapping and so on, will be packaging – performs delivery and protection function.
Pre-packed medicine vial	Yes	Glass vial containing medicines, all included as packaging including metal crimp lid and rubber/plastic valve.
Plastic needle caps on syringes	No	Part of the product (syringe)

7. Postal packaging

If the contents of the postal packaging are acquired as part of a contract (for example, mail order goods, products supplied on approval, catalogues which have been paid for, free catalogues that have been requested,) they are goods and the postal package **is obligated**. However, if the contents of the postal package are not part of a sales contract (for example, unsolicited mail, correspondence, statements and invoices) they are not goods and the postal package **is not obligated**.

8. Cores, reels and spools

Cores used during manufacture are often used to handle, deliver and protect the goods as they enter a particular manufacturing process. They fall under the definition of packaging as given. The interpretation of whether these cores are obligated packaging depends on the nature of their supply.

The only cores which are not obligated packaging are those which are not supplied to the next stage in the packaging chain or the end user. These will often be cores used for internal transfer between manufacturing processes on the factory floor only and are not subsequently used to supply on to the next

packaging activity. Cores which are supplied with goods going on to the next stage in the packaging chain, including the end-user, are obligated packaging. Cores which are used and passed back and forward between activities (and are not for internal transfer only) pick up an obligation on their first trip after which they can be discounted.

9. Freight (road, rail, ship and air) containers

Road containers are not defined in the Packaging Directive or regulations. They are, however, exempt from being tertiary (transport) packaging. When the Council of Ministers and Commission were discussing the draft Directive, they decided that we should apply the concept of 'containers' in the general sense used by the International Organisation for Standardisation (ISO), in particular its Technical Committee TC 104. This is stated in a minute of the Council. TC 104 deals with the international standards for **freight** containers, so it is clear that the Council and Commission considered that it was containers of this type which should be exempt from being tertiary packaging. There are many types of freight container made to different international standards, but their generic characteristics are (as set out in ISO 830):

- a. articles of transport equipment;
- b. of a permanent character and accordingly strong enough to be suitable for repeated use;
- c. specially designed to facilitate the carriage of goods by one or more modes of transport, without intermediate reloading;
- d. fitted with devices permitting ready handling, particularly for transfer between modes of transport;
- e. designed to be easy to fill and empty;
- f. of an internal volume of 1 cubic metre or more; eg. not vehicles.
- g. container exempt from being tertiary packaging for the purposes of the regulations is one with all of these characteristics.

! Important Intermediate Bulk Containers (IBCs) are not included in this category - they are obligated packaging.

10. Catering packaging

A judicial review in May 2002 ruled that the customer (that is, member of the public) is the end user of the bottle/can supplied in a pub/club/restaurant. Pubs, clubs and other licensed premises are the sellers of bottled/canned drinks where the bottles/cans are opened and the contents supplied for consumption on the premises, even where the bottle/can is retained by the seller. This will be the case for alcoholic and non-alcoholic drinks. This means that the supplier to these establishments is not the seller of the drinks' packaging and that the pub/club/hotel is the seller of the bottle and not the brewer.

Are pubs and clubs the sellers of spirit bottles?

No. The spirit bottle is not normally appropriated to any one customer and therefore a supply is not made by the pub/club. The pub/club is therefore the end user and the brewery/wholesaler is the seller.

Are pubs and clubs the sellers of wine bottles?

Depends. When the pub/club/restaurant supplies the wine by the glass they are then the end user of the bottle. When they supply the bottle to a customer they are the seller of the bottle.

Take-away or fast food businesses

Examples: chip shops, burger bars, and vendors at shows.

They may perform one activity (pack/filling) and then perform another (selling to final user or consumer). When this occurs, the business is deemed to have supplied to another stage in the packaging chain (Class A or deemed supply) and should pick up the relevant obligations for both activities.

Disposable vending cups

A company that places product (for example, a teabag, soup or coffee granules) in disposable vending cups is the pack-filler. The seller is normally the company that operates and maintains the vending machine or, where the cups are supplied to a catering company, the company that adds the water and supplies the cup to the end user (for example, the operator of a buffet car on board a train).

Vending machines - who is the pack/filler/seller?

The pack/filler is the person putting coffee/tea in the cup. The seller is the owner of the packaged items supplied through the vending machine and would normally be the operator (owner) of the machine.

Durable items of tableware

Ceramic and glass plates, bowls, cups, jugs and glasses are **not** packaging. However, paper plates do perform a packaging function and are obligated.

Sauces/portion packs

We regard catering establishments as the end users of items which are provided for communal use (for example, a bottle of ketchup placed on a table in a café). However, where single portion condiments (for example, wrapped butter, sugar or jam portions) are made available to the customer (either with or without a charge), a supply has taken place and the establishment will pick up the seller obligation.

Drinking straws, disposable cutlery, and serviettes

These do not normally perform a packaging function and are not regarded as packaging. Their wrappers are packaging.

11. Labels

We believe that the majority of labels perform a 'presentation' function and are therefore packaging. The presumption is that a label is packaging. We treat a label as packaging, whether applied directly to the sales unit or to other packaging associated with the sales unit, where it provides a presentation function to the end user of the label. We also recognise that there are instances where a label may not perform a presentation function to the end user or consumer, for example a label showing **only** a barcode which provides no 'presentation' function to the shopper.

Examples of where labels are obligated/not obligated:

Item	Obligated	Comments
Barcode only	No	No packaging function
Barcode plus number	No	No packaging function
Hazchem label only (including all legally required information eg company name, address, description)	No	No packaging function
Label with description of product	Yes	Presentation/handling
Label with picture of product	Yes	Presentation function
Label with company name	Yes	Presentation function

The points of obligation for labels (face paper only) can be summarised:

- **manufacturer** - the manufacturer of the initial roll of label face paper;
- **converter** - normally the person supplying finished labels;
Labels are likely to be supplied in or on other packaging, such as release paper for self-adhesive labels;
- **packer/filler** - normally the person attaching or applying the labels, for example, removing release paper and applying the label;
- **seller** - the person supplying packaged/labelled goods to the final-user.

Backing release paper for labels

The Agencies consider release paper, in relation to the face-paper (for example, label paper), fulfils several the packaging functions including 'containment', 'handling' and 'delivery', from the producer to the user and consumer. Any given item of packaging does not have to perform **all** these functions; one function is sufficient. All release paper, except in very limited circumstances, is therefore regarded as packaging. We recognise that circumstances can arise where release paper is itself part of a product, has the same life as the face paper and is not discarded prior to use of face paper, for example, certain types of car-park ticket. These exceptions are rare and any producers should contact the appropriate Agency to confirm the particular case. The points of obligation for release paper can be summarised:

- **manufacturer** - the manufacture of raw materials (rolls of paper). The obligation is normally on the supplier of rolls of paper to the converter.
- **converter** - the conversion activity is the production of release paper, that is, coating the paper with silicone. The obligation is normally on the supplier to the packer/filler.
- **packer /filler** - the activity combines the goods with the packaging, that is rolling face paper on to release paper. The pack/fill obligation is normally this initial process.
- **seller** - the activity is supplying packaging to the final user. For any material, the clearest way to understand the point of obligation is to first identify the final-user, that is, the person who removes packaging from the goods.

Examples: Final users for release paper might include:

- a food manufacturer or pharmaceutical packer who uses specialist machinery to place labels on to goods or other packaging items;

- an office which uses labels for application on to envelopes;
- a householder who places self-adhesive film around a book;
- a warehouse depot which places self-adhesive document wallets on to boxes for shipment.

Having identified the final user, the seller is usually evident. The examples above indicate how the seller obligation could rest with many different sorts of businesses.

12. Miscellaneous

Re-used packaging

With the exception of imports, packaging is obligated on only its first trip through the packaging chain. Once it has reached the end user, it can be used again in its original form and for the same purpose, without picking up any further obligation.

Imported packaging re-used for export - which tables to use

Imported packaging that is removed from goods has a 100% obligation. Record it in Table 3b of the packaging data form. This is the same for both new and reused packaging. If the packaging then goes on for re-use within the UK, it will attract no further obligation after declaration in Table 3b.

Producers will only attract an obligation on packaging which becomes waste in the UK. So there may be occasions when packaging discarded from imported goods is put to one side and then re-used for export. Record this packaging in Table 3c if there is an adequate audit trail to confirm import and subsequent export of the same packaging. Also use Table 3c for specific packaging items that have been imported and subsequently exported whether or not further activities have been performed on them.

Examples: Boxes which are imported, the contents removed for a production process and then placed back in the same packaging and subsequently exported. Boxes taken from one pallet and re-packed with other items on to another.

Packaging around waste

The packaging would be considered obligated if the waste is considered to be goods and it is still in the commercial cycle, for example it is being supplied for reprocessing. It does not necessarily need to have a monetary value. Packaging would be obligated if it was around sorted and bailed materials going for reprocessing, re-manufacture or as feedstock for a process. If it was waste that was heading for disposal that had plastic or banding around it, the plastic and banding would not be considered to be obligated.

If the off cuts/recyclate can be used as feedstock without any further processing the by-products test would be satisfied and the offcuts/recyclate would not be regarded as waste. Therefore they would be classified as goods, in the same way as any other raw material, and so there would be an obligation attached to the packaging around the recyclate.

Re-using packaging and using packaging waste for pack-filling

Re-use of packaging is using packaging items **in their original form and for the same purpose** and carries no obligation.

Example: A packer-filler uses the cardboard boxes in which raw materials were delivered as cardboard boxes to package its own products for sale. This incurs no obligation. The subsequent selling activity on these boxes attracts no recovery and recycling obligation.

However, packaging waste or other waste may be reprocessed and so become a 'new' packaging material.

Examples:

1. A company shreds old cardboard boxes to make a bulky filling material that is then used in its own pack-filling activities or sold to others to use. This process is a conversion activity which carries an obligation, along with any subsequent pack/filler and seller activity. It is also a recovery/recycling operation. The company could seek registration as an accredited reprocessor and issue PRNs in respect of the quantities of packaging waste reprocessed. They may then use these to offset all or part of the company's obligation to recover and recycle.
2. Pallets can be recycled when the operator is dismantling a pallet and grading/resizing the components to manufacture a new product or shredding to produce a finished product.

Repairs to packaging

Any part of packaging or auxiliary product (for example, a tap on a drum) which is removed during repair and discarded is packaging waste.

Any new material (for example a repair patch) or auxiliary product (for example a stopper) used in repairing packaging for re-use is packaging, with the obligations falling on the manufacturer and converter of that material or product (**not** the re-conditioner), that is, the manufacturer of the repair patch/stopper.

Repair must not change the type of packaging in order to claim the 'reused' exemption (for example, turning a pallet into a box is not a repair but is processing to become a new packaging material, which will pick up the activity obligations).

Composite/multi-material packaging

There is a difference between composite packaging and multi-material packaging:

- composite packaging materials are multi-layered sheets of dissimilar materials which are bonded together and cannot be separated by hand - often referred to as laminates;

Examples: paperboard laminated with plastic coating and plastic with aluminum foil. Some laminates consist of more than two materials. In all cases, record the whole weight of the packaging item as the predominant material by weight.

So 200 grams per square meter (gsm) paperboard laminated to a 50 gsm aluminum foil and to a 2 gsm plastic film counts as 252 grams of paper packaging.

- multi-material packaging is made from components of different materials during the converter or packer-filler activities.

Example: A blister-pack made from cardboard and plastic. They could be, but are not always separable by hand (see below).

Record the weights as the different component materials (these weights should be available in the supplier chain or at the point of assembly).

There are many multi-material packages that could be constructed by attaching separate dissimilar components to each other by a means designed to be durable and not able to be separated by hand.

An example would be a plastic-laminated paper carton with a welded on plastic cap and closure. Such a construction is not a composite material. In summary, 'composites' are materials constructed as multi-layer laminates. Multi-material packages are constructed of assembled components of different materials.

Packaging as a product

Where packaging is sold to a householder as a product, the retailer does not attract an obligation under the regulations. **Examples:** jiffy bags, sandwich bags, foil, cling film, bin bags, refuse sacks.

Carrier bags

Supermarket 'bags for life' and other bags marketed and intended to be used multiple times and replace single-use carrier bags are considered products and will not pick up an obligation.

All other carrier bags designed and intended to be filled at point of sale and given away free, for minimal charge or subject to a carrier bag tax are obligated packaging.

Other materials

Cellulose

Categorise as paper/board. Therefore cellulose based products should be classified as paper/board.

Plastic

Rigid chemically identical to normal petro chemical plastics should be classified as plastic.

Oxy degradable (made of petro chemicals) should be regarded as plastic.

Other

Compostable/bio-degradable plastics made of plant based products should be classified as 'other'.

Laminated products are reported as being made of main constituent.

Cork

Categorise as other.

Sawn timber, ply, MDF/hardboard/chipboard/particle board

Categorise as wood.

End User Scenarios

Car servicing

Where a customer has ordered a car service, the garage will order any spare or replacement parts therefore the garage is the end user of any associated packaging. (For example around brake pads or replacement oil.) The garage is providing a service and is not considered to have supplied the packaging

to its customer.

Home/commercial deliveries

Businesses supplying goods and removing packaging before or during delivery are regarded as the seller of the packaging as the packaging is considered to have been supplied to the end user at the point of sale. Removal of the packaging following delivery does not remove the obligation from the seller.

Businesses supplying goods and offering a fitting service, for example supplying a new kitchen or bathroom are considered to still be the supplier of packaging to the consumer, even if the packaging is removed prior to the installation. The consumer has ordered goods (as well as a service) and the cost of the associated packaging would be included in the price.

However, where a service is procured, for example, electrician to fix an electrical supply or a plumber to fix a boiler, the service provider (that is, the electrician or plumber) is considered to be the end user of any spare parts or replacements, along with the packaging they order as part of that service. The seller is the person supplying the electrician with the goods.

The same principles apply for goods being delivered on a rental basis. If packaged goods are being supplied to the end user, the business supplying the rental goods will attract the selling obligation.

Hotel free issue sachets/shampoos

Hotels supplying free sachets/bottles of shampoo, conditioners and so on are judged to have supplied the goods to the customer and the establishment will pick up the seller obligation.

Packaging made from waste

Is obligated, but in most circumstances the manufacturing obligation is lost.

Re-usable packaging systems

For a new system, the producer can spread the obligation equally over four years, beginning with the year the packaging is first used. For example if 1000 plastic crates weighing 4kg each were purchased in 2011, the producer would include 1 tonne in the 2011 dataform for the 2012 compliance year, and 1 tonne in each of the subsequent compliance years - 2013, 2014 and 2015. The agency must be satisfied that the reusable packaging is durable and likely to have a life exceeding four years.

Sale or return

Can associated packaging be discounted from a company's obligation?

No. A supply has taken place. The company could re-use the packaging.

Shoe boxes - who picks up seller obligation?

Wholesaler if retailer never supplies shoebox.

Retailer if they offer the box to customers, whether or not the customer takes the box.

Third party supply, such as reward schemes

Where a customer purchases goods with reward points, the seller obligation will fall to the supplier of the goods and not the issuer of the reward points.

US Air Force bases

Are imports of packaging from the US to US Air Force bases in the UK regarded as imports for the purposes of the regulations?

Yes. All US bases in the UK are regarded as UK territory by the MoD.

Responsibilities

Compliance monitoring - area responsibilities

The Lead Area is the one with the registered office for the company concerned. Where the audit address of the producer is in a different area the lead area can be transferred to that area. If any enforcement action is taken this must be done in conjunction with the area office nearest the producer's registered office.

Operational plans

Schemes and direct registrants with an obligation of 500 tonnes or more must submit them. See also Schedule 3 Part III, of the regulations.

Refunds

We cannot give refunds to producers that have registered in error. The application fee is used for the administration involved in processing the application and is not available for refund.

Registration deadline

7 April for scheme members and direct registrants (although schemes may impose an earlier deadline). Scheme operators have until 15 April to prepare and submit their data to the Agency.

Dormant companies

A dormant company can act as a holding company and register under the packaging regulations. Dormancy means that the company is not actively trading and undertaking transactions which would require the preparation of accounts. A company registered under the packaging regulations will attract obligations under Schedule 8(5). Obligations include to make the group registration (Sch. 8(5)(b)), provide consumer information (Sch. 8(5)(c)) and to furnish records and returns and provide a certificate of compliance (Sch. 8(5)(d)). In the event that the dormant company does not fulfil its obligations, it can still be held accountable under the regulation 40 offences.

An application to register with us (whether a group registration or not) must be signed by an approved person (as defined in regulation 34, including, in the case of a company, a director or company secretary) under regulation 7(4)(c) and failure to comply with that requirement allows us to refuse registration under regulation 7(6).

If we have a company without either a director or company secretary we should refuse registration of the company for failing to comply with the requirements of the packaging regulations. If the company has a director but not a company secretary or vice versa, the company could comply with the requirements of regulation 7 and we would have no grounds for refusal of registration.

Definitions

Consumer information obligation (CIO)

Regulation 4 (4)(d) of the regulations relates to CIO. These are designed to encourage consumers to actively participate in collecting and recycling packaging waste, or its re-use, by sellers providing recycling information. Regulation 4 puts an obligation on the seller to provide information to consumers about return, re-use, recovery and recycling of packaging, the meaning of related markings on packaging, and the management of packaging and packaging waste. There is no accompanying legal sanction.

Officers should consider the CIO when auditing producers which are primarily sellers, although Defra (and the Scottish Government) is the key regulating body.

Means by which sellers could address the key aspects of the Regulation are:

- information on the packaging of 'own brand' products;
- point of sale information (leaflets, till receipts);
- exit posters;
- printed merchandising (for example, carrier bags);
- sponsorship of local authority recycling guides;
- provision of information at store-sited recycling banks,

Deemed Supply

A supply from one stage in the packaging stage to another, which is deemed to occur when a person who has carried out a relevant function then performs another such function in relation to the same packaging or packaging materials. The packaging must subsequently be passed on to another person in the packaging chain, that is, the end user must not be the same company for deemed supply to take place - this would be internal supply, where there is no obligation on the packaging concerned (see Internal supply/transfer below).

Importer

The importer is generally identified as the first UK business to take ownership. For further information on the definition of importers, see DEFRA's [User Guide](#)

Imports via bonded warehouses

'Import' in the packaging regulations 2007 has its ordinary meaning. It is not linked to the payment of tax or duties nor to the nationality of the company that owns the goods. The regulations do not make a special allowance for imported products that are placed into bonded warehouses. Our view is that the obligation should rest with the importer - the person who brought the goods into the UK.

Internal supply/transfer

Movement of packaging within a company or between sites of the same company – the company number must be the same, but the geographical location may differ. The same company is also the end user of the packaging. This is internal supply and this packaging is not obligated because a supply has not taken place. Where packaging is supplied from one subsidiary company to another within the same group, a supply is normally considered to have taken place under the regulations, and the packaging is obligated. Where packaging has been used for internal supply and is subsequently used for external supply (for example, to a customer), it becomes obligated.

Raw material manufacturing

The production of the packaging material.

Examples: sheet steel for turning into cans or plastic pellets for blow moulding bottles.

13. Specific packaging items - obligated or not?

For a specific packaging item not included in the following table, it is the presumption that it is obligated unless the producer can provide adequate justification for it to be excluded in discussion with the Agencies. Some items may be used for a presentation/marketing function, and in reality are not

likely to be kept after the initial use. Officers should be aware of this in making any interpretations (beware of 'gimmicky' items not likely to be kept).

Item	Obligated	Comments
Analytical bottles containing an environmental sample	No	Analytical bottles are not obligated packaging since an environmental sample cannot be classed as goods as per the original EU Directive definition of packaging, and as such these do not constitute a sales unit
Barbecue foil trays (for disposable BBQ)	No	Integral part of product
Barrels and kegs	Yes	Obligated on first trip
Basket for presentation of goods	Depends	Presumption is that basket performs packaging (presentation, containment etc.) function and is obligated
Beverage Capsules	Depends	A perforated coffee capsule where the coffee is discarded with the capsule would be out of scope of the regulations following the adoption of the criteria in the Packaging Directive Amendment. The amendment to the packaging directive came into effect on 1 March 2013. Any beverage system item where the product is discarded with the packaging would no longer be considered packaging
Biodegradable packaging	Yes	For example, starch based material - still packaging (analogy with paper)
Blood bags	No	Not part of sales unit. Blood is neither bought nor sold in Great Britain
Boxed sets of books (boxes)	No	Providing it is the intention and likelihood that books will be stored in the box
Boxes containing tools	No	Usually for long-term storage (for example, drill case)
Cash bags	No	Cash not goods, therefore since regulations talk about packaging around goods, cash is specifically excluded (Judgment late 2006)
Card boxes for calligraphy pens, model kits etc.	Yes	Not considered long-term storage
Carrier bags	Yes	Unless sold to end user as a product (for example, bag for life)
Catalogues	Depends	If the catalogue is requested then associated packaging is obligated. If catalogue is unsolicited counted as junk mail, so not obligated
Ceramic jar containing cheese	Yes	Contains a consumable product that does not meet the requirements of long-term storage
CDs - plastic film	Yes	Protective packaging function
CDs - cardboard sleeves	No	Usually long-term storage

CDs - lyric books/inserts	No	Part of product
CDs - plastic ('jewel') cases for CDs	No	Long-term storage. However, the multi-pack case with the spindle, base and hard plastic cover would all be regarded as packaging. This is because it is not regarded as long-term storage.
CDs - plastic ('jewel') case for goods other than CDs (for example, iron on patches)	Yes	Protection function - once patches are removed, case usually discarded
CD cases for promotional goods	Depends	Need to consider type of CD: if for time limited offer (for example, internet access), yes obligated
Ceramic pot containing biscuits	Depends	Presumption is that pot performs packaging (presentation, containment etc.) function and is obligated. If producer can show clear intent and likelihood for use as long-term storage, not obligated.
Cheese rinds/wax	No	Excluded by amendment directive 2004/12/EC
Coat hangers	Depends	<ul style="list-style-type: none"> Coat hangers are not obligated packaging if they are sold to the end user as a product. for example, example: wooden coat hangers sold in packs by a retailer Coat hangers are obligated packaging if they are used for the presentation, handling and protection of clothing. For example, plastic coat hangers used for the display of clothing in retail shops <p>Where the purchaser of the goods leaves the shop with the clothing and coat hanger he or she is the end-user of the packaging.</p> <p>In all other cases the retailer is the end user of the packaging.</p> <p>Coat hangers which are reused do not pick up an obligation, unless they have been imported.</p>
Collectors toys - boxes	No	Product intended to be kept with box for lifetime. Labels still obligated
'Cool packs'	Depends	Reusable plastic 'ice packs' are product. Single trip 'cool packs' made up of foam pads, liquid and cardboard sleeve packaging and perform a protection function
Cores, reels, spools	Depends	They will be obligated if they are supplied outside of the business (legal entity)

Cosmetics in mock cases	Yes	Unlikely case would be kept after product consumed
Crayons - paper sleeves	No	Part of product
Credit/bank card packaging	No	Not considered to be goods
Cups (plastic) supplied with bottles/cans/package drinks	No	No packaging function
Cups - disposable, in which drinks are provided (for example, tea/coffee)	Yes	
Cut out templates on card boxes (for example, mask on cereal box)	Yes	Part of box performing packaging function
Display stands	No	Unless being used for a packaging function prior to being used for display (for example, for transport of goods)
Dosage delivery caps (for example, medical)	Yes	But only if an integral part of the container for example, forms part of the closure
Dunnage (packaging around goods in holds of ships)	No	Usually old, re-used bits of wood etc
Dunnage (bearers and sticks in timber trade)	Yes	
Envelopes for greeting cards	No	Product
Film - canisters	Yes	
Film - rolls containing the film	No	Product
Fire extinguishers	No	Product
Fireworks	No	Packaging around the product itself would be considered part of the product. Any secondary packaging around fireworks ie box, packet, film would be regarded as packaging
First Aid kit boxes	No	Long-term storage
Fumigant canisters	Yes	Canister performs a packaging function
Games boxes	No	Long-term storage
Gas cylinders	Depends	Commercial and industrial cylinders not obligated. Camping gas containers and aerosols obligated.
Gift voucher envelopes	No	As card envelopes, product
Glass containing wax beads and candle wick	Depends	Presumption is that glass performs packaging (presentation, containment etc.) function and is obligated
Glue	Yes	Declare separately when applied at conversion or pack/fill stage, but not at manufacturing stage. At other stages, it will be included in the overall weight of the packaging material
Grow bags	No	Considered integral part of the product
Haggis skin	Yes	Packaging
Hat boxes	No	Long-term storage
IBCs	Yes	Analogy with pallet containing packaged goods
IBC liners	Yes	
Inhaler - plastic holder	No	Product

Inhaler - cartridge	Yes	Packaging
Inhaler (asthma or nasal) - whole unit disposable	Yes	All packaging
Ink	Yes	Declare separately when applied at conversion or pack/fill stage, but not at manufacturing stage. At other stages, it will be included in the overall weight of the packaging material
Jars (designed to be tumblers after use)	Yes	After use is irrelevant. Presumption is that glass performs packaging (presentation containment etc.) function and is obligated. If producer can show clear intent and likelihood for glass to be kept and used, not obligated (beware of 'gimmicky' items not likely to be kept)
Jewellery/watch boxes	Yes	In exceptional circumstances where box is specifically designed and bespoke, it may be considered as long-term storage and not packaging.
Junk mail	No	Not regarded as goods and therefore associated packaging not obligated. If an item ordered is a sales unit (for example, paid for catalogue), this is regarded as goods and associated packaging is obligated
Kebab skewer	No	Part of product/sales unit
Knives and forks - disposable	No	No packaging function
Labels	Depends	See Labels, above for table
Laundry/dry cleaning packaging	Yes	Pack/fill and sell
Lighters - disposable	No	Whether refillable or not
Lipstick tubes	Yes	
Liquid correction fluid brush	Yes	Integral part of a packaging component
Lolly stick	No	Part of product/sales unit
Manicure set case	Depends	If intent is for long-term storage, not packaging
Mascara brush	Yes	Where it forms part of the lid, not where sold as a product in isolation
Masterbatch	Depends	No obligation for manufacturers. Converters account for pigment as part of overall weight of plastic packaging produced and supplied
Match boxes	Yes	
Meat packaging - absorbent paper	Yes	Forms part of sale unit
Mobile phone top up card packaging	Yes	Card is a sales unit and therefore packaging is obligated
Nozzles (for sealant dispensers)	Yes	If also forming the function of a closure
Outer envelopes containing photograph wallets	Yes	Whether postal or collected
Pencil cases/purses with sweets	No	Pencil cases/purses are product

Pallet nails	Yes	The converter will declare the weight used. Pack/fillers and sellers will not be expected to determine the individual weight of the nails, but take the overall weight of the pallet
Party poppers	No	Container, card top and string are all considered to be part of the product
PC games/software boxes	No	Considered long-term storage
Pens - disposable	No	Product
Petri dishes containing agar	No	Product
Photograph wallets	No	Long-term storage
Plant ID labels	Yes	Presentation function
Plant pots	Yes	Except when biodegradable and intended to be planted with the plant, or when sold containing a plant intended to stay in the pot for example, a house/patio plant
Plates - disposable	No	Product where supplied separately
Postal packaging	Depends	Usually no. If they contain goods, the packaging is obligated. Envelopes for junk mail, statements etc. are not packaging since they do not form part of a sales unit
Pre-packed sandwich/cake cartons	Yes	Performs protection/presentation functions
Presentation packs	Yes	Contains products
Printer cartridges	No	Part of product
Promotional leaflets/poster/freebies and associated packaging	Yes	Packaging around promotional goods supplied is regarded as packaging
Razor handle holders	No	Regarded as long-term packaging
Razor blade holders	Yes	The plastic tray holder containing the razor blades is packaging
Removal boxes	No	Not normally part of a sales unit
Re-used packaging	Depends	Yes if imported. No where on second and subsequent trips, but obligated on first trip
Roll cages	Yes	Same as pallets, unless internal supply
Roll on deodorant	Yes	
Room deodorisers (plastic outer for re-filling)	No	Durable, part of product
Saline bags	Yes	Sales unit containing product
Santa Claus cards (replies from Royal Mail) - associated packaging	No	Not considered goods
Sausage skins	No	Part of product
Security tags on CDs	Depends	Tags which do not perform any packaging functions are not obligated. If they act as a closure (for example, label on CD opening), they are obligated
Silica gel bags (desiccants)	Yes	Protection function, therefore obligated
Skip bags (pre paid)	No	Not part of a sales unit
Spectacle cases	No	Long-term storage
Spoons/leaflets with medicines	No	No packaging functions

Sterile medical packaging	Yes	Protection function, therefore packaging. The FACT that it's sterile does not remove the potential for being obligated.
Stillages (for example, metal open crates used in the automotive industry)	Yes	Transit packaging on first trip (not a road/rail/ship container)
Storm matches - boxes	Yes	Match box performs packaging functions
Sunglasses - tags and labels (for example, UV rating; care instructions etc)	Yes	Presentation packaging function
Tea bags	No	Integral part of product, including string in drawstring teabags. String, label and staple attached to ordinary teabags are obligated
Tea lights - foil cups	No	Integral part of product
Tea caddies	Yes	Contains a consumable product that does not meet the requirements of long-term storage
Toner cartridges	No	Part of product
Toys in boxes and trays (for example, small figures)	Yes	Boxes and trays considered to be disposed after opening
Totes (plastic crates)	Yes	For first trip only. Not obligated if only used for internal transfer.
Trays - bread	Yes	When supplied (including hiring and lending - service provider) with goods (on first trip only)
Trays - disposable food tray	Yes	Protects and presents food
Tray - durable food tray	No	No packaging function
Urine bags	No	Not part of sales unit. Urine is neither bought nor sold in Great Britain.
Vending toys ('egg' container)	Yes	
Video card boxes	No	Long-term storage
Water filter cartridges (containing membrane)	No	Part of product
Wooden bucket with shower goods	No	Intention is for long-term storage
Wrapping paper	Depends	No when sold as a product. Yes when used to wrap goods for supply

14. Acknowledged methodologies

A number of trade bodies, compliance schemes, and consultants have generated methodologies and protocols to help determine a producer's packaging obligation. We recognise that such methodologies can be beneficial when there are justifiable reasons within the industry sector concerned, for example, large number of products with highly variable packaging associated with the products.

Where such methodologies or protocols are used, we will continue to require that data is as accurate as reasonably possible. Thus any methodology or system which is initially acknowledged by the Agency will have to be periodically reviewed with regard to the accuracy of the packaging data they generate.

When we are presented with such methodologies and protocols we will review them. If they provide

data which is considered as accurate as reasonably possible for that sector, we will 'acknowledge' them. This will provide our Area staff with the confirmation that when used as prescribed, the resulting data will be acceptable. This will be subject to Area Officers verifying the correct use of the methodology and that any supporting information (for example, sales data) is correct.

We will not agree or endorse such methodologies or protocols.

The attached table provides a summary of methodologies that we have acknowledged. The list is definitive - that is, anything not included here has not been reviewed or acknowledged at a national level.

Companies may develop methodologies for their own use, or for a group of companies. The fact that they have not been presented to the Agencies does not mean that they are not valid. In such circumstances, the Area Officer must review them as part of the normal compliance monitoring process.

Historically there have also been a number of agreements reached over percentages of packaging waste in material being sent for reprocessing. These are detailed in our external guidance on accreditation of reprocessors and exporters (Ref. ACC-GN01).

Owner	Name	Target Business Sector	Status	Expiry Date	Comments
Horticultural Trade Association (HTA)	HTA Workbook	Horticultural	Current	Annually reviewed	Members download direct from the HTA website
Timber Trade Federation		Timber merchants Volume to weight ratio for packaging wood	Current	No expiry date	Standard weight agreed at 507kg/m
PAPCO	PAPCO matrix	Paper merchants	Current	No expiry date	Provides standard weights for packed paper products
Biffpack	Builders Merchants Ready Reckoner	Builders merchants	Current	Reviewed	Provides a series of co-efficients for product groups. Latest version is No: 7 (2013)
Confederation of Paper Industries (CPI) <i>Formerly Corrugated Packaging Association (CPA)</i>	Ready Reckoner	Corrugated paper converters	Current	Annually reviewed	3 rd party export percentage - covers packaging exported with products and exported as a product. Current figure (2013) is 32.4% . Previous percentage figures - 32%,35.6%, 32.7%, 28.5%, 26.9%, 28.1% (2012)

Fresh Produce Consortium	FPC Guide	Fresh produce importers	Current	Annually reviewed	Ready reckoner style workbook. Latest version is No: 15 (2013)
Valpak	Valpak Data Solutions	Wide range of clients but mainly in the retail sectors	Current	Reviewed	
DHL	Packaging Data Store	Grocery sector - but expanding	Current	Reviewed	
British Glass		Glass container manufacturers	Current	No expiry date	Range of percentages agreed for third party exports of glass containers. Beers - 11% Food - 5% Spirits - 83% Flavoured Alcoholic Beverages - 8% Pharmaceutical - 40% Wine - 2% Soft drinks - 0.03% Cider - 7% Dairy - 0%
Green Streets Environmental Resources	Grip	A wide range of clients	Current	No expiry date	
Wastepack	Buildpack	Builders merchants	Current	No expiry date	A web based system that uses unit sales against actual packaging weights
Ecoveritas Data Services		A variety of sectors (e.g. wholesalers, food and drink, retail, pharmaceutical, entertainment)	Current	No expiry date	The weight data held is bespoke for each client, and is collated and calculated through ecoVeritas' PackMan system
Ecoveritas Data Services	REPRA (Retailer's Producer Responsibility Association)	Large department stores	Current	No expiry date	This system uses unit sales against actual and extrapolated packaging weights

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