



Department
for Environment
Food & Rural Affairs

Amendments to pEPR data reporting regulations

13 February 2024

Reasons for amending the regulations

- Take account to the delay to Scottish DRS
- Respond to sector concerns around definition of household packaging
- Account for changes:
 - Identified in Spring 2023 but needed to be made at the start of a new reporting period
 - Identified whilst consulting on the main EPR regulations in 2023

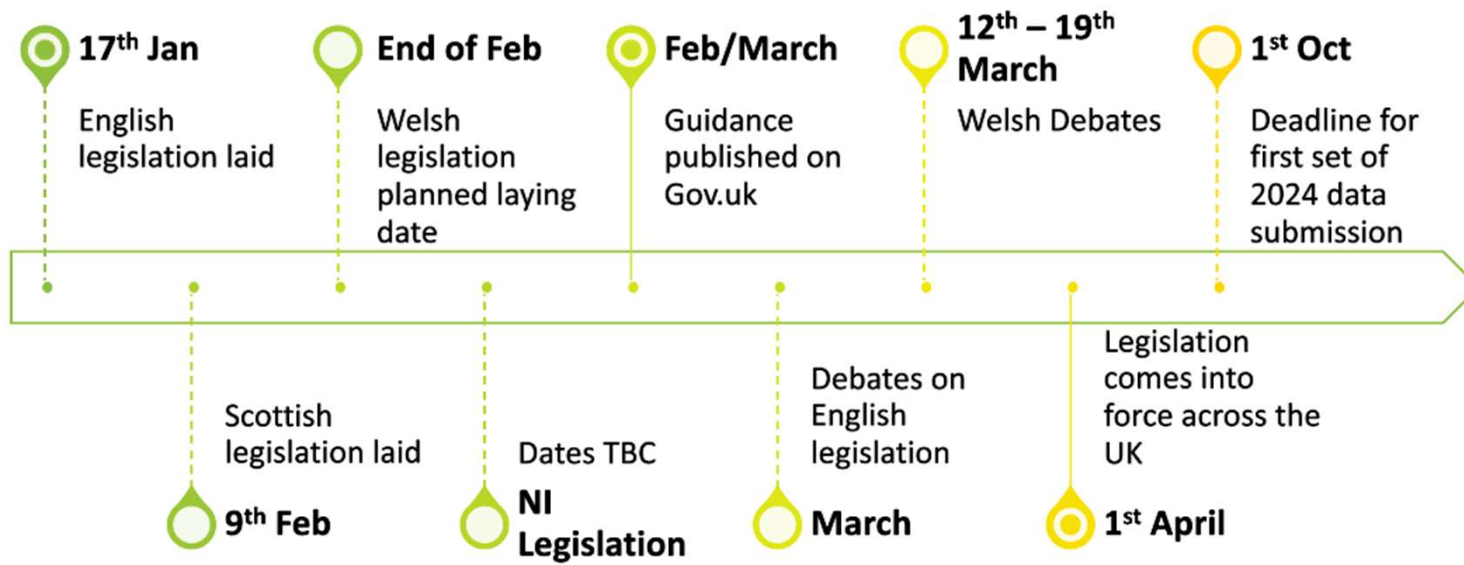
Aims for the session

- Set out the timeframe for the legislative process and the creation of the guidance so you know what to expect over the next year.
- Provide a deeper understanding of the amendments.
 - Why we made them.
 - What they mean for you.
- Provide a particular focus on the household definition as we know that this is an important amendment for you all.
 - Detailed run through of the changes to the definition.
 - Provide some transparency on how we're building the guidance around this amendment.
- Provide opportunities for Q&A at the end of each section.

Agenda

- Introduction and background – 5 mins
- Timeline and impact on 2024 data – 5 mins
- Regulatory amendments walkthrough – 40 mins
- Regulatory amendments Q&A – 10 mins
- Amendments to household packaging definition – 15 mins
 - Environment Agency update
 - Packaging Scheme Forum update
- Household packaging Q&A – 15 mins

2024 Timeline



Impact on 2024 packaging data

- Changes will apply to all packaging supplied in 2024
- Producers will report either:
 - Full 2024 dataset - where data is collected in accordance with the amended regulations (2 x 6 monthly submissions)
 - Or
 - Partial data. Where data relating to *1 Jan – 31 March* is not available in accordance with the amended regulations. Producers will not report any data for this period but will begin collecting data in line with the new requirements from 1st April.
- Large producers who report 'partial data' will only report April – June packaging data by 1 October 2024 and the data will be scaled up to provide a full dataset.
- 2024 packaging data will be used to calculate 2025 recycling and disposal cost obligations of large producers.

Regulatory amendments overview

There are 11 main changes addressed in the Data SI amendments

- Inclusion of Scottish deposit return scheme articles in pEPR reporting
- Point of obligation - where a brand only relates to the packaging
- Point of obligation – where packaging is owned by someone outside the UK
- Point of obligation – unfilled packaging supplied to large producers
- Point of obligation – reporting of imported packaging
- Seller definition
- Public list of large producers
- Drinks container reporting
- Compliance scheme checking responsibility
- Transitional provisions for packaging reported under the 2007 regulations
- Changes to the definition of household packaging

Scottish DRS Delay

- In June 2023 Scottish Government announced that Scotland's DRS will be delayed

Amendment

- 'Scheme articles' under the *Deposit and Return Scheme for Scotland Regulations 2020* are no longer treated as exempt packaging.
- This material will pick up a recycling obligation but will not pick up a disposal cost obligation.
- DRS material will only become exempt from pEPR again when a DRS is in operation.

Where the brand only relates to the packaging and not the product

Currently:

- A brand owner is responsible for all filled packaging that bears their brand.
- Where a brand owner supplies empty branded packaging to a person, the brand owner is responsible for the packaging and any additional packaging placed within the packaging if no further brands are added to the packaging.
- We recognise that the brand owner of the empty packaging would be unable to accurately report this data.

Amendment:

- To address this, we have moved the obligation to the packer/filler where the brand only relates to the packaging and not the product contained in that packaging.

Where packaging is owned by a person not established in the UK

- The regulations only apply to persons that are established in the UK.
- Where packaging is owned by someone that is not established in the UK, the reporting obligation is therefore currently lost

Amendment

- We are changing this and placing the obligation on the 'first UK owner' of the filled packaging.
- This means that where packaging is owned by an overseas business but is packed in the UK, the reporting responsibility will sit with the first person that purchases the filled packaging.

Unfilled packaging supplied to a large producer

- Currently a distributor is not required to report packaging that is supplied to a large producer.
- This assumes that the large producer will report the packaging as the packer/filler and therefore it does not account for large producers that may supply the packaging to others
- There is a risk therefore that the obligation will be lost

Amendment

- We are changing this; a distributor will be required to report all unfilled packaging other than packaging
 - which is supplied to a large producer who packs/fills that packaging
 - that will be reported by a large brand owner

Reporting of imported packaging

Amendments

1. Import + discard no longer limited to filled packaging. This means that where an importer imports and discards *unfilled* packaging, the importer will report this.

2. We have also clarified the reporting requirements in relation to imported, branded packaging to prevent potential double reporting.
 - An importer that imports filled packaging must report packaging where:
 - There is no brand owner established in the UK, or
 - Where the brand owner is not responsible for the import, or
 - Where the brand owner is responsible for the import, but is not a large producer
 - This approach ensures that no packaging is lost and prevents both the brand owner and the importer from reporting the same packaging.

Definition of seller

- In the original regulations, the term 'seller' only applied to people who supplied packaging to non-business end users.

Amendment

- We have amended the definition to ensure that a 'seller' is the person who supplied packaging to the end user of that packaging, irrespective of whether the end user is a business or not.
- The obligations of a 'seller' remain unchanged.

Duty to publish a list of large producers

- Due to the deferral by 12 months of the “main” pEPR regulations, there is a consequential delay in the registration of producers and the publishing of the associated “public register”

Amendment

- The environmental regulators will publish a public list of large producers
- This list will assist distributors, importers, online marketplaces, and others in the value chain in determining who is required to report certain packaging – helping businesses fulfil their obligations under pEPR.
- For example, Distributors are obligated for empty packaging they supply, unless they supplied it to a Large Producer who is a packer/filler. This list will help them in identifying Large Producers.

Drinks container reporting

Material	Current (2023 data)	Amendment (2024 Data)
<u>Glass</u> : drinks container	Report as drinks container- total weight & quantities	No change - Report as drinks container; including no. of units supplied
<u>Glass</u> : ancillaries of drinks container (labels, closures, etc)	Report separately as HH Primary	No change - HH primary
<u>PET or Steel/Aluminium</u> : drinks container	Report as drinks container- total weight & quantities	Report as drinks container - total weight of container + ancillaries by predominant material of container + no. of units supplied
<u>PET or Steel/Aluminium</u> : ancillaries of drinks container (labels, closures, etc)	Report separately as HH Primary	

Compliance scheme checking responsibility

- Data accuracy is fundamental to the successful operation of the extended producer responsibility system.
- Under the 2007 packaging regulations, compliance schemes have a duty to monitor the accuracy of the information that they receive from their members.

Amendment

- We have added an equivalent provision to these regulations to ensure that high data quality standards are maintained.

Packaging reported under the 2007 regulations

Amendment

- New provisions will allow producers to exempt a proportion of packaging from their recycling obligations in the first year of these Regulations, if they can evidence that the packaging has already been reported under the 2007 Regulations.
- This amendment addresses the risk of producers paying twice for the same piece of packaging.
- The regulations explain how to calculate the amount that can be 'discounted' and additional guidance will be released to support producers with this calculation.

Changes to the definition of household packaging

The changes we have made seek to:

- Provide clarity in relation to organisations such as the NHS or schools that may not be considered businesses
- Extend the household packaging exemption to some business only packaging that will be disposed of in a business bin, irrespective of whether the supply is made directly to the business end user.

Definition of household packaging

In these Regulations, “household packaging” is primary or shipment packaging which is not packaging described in paragraph (2).

(2) The following primary or shipment packaging is not to be treated as household packaging—

*(a) packaging supplied to a business or to a **public institution** which in either case is the final user of that packaging;*

(b) packaging for a product, where—

(i) the product is designed only for use by a business or a public institution, and

(ii) the packaging for that product is not reasonably likely to be disposed of in a household bin or a public bin;

Public institutions

- (a) a school, university or other educational establishment,
- (b) a hospital or the practice of a general medical practitioner or dentist
- (c) a nursing home or other residential home,
- (d) a government department,
- (e) a relevant authority,
- (f) a court,
- (g) a person appointed by or under any enactment to discharge public functions,
- (h) a charity or other not for profit body,
- (i) a penal institution.

New household packaging exemption

(b) packaging for a product, where—

*(i) the product is designed only for use by a business or a public institution,
and*

(ii) the packaging for that product is not reasonably likely to be disposed of in a household bin or a public bin;

- Packaging on products that are designed for both businesses/public institutions **and** general consumers are always considered household packaging.
- Packaging that satisfies one of the above tests but not both, is treated as household packaging
- The regulations place a duty on the environmental regulators to create guidance for the purpose of satisfying the new household packaging exemption

Regulator guidance

7A. - (1) The Environment Agency must provide guidance for the purposes of regulation 7—

(a) on the evidence which may be used by a producer to demonstrate that primary packaging or shipment packaging is supplied to a business or a public institution which in either case is the final user of the packaging;

(b) on when a product is to be treated as being—

- (i) designed only for use by a business or a public institution;*
- (ii) not reasonably likely to be disposed of in a household bin or a public bin.*

Regulator guidance

The regulators may take the following factors into account in the preparation of guidance

- the size of the packaging;
- the weight of the packaging;
- whether the supply of a product is subject to any restrictions imposed by or under primary or secondary legislation;
- how available a product or its packaging is to consumers;
- whether a product is likely to be used by a business in a household;
- any other factor the Environment Agency considers relevant.

Regulator guidance

- Guidance that is fit for purpose and regulatable
- Recognise the important insights of stakeholders
- Consulting with stakeholders – variety of Trade Associations & PSF

- Collate and review feedback – 4 Nations approach
- A hybrid of ideas will form the final guidance approach

- To be published on gov.uk once finalised

Questions

Contacts for queries

For any enquiries related to compliance with these regulations, please contact the relevant environmental regulator.

EA - packagingproducers@environment-agency.gov.uk

SEPA - producer.responsibility@sepa.org.uk

NRW - enquiries@naturalresourceswales.gov.uk

NIEA - packaging@daera-ni.gov.uk

For questions relating to the digital system, please contact EPRCustomerService@defra.gov.uk

For questions relating to pEPR policy, please contact packaging@defra.gov.uk