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## **Agreed positions and technical interpretations - packaging**

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

# Agreed positions and technical interpretations – producer responsibility for packaging

This document consolidates and replaces guidance given in the following documents:

- Explanatory Notes
- Packaging Compendium (internal database)
- Summary of Methodologies and Protocols acknowledged by the Agencies and used by specific industry sectors to calculate packaging obligations

This document covers technical issues which are not dealt with in other, topic-specific guidance (such as Accreditation Application Guidance, Compliance Monitoring Guidance). Such guidance will not be repeated 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, as well as summarising 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. Agreed positions

### 1.1 Accreditation

ACC-GN01: Guidance notes 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, EfW, clinical EfW, business plans etc.

#### 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 (i.e. recyclates used as raw materials count in the same way as virgin raw materials). For example, a reprocessor that blends virgin material with recyclate to make a packaging raw material will incur a manufacturer obligation (6%) on the total output. In such a case, the supplier of virgin raw material to the reprocessor will have no obligation on the materials so supplied, because the reprocessor will be picking up the manufacturer's obligation.

Recyclate sold to converters as a packaging raw material by independent reprocessors in competition against virgin materials should be treated as a manufacturing output, with a 6% obligation.

### 1.2 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 they must be covered by a registration if the group is over the turnover and tonnage thresholds as a whole.

#### Supply and ownership issues

Some examples for guidance on interpretation:

1. Converters handling packaging materials they do not own.  
A converter could be manufacturing packaging that is owned by his packer-filler customer. In such a case, the obligations for the conversion process would fall on that packer-filler as the converter is acting as an agent.
2. Rolled-up importer's obligations.  
These fall on the first company based in Great Britain which owns the materials or packaged products. An importing agent would not own the packaging if he merely acted as an 'order-taker'. He 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 would be the GB buyer. If the payment is made to a sales office based in Great Britain, then that suggests that the sales office would have effectively taken ownership of the products between the overseas provider and their buyer, and that sales office would be the importer.

3. Contracted-out packer-filler activities – packaging owned by the principal (i.e. the company contracting out the activity).

The obligation for that activity falls on the owner of the packaging i.e. 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 (e.g. a leasing-finance company). In such cases, the system owner will pick 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?  
No pack/fill or sell obligation will arise. The pack/filler does not own the packaging and thus is not obligated. The owner and eventual end user cannot supply to itself, thus there is no seller obligation.

## Exemptions

Regulation 3 states that charities are exempt. Note that some charities also have trading operations which are NOT exempt, for example Oxfam shops.

## Registration of Subsidiaries and associated packaging handled

Each compliance period a small number of situations have arisen with regards 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 the 2009 registration round 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 mid year change requirements set out in the regulations.

### **Scenario 4**

Business details change within the holding company and/or its subsidiaries e.g. addresses, telephone numbers, contact names etc.

Details updated with us.

No fees payable

## **1.3 Activities**

### **Conversion**

Where packaging is assembled from several components, the component manufacturers supplying to the pack/fillers will usually be regarded as the converters, NOT the pack/filler.

Examples:

**Glass etching** – If etching is carried out as an integral part of the bottle formation, the etching process is the final conversion stage. Any frosting/etching undertaken as a subsequent activity to bottle formation is not the final conversion activity.

**Pre-forms** - The person who blows the bottle to its final shape and size is considered to be the last converter in the conversion process and therefore will have the converter's obligation.

**Air filled plastic pillows** – the converter is the business blowing air into and heat sealing the pillows.

#### **Carrying out Converter and Packer/Filler Activities at the same time -**

Where converter and packer/filler activities take place **at the same time** for the same packaging, the producer only picks up the packer/filler obligation. In reality this situation rarely occurs; examples may include the packing of crisps where the bags are formed from a continuous roll of film at the same time as the crisps are added to the bags. Other examples may include the flow wrapping of baked goods and the sealing of products between two layers of thermo-formable films.

### **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.

## **1.4 Long-term/durable packaging**

Packaging which is designed to stay with the product for its life will be regarded as long term storage, and will not be obligated, e.g. boxes for board games; first aid kit boxes; boxes for tools.

## 1.5 Overseas issues

### Great Britain/Northern Ireland

Great Britain (GB) consists of England, Scotland and Wales. The United Kingdom 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, and consequently transfers of packaging and packaging materials from Northern Ireland into Great Britain bring no "rolled up" obligation (even if originally imported from outside the UK). This is because you cannot "import" into Great Britain from another part of the UK. The company which originally imported the goods into Northern Ireland would pick up the rolled up obligations.

Packaging and packaging materials sent to Northern Ireland are not exports for the purposes of these regulations. Subsequent exports from the UK of packaging that was shipped from Great Britain to Northern Ireland should be treated as third party exports.

Transfers of packaging waste into Great Britain (which has originated in Northern Ireland) can be used to fulfil recovery and recycling obligations, as can packaging waste sent from Great Britain to Northern Ireland for reprocessing.

### Registration of Overseas Producers

The Producer Responsibility Obligations (Packaging Waste) Regulations 2007 as amended (the packaging regulations) apply to Great Britain. 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 P.O. 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 and for companies audited accounts are treated as being available when company accounts have been 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 reference to the latest available accounts. Turnover should be assessed on the companies 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. We are not changing that position. 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. If, for example, holding company X (incorporated in Germany) has a presence (an office) here and two of its subsidiary companies operate here and have a presence here (they may even be UK registered companies) X will be able to register as a group. However, if X does not have a presence here it can not make a group registration and the two subsidiaries will have to register separately.

## Handling of 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). Up to 2007, if a producer handled over 50 tonnes, they were required to register the amounts handled in GB and NI separately (i.e. 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 will still be required to 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 will carry no obligations.

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

## 1.5 Medical/Healthcare packaging

Persons providing treatment and/or healthcare directly to patients at, or on behalf of medical, nursing, dental, veterinary or similar establishments shall be regarded as the end user of any packaging materials associated with the delivery of that healthcare. For practical reasons, they will be regarded 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. Thus, the companies supplying these establishments will be performing (at least) the Seller activity. NHS Trusts principally source healthcare goods from an intermediary company (was NHS Logistics, now DHL). As such, the intermediary company will have the selling obligation where the NHS is the end user. If the NHS Trust supplies goods on (e.g. through their pharmacy or catering) they, and not the intermediary company, will have the selling obligation.

Ancillary retailing activities at healthcare establishments (e.g. pharmacies, restaurants, newsagents, etc.) where goods are supplied “over the counter” to customers or patients shall be regarded as sellers of the associated packaging. Such persons may also carry out any other relevant packaging activities, such as pack/filling.

Organisations or undertakings not trading for profit, such as NHS Health Trusts, shall be regarded as “conducting an occupation or profession”, and will therefore fall within the definition of a “person acting in the normal course of business”. Such organisations may be obligated under these Regulations if they exceed the threshold tests and perform a relevant activity.

### 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) – e.g. asthma or nasal	Yes	All packaging
Urine bags	No	Not part of sales unit. Urine is neither bought nor sold in Great Britain.
Blood bags	No	Not part of sales unit. Blood is neither bought nor sold in Great Britain.
Dosage delivery caps	Yes	But only if integral part of container (e.g. forms part of closure)
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.
Saline bags	Yes	Sales unit containing product
Syringe (empty used for drawing up)	No	Product (although wrapping around syringe will be packaging)

Syringe (prepacked with medicine)	Yes	Syringe and any labels, wrapping etc will be packaging – performs delivery and protection function. Hypodermic not packaging.
Prepacked Medicine vial	Yes	Glass vial containing medicines, all included as packaging including metal crimp lid and rubber / plastic valve.

## 1.6 Postal packaging

If the contents are acquired as part of a contract (e.g. mail order goods, catalogues which have been paid for, free catalogues that have been requested, including on approval) they are goods and the postal package **is obligated**.

However, if the contents of the postal package are not part of a sales contract (e.g. unsolicited mail, correspondence, statements and invoices) they are not goods and the postal package **is not obligated**.

## 1.7 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 and as such 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 which are used for internal transfer between manufacturing processes on the factory floor only, and are not subsequently used to supply onto 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.

## 1.8 Freight (road, rail, ship and air) containers

Road etc 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 the concept of "containers" should be taken 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. TC104 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) that they are:

- 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 so as to be easy to fill and empty;
- f. of an internal volume of 1 cubic metre or more;
- g. not vehicles.

A container exempt from being tertiary packaging for the purposes of the Regulations is one with all of these characteristics. **IBCs are not included in this category – they are obligated packaging.**

## 1.10 Catering packaging

A judicial review in May 2002 ruled that the customer (i.e. 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 seller 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. Thus, the supplier to such establishments will not be regarded as the seller of the drinks' packaging. This means 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 etc. 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** - (e.g. chip shops, burger bars, vendors at shows, etc) 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 (e.g. tea bag; soup or coffee granules, etc) in disposable vending cups will be regarded as the pack-filler. The seller will normally be 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 (e.g. the operator of a buffet car on board a train).

**Vending machines – who is the pack/filler/seller?** – Pack/filler will be person putting coffee/tea in the cup. 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** - such as ceramic/glass plates, bowls, cups, jugs and glasses are not packaging. However, paper plates do perform a packaging function and are obligated.

**Sauces/portion packs** - Catering establishments will be regarded as the end user of items which are provided for communal use (e.g. a bottle of ketchup placed on a table in a café). However, where single portion condiments e.g. 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** - do not normally perform a packaging function and, therefore, are not regarded as packaging (although their wrappers will be).

## 1.11 Labels

The Agencies believe that the majority of labels perform a 'presentation' function and are therefore packaging. The presumption is that a label is packaging, and a label will be treated 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.

The Agencies 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:

Label description	Obligated?	Comments
Barcode only	No	No packaging function
Barcode plus number	No	No packaging function
Hazchem label only	No	No packaging function
Label with description of product	Yes	Presentation/handling function
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. Where an integrated process that includes both converter and packer/filler activities takes place for release paper and which meets the criteria set out in Schedule 1, para 1(2), it only attracts the packer/filler obligation.
- **Packer/filler:** normally the person attaching or applying the labels e.g. removing release paper to apply 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 (e.g. label paper), to fulfil several of 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.

It is recognised 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 – an example could be certain types of car-park ticket. It is suggested such exceptions are rare and any relevant 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 will normally be on the supplier of rolls of paper to the Converter

- **Converter:** the conversion activity is the production of release paper i.e. coating the paper with silicone; the obligation will normally be on the supplier of e.g. the coated paper, to the Packer/filler.
- **Packer /Filler:** the activity is the combining of the goods with the packaging i.e. the rolling of face paper onto release paper; the pack/fill obligation will normally be this initial process.
- **Seller:** the activity is the supply of packaging to the final user.

For any material the clearest way to understand the point of obligation is to first identify the final-user i.e. the person who removes packaging from the goods. Illustrative examples of **final-user** for release paper might include: a food manufacturer or pharmaceutical packer who uses specialist machinery to place labels onto goods or other packaging items; an office which uses labels for application onto envelopes; a householder who places self-adhesive film around a book; a warehouse depot which places self-adhesive document wallets onto boxes for shipment. Having identified the final-user, the seller will usually then be evident and these examples indicate how the seller obligation could rest with many different sorts of businesses.

## 1.12 Miscellaneous

### Re-used packaging

With the exception of imports, packaging is obligated on its first trip only 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 (see also 1.12.1.2).

### Imported packaging, which is re-used for export– which tables to use

Imported packaging that is removed from goods has a 100% obligation and should be recorded 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.

However, 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. This packaging should be recorded in Table 3c if there is an adequate audit trail to confirm import and subsequent export of the same packaging.

Table 3c should also be used for specific packaging items that have been imported and subsequently exported whether or not further activities have been performed on them. For example boxes which are imported, the contents removed for a production process and then placed back in the same packaging and subsequently exported, or boxes taken from one pallet and re-packed with other items onto another.

### 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. For instance, a packer-filler who uses the cardboard boxes in which his raw materials were delivered as cardboard boxes to package his own products for sale would incur no obligation on them. This would be 're-use'. The subsequent selling activity on such boxes would also attract no recovery and recycling obligation.

However, packaging waste or other waste may be reprocessed and so become a 'new' packaging material. An example is a company that 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. Such a 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. These may then be used to offset all or part of the company's obligation to recover and recycle. A second example: pallets can be recycled where 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 (e.g. a tap on a drum) which is removed during repair and discarded is packaging waste.

Any new material (e.g. a repair patch) or auxiliary product (e.g. a stopper) used in repairing packaging for reuse is packaging, with the obligations falling on the manufacturer and converter of that material or product (**not** the reconditioner), i.e. the manufacturer of the repair patch/stopper.

Repair must not change the type of packaging in order to claim the "reused" exemption (e.g. 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 which cannot be separated by hand. These composite materials are often referred to as laminates. Examples would include paperboard laminated with plastic coating and plastic with aluminium foil. Some laminates consist of more than two materials. In all cases the whole weight of the packaging item is to be recorded as the predominant material by weight. Therefore 200 grams per square metre (gsm) paperboard laminated to a 50gsm aluminium foil and to a 2gsm plastic film would be counted as 252 grams of paper packaging.

Multi-material packaging is made from components of different materials during the converter or packer-filler activities, (e.g. a blister-pack made from cardboard and plastic). They are not necessarily separable by hand (see below). For these items, the weights should be recorded as the different component materials (these weights should be available in the supplier chain, or at the point of assembly).

The DoE/ DETR User's Guide at

<http://www.defra.gov.uk/environment/waste/topics/packaging/pdf/userguide.pdf> offers the suggestion that composite packaging is 'made up of materials that are not separable by hand'. This may be so but could mistakenly be taken to embrace packaging that should not be described as a 'composite'. There are many multi-material packages that could be construed to meet that description which are constructed by attaching separate dissimilar components to each other by a means designed to be durable and which cannot 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 as a product the retailer does not attract an obligation under the Regulations, e.g. jiffy bags, sandwich bags, foil, cling film, bin bags, refuse sacks, etc.

Supermarket 'bags for life' and any other carrier bags that are paid for are not obligated, but carrier bags given away free at point of sale are obligated.

### Miscellaneous - other

**Car servicing** – garage is end user of packaging – the garage is providing a service and is not considered to have supplied the packaging (e.g. around brake pads) to its customer. The service may or may not include goods.

#### **Categorising materials:**

Cellulose – categorise as paper/board

Sawn timber, ply, MDF/Hardboard/chipboard/particle board – categorise as wood

Cork – categorise as other

**Compliance monitoring – area responsibilities** – The lead Area is the one with the Registered Office for the company concerned.

**Consumer Information Obligation (CIO)** – In PRO (PW) Regs - Reg 4 (4)(d) – These are designed to encourage consumers to actively participate in the collection and recycling of packaging waste, or its re-use, through the provision of recycling information by sellers. Reg 4 puts an obligation on the seller to provide information to consumers about return, reuse, 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 etc.)
- Exit posters
- Printed merchandising (e.g. 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, i.e. 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 below).

**Definition of importer** – first UK business to take ownership - <http://www.defra.gov.uk/environment/waste/topics/packaging/pdf/userguide.pdf>

**Imports via Bonded warehouses** – Historically our position was that the person removing the goods from the bonded warehouse attracted the import obligation.

In late 2007, we reviewed our position on who should be regarded as the importer for the purposes of the Packaging regulations for goods placed into bonded warehouses within the UK.

'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.

We concluded that our original position, that the obligation should fall to the company removing the goods from the bonded warehouse, although pragmatic, could not be maintained.

Our view is that the obligation should rest with the importer – the person who brought the goods into the UK. This is a change. **It should be noted that this is our interpretation, it applies to England and Wales and is not a statement of law.**

Packaging Compliance Schemes were advised of this position early in 2008.

**Definition of 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 (e.g. to a customer), it becomes obligated.

**Definition of raw material manufacturing** – The production of the packaging material e.g. sheet steel for turning into cans; plastic pellets for blow moulding bottles.

**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.

However, where a service is procured, e.g. electrician to re-wire house, the service provider (e.g. electrician) is considered to be the end user of any associated goods and packaging (because the consumer is procuring a service which may or may not include goods), and the seller will be the person supplying them with the goods e.g. the builder's merchant.

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

**Hotel free issue sachets / shampoos etc** – hotels supplying free sachets / bottles of shampoo, conditioners etc will be judged to have supplied the goods to the customer and the establishment will pick up the seller obligation.

**Operational plans** – Must be submitted by schemes and producers with an obligation of 500 tonnes or more. See also Schedule 3 Part III.

**Packaging made from waste** – obligated, but in most circumstances the manufacturing obligation is lost.

**Refunds** – The Agencies cannot give refunds to producers that have registered in error. Much of 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.

**Re-usable packaging systems** – For a new system the user can spread the obligation equally over 4 years, beginning the year after the system is introduced. Any expansion to the system does not attract a similar concession.

**Shoe boxes – who picks up obligation?** – wholesaler if retailer never supplies shoebox. Retailer if they offer the box to customers, whether or not the customer takes the box.

**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 Regs? - Yes, all US bases in the UK are regarded as UK territory by the MoD.

**Third party supply – e.g. 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.

Sale or return – can associated packaging be discounted from a company's obligation? – No, a supply has taken place. Company could re-use the packaging.

## 1.13 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
Barbecue foil trays (for disposable BBQ)	No	Integral part of product
Barrels and kegs	Yes	Obligated on first trip, but no obligation where used as part of internal supply (e.g. brewery to pub owned by brewery)
Basket for presentation of goods	Depends	Presumption is that basket performs packaging (presentation, containment etc.) function and is obligated. Where producer can show clear intent and likelihood for use as long term storage, not obligated (e.g. wooden bucket, good quality wicker hamper).
Biodegradable packaging	Yes	e.g. 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 (e.g. drill case)
Cash bags	No	Cash not goods, therefore since Regs talk about packaging around goods, cash is specifically excluded (Judgement 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 (e.g. 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.
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
CDs – plastic (‘jewel’) case for goods other than CDs (e.g. 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 (e.g. internet access), yes obligated. If for free music CD, no, long term storage
Ceramic pot containing biscuits	Depends	Presumption is that pot performs packaging (presentation, containment etc.) function and is obligated. Where producer can show clear intent and likelihood for use as long term storage, not obligated.

Item	Obligated	Comments
Cheese rinds/wax	No	Excluded by amendment directive 2004/12/EC
Coat hangers	Depends	If supplied with goods or option to have hanger is given, then obligated. Hangers sold as a product are not obligated.
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 as perform protection function.
Cores, reels, spools	Depends	See section 1.8
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 (e.g. tea/coffee)	Yes	
Cut out templates on card boxes (e.g. mask on cereal box)	Yes	Part of box performing packaging function
Display stands	No	Unless used for a packaging function prior to being used for display (e.g. for transport of goods)
Dosage delivery caps (e.g. medical)	Yes	But only if an integral part of the container e.g. forms part of the closure
Dunnage (packing 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 greetings cards	No	Product
Film – canisters	Yes	
Film – rolls containing the film	No	Product
Fire extinguishers	No	Product
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. Where producer can show clear intent and likelihood for glass to be kept and used, not obligated.

<b>Item</b>	<b>Obligated</b>	<b>Comments</b>
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 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. Where 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 (see comments)	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. However, if an item ordered is a sales unit (e.g. 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 section 1.11 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	

<b>Item</b>	<b>Obligated</b>	<b>Comments</b>
Meat packaging – absorbent paper	Yes	Forms part of sales 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
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	Yes	Not considered long term storage
Pens – disposable	No	Product
Petri dishes containing agar	No	Product
Photograph wallets	No	Long term storage
Outer envelopes containing photograph wallets	Yes	Whether postal or collected
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 e.g. a house/patio plant
Plates – disposable	No	Product where supplied separately
Postal packaging	Depends	Usually no, but where 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	Contain 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

<b>Item</b>	<b>Obligated</b>	<b>Comments</b>
Security tags on CDs	Depends	Tags which do not perform any packaging functions are not obligated. If they act as a closure (e.g. 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 (e.g. metal open crates used in 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 (e.g. UV rating; care instructions etc.)	Yes	Presentation packaging function
Tea bags	No (but see comments)	Integral part of product, including string in drawstring teabags. However, string, label and staple attached to ordinary teabags are obligated.
Tea lights – foil cups	No	Integral part of product
Toner cartridges	No	Part of product
Toys in boxes and trays (e.g. 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)
Tray – 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.

## 2. Acknowledged methodologies

An increasing number of trade bodies, compliance schemes, consultants etc are generating methodologies, protocols etc to assist in the determination of a producers packaging obligation. The Agencies recognises that such methodologies can be beneficial when there are justifiable reasons within the industry sector concerned e.g. large number of products with highly variable packaging associated with the products.

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

The Agencies when presented with such methodologies, systems etc will review them and if we consider them justified and that they provide data which is considered as accurate as reasonably possible for that sector we will 'acknowledge' them. In so doing this will provide Agency Area staff with the confirmation that when used as prescribed, resulting data will be acceptable. This will be subject to Area Officers verifying the correct use of the methodology and that any supporting information (e.g. sales data) is correct.

The Agencies will not agree or endorse methodologies, protocols etc.

The attached table provides a summary of those methodologies, systems etc that have been acknowledged by the Agencies. The list is definitive – i.e. 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 should 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 were originally incorporated into Explanatory Notes (ENs) and are now 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	Workbook revised for 2008.
Timber Trade Federation		Timber merchants 507kg/m <sup>3</sup> Timber suppliers usually measure wood in terms of volume, and the 507kg can thus be applied to convert volume to tonnage	Current	No agreed date	Standard weight agreed for wood used for packaging – 507kg/m <sup>3</sup> .
PAPCO	PAPCO Matrix	Paper merchants	Current	Continue to accept	Provides standard weights for packed paper products.
Biffpack	Co-efficient for Builders Merchants	Builders Merchants	Current	Reviewed in 2009.	Provides a series of co-efficient for product groups.
Confederation of Paper Industries (CPI) (formerly Corrugated Packaging Association - CPA)		Corrugated paper converters	Current	Annually reviewed (2007 figure was 28.5%)	3 <sup>rd</sup> party export percentage = 35.6%. Covers packaging exported with products and exported as a product.
Fresh Produce Consortium		Fresh produce importers	Current	Annually reviewed – 11 <sup>th</sup> edition January 2009 – available from EMTS on request	Ready reckoner style workbook. Improvements made on annual basis.
Valpak	Valpak Data Solutions	wide range of clients but mainly in the retail sectors	Current - reviewed Oct 08	N/A	The system has an acceptable methodology for generating packaging weight data. As such we have no concerns on the application of the methodology for generating producer data for the 2009 registration round.
DHL	Packaging Data Store	Grocery sector – but expanding	Current - reviewed Oct 08	N/A	The system has an acceptable methodology for generating packaging weight data. As such we have no concerns on the application of the methodology

					for generating producer data for the 2009 registration round
British Glass		Glass container manufacturers	Current	Continue to accept	Range of percentages agreed for 3 <sup>rd</sup> party exports of glass containers.
British Glass – Beers 11%; Food 5%; Spirits 83%; Flavoured Alcoholic Beverages (FABs) 8%; Pharmaceutical 40%; Wine 2%; Soft drinks 0.03%; Cider 7%; Dairy 0%					

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