



STATUTORY INSTRUMENTS.

S.I. No. 322 of 2020

EUROPEAN UNION (PACKAGING) REGULATIONS 2020

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S.I. No. 322 of 2020

EUROPEAN UNION (PACKAGING) REGULATIONS 2020

I, EAMON RYAN, Minister for Communications, Climate Action and Environment, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste, as amended by Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004, Commission Directive 2013/2/EU of 7 February 2013, Directive (EU) 2015/720 of the European Parliament and of the Council of 29 April 2015 and Directive 2018/851 of the European Parliament and of the Council of 30 May 2018, hereby make the following regulations:

PART 1
PRELIMINARY AND GENERAL

Citation

1. These Regulations may be cited as the European Union (Packaging) (Amendment) Regulations 2020.
2. These Regulations and the European Union (Packaging) Regulations 2014 may be cited together and should be construed together as one.

Purpose of Regulations

3. The purposes for which these Regulations are made include the purpose of giving effect to provisions of European Parliament and Council Directive 94/62/EC¹ of 20 December 1994 on packaging and packaging waste as amended by European Parliament and Council Directive 2004/12/EC² of 11 February 2004, Commission Directive 2013/2/EU³ of 7 February 2013, Directive (EU) 2015/720⁴ of the European Parliament and of the Council of 29 April 2015 and Directive 2018/851⁵ of the European Parliament and of the Council of 30 May 2018 with a view to promoting the recovery and recycling of packaging waste.

4. To that end, these Regulations lay down measures aimed, as a first priority, at preventing the production of packaging waste and, as additional fundamental principles, at reusing packaging, at recycling and other forms of

¹ OJ L 365, 31.12.1994, p. 10

² OJ L 47, 18.2.2004, p. 26

³ OJ L 37, 8.2.2013, p. 10

⁴ OJ L 115, 6.5.2015, p. 11

⁵ OJ L 150, 14.6.2018, p. 141

recovering packaging waste and, therefore, at reducing the final disposal of such waste in order to contribute to the transition towards a circular economy.

Commencement

5. These Regulations shall come into operation on the date of signature.

Interpretation

6. In these Regulations, “Regulations of 2014” refers to the European Union (Packaging) Regulations 2014. (S.I. No. 282 of 2014).

“The Act of 1996” means the Waste Management Act 1996 (No. 10 of 1996).

PART 3

AMENDMENTS TO REGULATIONS OF 2014

Amendment to regulation 4 in the regulations of 2014

7. Regulation 4 in the regulations of 2014 is amended as follows:

(i) by deleting the definitions for, “packaging designed for reuse”, “recovery”, “recycling”, “energy recovery”, and “organic recycling”

(ii) by substituting the following for the definition of “packaging waste”:

“packaging waste” shall mean any packaging or packaging material covered by the definition of waste laid down in Section 5 of the Act of 1996 and Article 3 of Directive 2008/98/EC, excluding production residues.

(iii) by the insertion of the following:

“reusable packaging” shall mean packaging which has been conceived, designed and placed on the market to accomplish within its lifecycle multiple trips or rotations by being refilled or reused for the same purpose for which it was conceived.

“composite packaging” shall mean packaging made of two or more layers of different materials which cannot be separated by hand and form a single integral unit, consisting of an inner receptacle and an outer enclosure, that it is filled, stored, transported and emptied as such.

The definitions of “waste”, “waste management”, “collection”, “separate collection”, “prevention”, “reuse”, “treatment”, “recovery”, “recycling”, “disposal”, and “extended producer responsibility scheme” laid down in Section 5 of the Act of 1996 and Article 3 of Directive 2008/98/EC⁶ shall apply.

⁶ OJ L 312, 22.11.2008, p. 3

(iv) by substituting the following for the definition of “the Directive”:

“the Directive” means European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste as amended by Directive 2004/12/EC of 11 February 2004 and Commission Directive 2013/2/EU of 7 February 2013, Directive (EU) 2015/720 of the European Parliament and of the Council of 29 April 2015 and by Directive (EU) 2018/852 of 30 May 2018.”

Insertion of regulation 8A in the Regulations of 2014

8. The following is inserted after regulation 8 in the Regulations of 2014.

“Requirements on all producers to recover and recycle packaging waste.

8A (1) Any producer who is an importer of packaged products or is a packer/filler shall take such steps as are necessary to ensure that, no later than 31 December 2025, a minimum of 65 % by weight of all packaging waste will be recycled;

And

(2) where relevant to the producers products, that no later than 31 December 2025 the following minimum targets by weight for recycling will be met regarding the following specific materials contained in packaging waste:

- (i) 50 % of plastic;
- (ii) 25 % of wood;
- (iii) 70 % of ferrous metals;
- (iv) 50 % of aluminium;
- (v) 70 % of glass;
- (vi) 75 % of paper and cardboard;

(3) From 1 January 2026, any producer who is an importer of packaged products or is a packer/filler shall take such steps as are necessary to ensure that no later than 31 December 2030 a minimum of 70 % by weight of all packaging waste will be recycled;

And,

(4) where relevant to the producers products, that no later than 31 December 2030 the following minimum targets by weight for recycling will be met regarding the following specific materials contained in packaging waste:

- (i) 55 % of plastic;
- (ii) 30 % of wood;
- (iii) 80 % of ferrous metals;
- (iv) 60 % of aluminium;

- (v) 75 % of glass;
- (vi) 85 % of paper and cardboard.

Amendment of regulation 18 in the Regulations of 2014

9. Regulation 18 is amended by the replacement of sub-regulation 18 (2) (q) as follows:

“(q) such other information as may be specified in writing by the Minister for the purposes of this regulation and in order to comply with Article 8 and Article 8a of Directive 2008/98/EC on waste.”

Insertion of regulation 38 in the Regulations of 2014

10. Regulation 38 is inserted into the Regulations of 2014 after regulation 37 as follows:

“Regulation 38 (Prevention):

38. (1) The Minister shall ensure that, in addition to the measures taken in accordance with Part IV of these regulations, other preventive measures are implemented in order to prevent generation of packaging waste and to minimise the environmental impact of packaging. Such other preventive measures may consist of national programmes, incentives through extended producer responsibility schemes to minimise the environmental impact of packaging, or similar actions adopted, if appropriate, in consultation with economic operators, and consumer and environmental organisations, and designed to bring together and take advantage of the many initiatives taken within Member States as regards prevention.

(2) The Minister, in consultation with other Ministers concerned, shall make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy such as those indicated in Annex IVa to Directive 2008/98/EC or other appropriate instruments and measures.”

Insertion of regulation 39 in the Regulations of 2014

11. Regulation 39 is inserted into the Regulations of 2014 as follows:

“Regulation 39 (Reuse)

39. (1) In line with the waste hierarchy under section 21A of the Act of 1996, the Minister shall take measures to encourage the increase in the share of reusable packaging placed on the market and of systems to reuse packaging in an environmentally sound manner and in conformity with the Treaty, without compromising food hygiene or the safety of consumers. Such measures may include, inter alia:

- (a) the use of deposit-return schemes;
- (b) the setting of qualitative or quantitative targets;
- (c) the use of economic incentives;
- (d) the setting up of a minimum percentage of reusable packaging placed on the market every year for each packaging stream.

(2) The Minister may, following consultation with the Agency, decide to attain an adjusted level of the targets referred to in regulation 8A for a given year by taking into account the average share, in the preceding three years, of reusable sales packaging placed on the market for the first time and reused as part of a system to reuse packaging. The adjusted level shall be calculated by subtracting:

- (a) from the targets laid down in points (1) and (3) of regulation 8A, the share of the reusable sales packaging referred to in the first subparagraph of this paragraph in all sales packaging placed on the market, and
- (b) from the targets laid down in points (2) and (4) of regulation 8A, the share of the reusable sales packaging referred to in the first subparagraph of this paragraph, composed of the respective packaging material, in all sales packaging composed of that material placed on the market.

No more than five percentage points of such share shall be taken into account for the calculation of the respective adjusted target level.

(3) The Agency may take into account the amounts of wooden packaging that is repaired for reuse in the calculation of the targets laid down in point (1), point (2), point (3) and point (4) of regulation 8A.”

Insertion of regulation 40 in the Regulations of 2014

12. Regulation 40 is inserted into the Regulations of 2014 as follows:

“Regulation 40 (Rules on the calculation of the attainment of the targets)

40. (1) For the purpose of calculating whether the targets laid down in regulation 8A have been attained:

- (a) The Agency shall calculate the weight of packaging waste generated and recycled in a given calendar year. Packaging waste generated in the State may be deemed to be equal to the amount of packaging placed on the market in the same year within the State;
- (b) the weight of packaging waste recycled shall be calculated as the weight of packaging that has become waste which, having undergone all necessary checking, sorting and other preliminary operations to remove waste materials

that are not targeted by the subsequent reprocessing and to ensure high-quality recycling, enters the recycling operation whereby waste materials are actually reprocessed into products, materials or substances.

(2) For the purposes of point (a) of paragraph 1, the weight of packaging waste recycled shall be measured when the waste enters the recycling operation. By way of derogation from the first subparagraph, the weight of the packaging waste recycled may be measured at the output of any sorting operation provided that:

- (a) such output waste is subsequently recycled;
- (b) the weight of materials or substances that are removed by further operations preceding the recycling operation and are not subsequently recycled is not included in the weight of waste reported as recycled.

(3) The Agency shall establish an effective system of quality control and traceability of the packaging waste to ensure that the conditions laid down in point (a) of paragraph 1 of this regulation and points (a) and (b) of paragraph 2 of this regulation are met. To ensure the reliability and accuracy of the data gathered on recycled packaging waste, the system may consist of electronic registries set up pursuant to Article 35(4) of Directive 2008/98/EC, technical specifications for the quality requirements of sorted waste, or average loss rates for sorted waste for various waste types and waste management practices respectively. Average loss rates shall only be used in cases where reliable data cannot be otherwise obtained and shall be calculated on the basis of the calculation rules established in the delegated act adopted pursuant to Article 11a(10) of Directive 2008/98/EC.

(4) For the purposes of calculating whether the targets laid down in regulation 8A have been attained, the amount of biodegradable packaging waste that enters aerobic or anaerobic treatment may be counted as recycled where that treatment generates compost, digestate, or other output with a similar quantity of recycled content in relation to input, which is to be used as a recycled product, material or substance. Where the output is used on land, it may count it as recycled only if this use results in benefits to agriculture or ecological improvement.

(5) The amount of packaging waste materials that have ceased to be waste as a result of a preparatory operation before being reprocessed may be counted as recycled provided that such materials are destined for subsequent reprocessing into products, materials or substances to be used for the original or other purposes. However, end-of-waste materials to be used as fuels or other means to generate energy, or to be incinerated, backfilled or landfilled, shall not be counted towards the attainment of the recycling targets.

(6) For the purposes of calculating whether the targets laid down in points regulation 8A have been attained, the Agency may take into account the recycling of metals separated after incineration of waste in proportion to the share of the packaging waste incinerated provided that

the recycled metals meet certain quality criteria laid down in the implementing act adopted pursuant to Article 11a(9) of Directive 2008/98/EC.

(7) Packaging waste sent to another Member State for the purposes of recycling in that other Member State may be counted towards the attainment of the targets laid down in regulation 8A.

(8) Packaging waste exported from the Union shall count towards the attainment of the targets laid down in regulation 8A only if the requirements of paragraph 3 of this regulation are met and if, in accordance with Regulation (EC) No 1013/2006⁷ of the European Parliament and of the Council , the exporter can prove that the shipment of waste complies with the requirements of that Regulation and that the treatment of packaging waste outside the Union took place in conditions that are broadly equivalent to the requirements of the relevant Union environmental law.”

Insertion of regulation 41 in the Regulations of 2014

13. Regulation 41 is inserted into the Regulations of 2014 as follows:

“Regulation 41 (Return, collection and recovery systems)

41. (1) In order to meet the objectives laid down in the Directive, the Minister shall take the necessary measures to ensure that systems are set up to provide for:

- (a) the return and/or collection of used packaging and/or packaging waste from the consumer, other final user, or from the waste stream in order to channel it to the most appropriate waste management alternatives;
- (b) the reuse or recovery including recycling of the packaging and/or packaging waste collected.

Those systems shall be open to the participation of the economic operators of the sectors concerned and to the participation of the competent public authorities. They shall also apply to imported products under non-discriminatory conditions, including the detailed arrangements and any tariffs imposed for access to the systems, and shall be designed so as to avoid barriers to trade or distortions of competition in conformity with the Treaty.

(2) By 31 December of 2024, the Minister shall ensure that extended producer responsibility schemes are established for all packaging in accordance with Articles 8 and 8a of Directive 2008/98/EC.

(3) The measures referred to in paragraphs 1 and 2 shall form part of a policy covering all packaging and packaging waste and shall take into account, in particular, requirements regarding the protection of the environment and consumer health, safety and hygiene, the protection of

⁷ OJ L 190, 12.7.2006, p.

the quality, the authenticity and the technical characteristics of the packed goods and materials used, and the protection of industrial and commercial property rights.

(4) The Minister shall take measures to promote high quality recycling of packaging waste and to meet the necessary quality standards for the relevant recycling sectors. To that end, Article 11(1) of Directive 2008/98/EC shall apply to packaging waste, including from composite packaging.”

Insertion of regulation 42 in the Regulations of 2014

14. Regulation 42 is inserted into the Regulations of 2014 as follows:

“Regulation 42 (Information systems and reporting)

42. (1) The Agency shall report the data concerning the implementation of points (a) to (i) of Article 6(1) of the Directive and data on reusable packaging, for each calendar year to the Commission.

(2) The data submitted shall be in accordance with the requirements and formats established under Article 12 of the Directive and Annex III of the Directive.

(3) Where necessary to comply with sub-regulations 1 and 2, the Agency may require relevant entities, including waste operators, reuse operators, producers, dealers, brokers, and extended producer responsibility schemes to comply with reporting requirements in formats established by the Agency.”

15. Amendment of Schedule 3 in the Regulations of 2014

Schedule 3 is amended by replacing the title heading for Part 3 as follows:

“PART 3 — Information to be provided in a three-year implementation plan [regulation 15(3)].”

16. Amendment of Schedule 4 in the Regulations of 2014

Schedule 4 is amended as follows:

(a) In Schedule 4.1, the second paragraph is replaced by the following:

‘Packaging shall be designed, produced and commercialised in such a way as to permit its reuse or recovery, including recycling, in line with the waste hierarchy, and to minimise its impact on the environment when packaging waste or residues from packaging waste management operations are disposed of.’;

(b) In point 3, points (c) and (d) are replaced by the following:

‘(c) Packaging recoverable in the form of composting

Packaging waste processed for the purpose of composting shall be of such a biodegradable nature that it does not hinder the separate

collection and the composting process or activity into which it is introduced.

(d) Biodegradable packaging

Biodegradable packaging waste shall be of such a nature that it is capable of undergoing physical, chemical, thermal or biological decomposition such that most of the finished compost ultimately decomposes into carbon dioxide, biomass and water. Oxo-degradable plastic packaging shall not be considered as biodegradable.”

17. Insertion of Schedule 5 in the Regulations of 2014

The following is inserted following Schedule 4 in the Regulations of 2014

“Schedule 5

**DATA TO BE INCLUDED BY MEMBER STATES IN THEIR
DATABASES ON PACKAGING AND PACKAGING WASTE (IN
ACCORDANCE WITH TABLES 1 TO 4)**

1. For primary, secondary and tertiary packaging:
 - (a) quantities, for each broad category of material, of packaging consumed within the country (produced + imported - exported) (Table 1);
 - (b) quantities reused (Table 2).
2. For household and non-household packaging waste:
 - (a) quantities for each broad category of material, recovered and disposed of within the country (produced + imported - exported) (Table 3);
 - (b) quantities recycled and quantities recovered for each broad category of material (Table 4).

TABLE 1

**Quantity of packaging (primary, secondary and
tertiary) consumed within the national territory**

	Tonnage produced	- Tonnage exported	+ Tonnage imported	= Total
Glass				
Plastic				
Paper/cardboard (including composite)				
► ⁽¹⁾ Ferrous metal				
Aluminium ▲				
Wood				
Other				
Total				

TABLE 2

Quantity of packaging (primary, secondary and tertiary) reused within the national territory

	► ⁽²⁾ Tonnage of packaging placed on the market for the first time ▲	► ⁽³⁾ Reusable packaging ▲		► ⁽⁴⁾ Reusable sales packaging	
		Tonnage	Percentage	Tonnage	Percentage
Glass					
Plastic					
Paper/cardboard (including composite)					
► ⁽¹⁾ Ferrous metal					
Aluminium ▲					
Wood					
Other					
Total					▲

TABLE 3
Quantity of packaging waste recovered and disposed of within
the national territory

	Tonnage of waste produced	- Tonnage of waste exported	+ Tonnage of waste imported	= Total
Household waste				
Glass packaging				
Plastic packaging				
Paper/cardboard packaging				
Cardboard composite packaging				
► ^(o) Ferrous metal packaging				
Aluminium packaging ▲				
Wood packaging				
Total household packaging waste				
Non-household waste				
Glass packaging				
Plastic packaging				
Paper/cardboard packaging				
Cardboard composite packaging				
► ^(o) Ferrous metal packaging				
Aluminium packaging ▲				
Wood packaging				
Total non-household packaging waste				

TABLE 4
**Quantity of packaging waste recycled or recovered within the
national territory**

	Total tonnage recovered and disposed of	Quantity recycled		Quantity recovered	
		Tonnage	Percentage	Tonnage	Percentage
Household waste					
Glass packaging					
Plastic packaging					
Paper/cardboard packaging					
Cardboard composite packaging					
► ⁽¹⁾ Ferrous metal packaging					
Aluminium packaging ▲					
Wood packaging					
Total household packaging waste					
Non-household waste					
Glass packaging					
Plastic packaging					
Paper/cardboard packaging					
Cardboard composite packaging					
► ⁽²⁾ Ferrous metal packaging					
Aluminium packaging ▲					
Wood packaging					
Total non-household packaging waste					

Insertion of Schedule 6 in the Regulations of 2014

The following is inserted following Schedule 5 in the Regulations of 2014

“Schedule 6

**IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO
POINT (D) OF ARTICLE 6(1A) OF THE DIRECTIVE**

The implementation plan to be submitted pursuant to point (d) of Article 6(1a) of the Directive shall contain the following:

1. assessment of the past, current and projected rates of recycling, landfilling and other treatment of packaging waste and the streams of which it is composed;
2. assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29 of Directive 2008/98/EC;
3. reasons for which the Member State considers that it might not be able to attain the relevant target laid down in points (g) and (i) of Article 6(1) within the deadline set therein and an assessment of the time extension necessary to meet that target;
4. measures necessary to attain the targets set out in points (g) and (i) of Article 6(1) of this Directive that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) of, and Annex IVa to, Directive 2008/98/EC;
5. a timetable for the implementation of the measures identified in point 4, determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;
6. information on funding for waste management in line with the polluter-pays principle;
7. measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.

“



GIVEN under my Official Seal,

27 August 2020.

EAMON RYAN

Minister for Communications, Climate Action
and Environment.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purposes for which these Regulations are made include the purpose of giving effect to provisions of European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste as amended by European Parliament and Council Directive 2004/12/EC of 11 February 2004, Commission Directive 2013/2/EU of 7 February 2013, Directive (EU) 2015/720 of the European Parliament and of the Council of 29 April 2015 and Directive 2018/851 of the European Parliament and of the Council of 30 May 2018 with a view to promoting the recovery and recycling of packaging waste.

The Regulations lay down measures aimed, as a first priority, at preventing the production of packaging waste and, as additional fundamental principles, at reusing packaging, at recycling and other forms of recovering packaging waste and, therefore, at reducing the final disposal of such waste in order to contribute to the transition towards a circular economy.

Earlier iterations of the Packaging Directive have been primarily transposed by the Waste Management Act 1996 and by the European Union (Packaging) Regulations 2014. (S.I. No. 282 of 2014). Therefore, these Regulations primarily consist of amendments to these two pieces of legislation.

The following table indicates how the Packaging Directive is transposed-and notes where aspects which are the responsibility of the Commission are not transposed.

Article of Directive 2018/850/Amendments to Directive 94/62/EC	Transposed by Regulation No:
Article 1 - Purpose	3 - Purpose of Regulations
Article 3 - Definitions	7 – Amending Regulation 4 in Regulations of 2014.
Article 4 – Prevention measures	10 – Insertion of new Regulation 38 (Prevention) into regulations of 2014
Article 5 - Reuse	11 – Insertion of new Regulation 39 (Reuse) into regulations of 2014
Article 6 – Recovery and recycling	8 – insertion of Regulation 8A (Requirements on all producers to

	recover and recycle packaging waste) into the Regulations of 2014
Article 6a – Rules on the calculation of the attainment of the targets	12 – insertion of new regulation 40 (Rules on the calculation of the attainment of the targets) into the Regulations of 2014
Article 6b- Early warning report	Commission competence – not transposed.
Article 7 - Return, collection and recovery systems	13 – Insertion of Regulation 41 (Return, collection and recovery systems) into the Regulations of 2014
Article 9 - Essential requirements	Commission competence – not transposed.
Article 11 - Concentration levels of heavy metals present in packaging	Commission competence – not transposed
Article 12 - Information systems and reporting	14 – Insertion of Regulation 42 (Information systems and reporting) into the Regulations of 2014
Article 17 – Obligation to report (deletion)	No change required.
Article 19- Adaptation to scientific and technical progress	Commission competence – not transposed
Article 20 -Specific measures	Commission competence – not transposed
Article 21- Committee procedure	Commission competence – not transposed
Article 21a -Exercise of the delegation	Commission competence – not transposed
Annex II	16 - Amendment to Schedule 4 of 2014
Annex III	17 -Insertion of Schedule 5 into the Regulations of 2014
Annex IV	18 -Insertion of Schedule 6 into the Regulations of 2014

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