



# Regulation (EU) 2025/40 of 19 December 2024 on packaging and packaging waste

Legal Alert



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22 January 2025 saw the publication in the Official Journal of the European Union of Regulation (EU) 2025/40 of 19 December 2024 on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC (the "PPWR" or "European Regulation").

The new European Regulation is another step forward in the transition towards a circular economy and climate neutrality. It seeks to avoid the generation of packaging waste by establishing measures aimed at reducing the amount of packaging placed on the market in terms of its volume and weight, avoiding packaging where it is not needed and increasing re-use of packaging.

The PPWR thus seeks to harmonise national packaging measures to contribute to the effective functioning of the internal market with a view to reducing barriers to trade within the Union.

## Key concepts

The PPWR applies to all packaging placed on the market in the Union and all packaging waste, irrespective of the type of packaging or material used, and whether such packaging or packaging waste is used or originates in industry, retail or distribution, offices, services or households.

In order to clarify the regime applicable to such packaging, the PPWR defines key concepts such as "packaging", which includes tea and coffee bags, and coffee or tea system single-serve units which, in practice, are disposed of together with the product residue, in order to prevent the contamination of composting and recycling streams.

Moreover, in order to respect the "polluter pays" principle and ensure that the extended producer responsibility scheme covers the full costs of packaging waste management, nuances and exceptions to "producer" status are introduced.

Thus, the term producer now includes not only the manufacturers, importers or distributors of packaged products, but also the manufacturers of transport or service packaging and those who unpack packaged products without being end users.

The Regulation likewise introduces a definition for primary production packaging - understood as "*an item designed and intended to be used as packaging*

*for unprocessed products from primary production*" - as a mechanism to ensure that producer status is held by the natural or legal person who places this type of packaging on the market for the first time, rather than by the primary sector businesses, such as farmers, that use it.

## Packaging sustainability requirements

### Recyclable packaging

The PPWR establishes, as a **prior requisite**, that all packaging placed on the market must be **recyclable**. Packaging will be deemed recyclable **where**:

- It is designed for material recycling, such that the resulting secondary raw materials are comparable in terms of quality to the original material. This requirement will apply from **1 January 2030 or 24 months from the date of entry into force of the delegated acts adopted by the Commission** on design criteria for recycling and recyclability performance grades, if this is later.
- Once it becomes waste, it can be collected separately and sorted into specific waste streams without affecting the recyclability of other waste streams. This requirement will apply from **1 January 2035, or five years from the date of entry into force of the implementing acts adopted by the Commission** as regards the recycled-at-scale assessment, if this is later.

Manufacturers must also **assess** packaging recyclability on the basis of the delegated and implementing acts adopted by the Commission.

By way of **derogation** from the packaging recyclability and assessment requirements, the Regulation provides for the possibility of **innovative packaging** that is not compliant with the recyclability requirements **being made available on the market for a maximum of 5 years as of 1 January 2030**.

To make use of this derogation, the economic operator must notify the competent authority of its intention to do so, including technical details demonstrating that the packaging is innovative packaging, as well as a timeline for meeting the collection and recycled-at-scale requirements.

#### Minimum recycled content in plastic packaging

The PPWR also lays down the minimum percentages of recycled content that plastic packaging must contain by **1 January 2030** and **1 January 2040**, respectively. In the case of single-use plastic bottles, these percentages are set at 30% for 2030 and 65% for 2040.

To this end, **by 31 December 2026**, the Commission will adopt implementing acts establishing the methodology for the calculation and verification of the mandatory percentages of recycled content of packaging.

#### Packaging minimisation

The PPWR also introduces packaging design obligations for manufacturers and/or importers, providing that, **by 1 January 2030**, packaging must be designed so that its weight and volume are reduced to the minimum necessary to ensure its functionality.

To this end, it prohibits the placing on the market of packaging with characteristics that aim solely to increase the perceived volume of the product including double walls, false bottoms and unnecessary layers, unless the packaging design is protected by Community design rights or a trademark **before 11 February 2025** and the application of these requirements could affect the packaging design in a way that would alter its novelty or its individual character; or the packaged product or beverage benefits from a geographical indication protected under Union law, or is covered by a quality scheme.

To ensure compliance by economic operators with this requirement, **by 12 February 2027**, the Commission will request the preparation of harmonised standards laying down the maximum adequate weight and volume limits, and, where appropriate, wall thickness and maximum empty space.

#### Excessive packaging

Economic operators that refill grouped packaging, transport packaging or e-commerce packaging must ensure that the maximum empty space ratio is 50%. This requirement will apply from **1 January 2030** or **36 months from the date of entry into force of the implementing acts adopted by the Commission** to determine the methodology for calculating the empty space ratio, if these are adopted later.

commerce packaging or using reusable packaging within a system of re-use will be exempt from this obligation.

Meanwhile, **by 12 February 2028**, economic operators who fill sales packaging must ensure that empty space is reduced to the minimum necessary for ensuring the packaging functionality, including product protection.

#### Packaging formats

Annex V to the PPWR prohibits the placing on the market, **as of 1 January 2030**, of a number of packaging formats, including single-use plastic grouped packaging, single-use plastic packaging for unprocessed fresh fruit and vegetables, and single-use plastic packaging for condiments, preserves, sauces, coffee creamer, sugar, and seasoning in HORECA sector, inter alia.

However, by way of derogation from this obligation, Member States may allow micro-enterprises to place on the market packaging in the formats and for the uses listed in Annex V, where it has been demonstrated that it is not technically feasible not to use such packaging or to obtain access to infrastructure that is necessary for the functioning of a re-use system.

#### Packaging refill

**From 1 January 2030**, final distributors with a sales area exceeding 400 m<sup>2</sup> must endeavour to dedicate 10% of that sales area to refill stations for both food and non-food products. Economic operators offering the possibility to purchase products through refill must inform end users of a number of aspects regarding the products.

This information must include *i)* the types of containers that can be used to purchase the products on offer through refill, *ii)* the hygiene standards for refill and, *iii)* the responsibility of the end user in relation to health and safety regarding the use of containers.

#### Re-use systems

Economic operators that make use of reusable packaging must participate in one or more re-use systems and ensure that these systems meet a number of requirements, such as having a governance structure that enables them to achieve the objectives of the system, and having rules that define their functioning and specify the types and design of packaging allowed to circulate in the system, inter alia.

These operators must also ensure that the reusable packaging is reconditioned, and may appoint a third party to be responsible for one or more re-use systems.

## Re-use targets

The PPWR also sets re-use targets for transport packaging, sales packaging used to transport products and grouped packaging. Specifically, it provides that:

- **From 1 January 2030**, at least 40% of transport packaging, or sales packaging used for transporting products within the Union in the form of pallets, foldable-plastic boxes, boxes, trays, pails, drums, etc., including flexible formats or wrappings or straps for the stabilisation and protection of products, must be reusable packaging within a re-use system. The above percentage will increase to 70% as of 1 January 2040.
- These percentages will not apply to economic operators that transport products *i)* between different sites on which the operator performs its activity, *ii)* between any of the sites on which the operator performs its activity and the sites of any other linked enterprise or partner enterprise, or *iii)* to another economic operator within the same Member State. However, they must ensure that such packaging is reusable within a re-use system.
- **From 1 January 2030**, at least 10% of grouped packaging in the form of boxes, excluding cardboard boxes, used outside of sales packaging to group a certain number of products to create a stock-keeping or distribution unit must be reusable packaging within a re-use system. The above percentage will increase to 25% as of 1 January 2040.
  - **From 1 January 2030**, final distributors that make alcoholic and non-alcoholic beverages in sales packaging available to consumers on the territory of a Member State must ensure that at least 10% of such products are made available in reusable packaging within a re-use system.
  - **From 1 January 2040**, economic operators must endeavour to make at least 40% of the products referred to in the preceding paragraph available in reusable packaging within a re-use system.

Certain packaging formats, such as those used to transport dangerous goods or large-scale machinery, or categories of products such as highly perishable beverages or wine products, are exempt from this obligation. The Regulation also allows Member States to temporarily exempt economic operators from these obligations in certain circumstances.

## Reusable packaging

In setting out the criteria for determining the reusability of packaging, the PPWR provides that packaging placed on the market **from 11 February 2025** will be considered reusable where it fulfils all of the requirements laid down in the Regulation, for example, it has been designed and placed on the market with the objective of being re-used multiple times, or it can be emptied or reloaded without being damaged in a way that would prevent its further function and re-use.

The minimum number of rotations for reusable packaging, applicable to the most frequently used packaging formats, will be established by **12 February 2027** by means of the relevant delegated act adopted by the Commission.

## Labelling, marking and information requirements

The PPWR establishes a harmonised labelling system based on the material composition of packaging for sorting of waste and paired with corresponding labels on waste receptacles. To this end:

- **From 12 August 2028 or 24 months from the date of entry into force of the implementing acts** to establish a harmonised label and specifications for the labelling requirements and formats, and to establish the methodology for identifying the material composition of packaging, whichever is later, packaging placed on the market must be marked with a harmonised label containing information on its material composition in order to facilitate consumer sorting.

The label, which will be composed of user-friendly pictograms, may be accompanied by a QR code or other type of standardised, open, digital data carrier that contains information on the destination of each separate component of the packaging.

This requirement will not apply to transport packaging, with the exception of e-commerce packaging, or to packaging covered by deposit and return systems.

- Packaging covered by deposit and return systems must be marked with a clear and unambiguous label. In addition to the national label, packaging may be marked with a harmonised colour label established in the relevant implementing act adopted by the Commission.



- Reusable packaging placed on the market from **12 February 2029** or **30 months from the date of entry into force** of the relevant implementing act adopted by the Commission must bear a label informing users that the packaging is reusable, in addition to a QR code or other type of digital data carrier that provides consumers with further information on, inter alia, the packaging, its composition and available collection points.
- **By 12 August 2028** or **30 months from the adoption by the Commission of the relevant implementing acts**, whichever is later, all waste receptacles for collection of packaging waste must bear harmonised labels that enable the separate collection of each material specific fraction of packaging waste that is intended to be discarded in separate receptacles.
- Lastly, the Regulation allows environmental claims to be included on packaging, provided such claims relate to packaging properties exceeding the applicable minimum requirements set out in the Regulation and specify whether they relate to the packaging unit or to part thereof.

All of these measures, which flesh out the existing provisions of Regulation (EU) 2024/1781 on product ecodesign, seek to harmonise the packaging labelling standards established by the Member States with a view to preventing barriers on the internal market for packaging and ensuring that packaging does not display labels, symbols or inscriptions that are likely to mislead or confuse consumers or other end users with respect to the sustainability requirements for packaging or packaging waste management options.

## Packaging conformity assessment

Only packaging that meets these legal requirements for labelling, packaging reduction and recyclability will be allowed to circulate on the EU market. To ensure compliance, the European Regulation sets in place a control system involving all actors in the supply chain, who are subject to a series of documentary and information requirements are imposed.

### Obligations of manufacturers

Before placing packaging on the market, manufacturers must carry out the packaging conformity assessment procedure provided for in the Regulation, drawing up the necessary technical documentation and EU declaration of conformity which, depending on the nature of the packaging, must be kept together with the technical documentation for either 5 or 10 years.

Additionally, they must ensure that the packaging bears a type, batch or serial number or other element allowing its identification, as well as a QR code with the registered trade name and trademark, among other information.

Under the Regulation, suppliers of packaging or packaging materials must provide the manufacturer with all the information and technical documentation necessary for the manufacturer to demonstrate the conformity of the packaging.

### Obligations of importers

Importers must only place on the market packaging that meets all of the requirements laid down in the Regulation and must ensure, in particular, that: *i)* the conformity assessment procedure has been carried out by the manufacturer; *ii)* the packaging is correctly labelled; *iii)* the packaging is accompanied by the relevant documents; and *iv)* the aforementioned numbering and QR information requirements have been met.

Moreover, importers, like manufacturers, must indicate on the packaging their name and their registered trade name or registered trademark, as well as other information. They are also required to keep the EU declaration of conformity for packaging for a period of 5 or 10 years, depending on the characteristics of the packaging. The relevant technical documentation, to be provided to the market surveillance authorities upon request, must be kept for the same length of time.

### Obligations of distributors

Prior to placing packaging on the market, distributors must verify that: *i)* the product is subject to the obligations on extended producer responsibility for the packaging, *ii)* the packaging is properly labelled; and *iii)* the manufacturer and the importer have complied with the above-mentioned information requirements.

## Register of producers and extended producer responsibility (EPR)

The main new development introduced by the European Regulation with respect to extended producer responsibility is without a doubt the broadening of its scope. In addition to manufacturers, importers and distributors who make packaged products available for the first time in the territory of a Member State, ERP will now apply to those who place transport packaging, service packaging or primary production packaging on the market for the first time, or who unpack packaged products without being end users.

In this connection, all Member States that have yet to do so are required to establish a national register of producers which will serve to monitor compliance of producers with EPR requirements. Member States must comply with this requirement **within 18 months of the date of entry into force of the implementing acts adopted by the Commission** to establish the format for registration in, and reporting to, the register, which must be adopted **by 12 February 2026**.

In addition, the Regulation introduces a new obligation whereby the financial contributions paid by producers must cover the costs of both labelling waste receptacles for the collection of packaging waste and carrying out compositional surveys of mixed municipal waste.

Lastly, although the Regulation allows producers to fulfil their EPR obligations either individually or collectively, it permits Member States to require that EPR obligations be fulfilled via a collective system.

### Return, collection, deposit and return systems

To ensure a very high collection rate and high-quality recycling, particularly in respect of beverage bottles and cans, a separate collection target of at least 90% by weight has been set for **1 January 2029** for i) single-use plastic beverage bottles with a capacity of up to three litres and ii) single-use metal beverage containers with a capacity of up to three litres.

To achieve these targets, the Regulation provides that Member States must take the necessary measures to ensure that deposit and return systems are set up and that a deposit is charged at the point of sale. Exemption from this obligation may nevertheless be possible in certain scenarios provided for in the Regulation.

### Penalty regime

It will be for the Member States to lay down the rules on penalties applicable to infringements of this Regulation.

The rules on penalties must be laid down **by 12 February 2027** and should provide for the imposition of administrative fines for failure to meet the requirements relating to excessive packaging, certain packaging formats, reusable packaging, re-use systems, refill obligations and re-use targets.

### Entry into force

The PPWR is directly applicable and, as such, requires no transposition by the Member States in order for it to have binding effect.

It is set to enter into force **on 11 February 2025** and will be mandatory (enforceable) for all EU Member States **from 12 August 2026**.

The implementation of certain provisions, for instance those relating to the harmonisation of labelling and QR codes on packaging, and design requirements for packaging recycling, has nevertheless been postponed until the adoption by the Commission of the relevant delegated and implementing acts.

In addition to laying down new obligations for economic operators, the new European Regulation calls for Member States to review their domestic laws on packaging and packaging waste to ensure their alignment with EU law.

The Spanish Ministry for Ecological Transition and the Demographic Challenge has already announced that it is in the process of revising Royal Decree 1055/2022 of 27 December 2022, on packaging and packaging waste to align it with the European Regulation as necessary.

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