

The Producer Responsibility Obligations (Packaging Waste) Regulations 2005

Is your business complying?

Summary
January 2006



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The Producer Responsibility Obligations (Packaging Waste) Regulations 2005

Who should read this leaflet?

Anyone that owns, manages or works for a business that uses / handles packaging or packaging materials.

How did this all come about?

The European Parliament and Council Directive 94/62/EC on Packaging and Packaging Waste ("the Directive") first came into force at the end of 1994 and has both environmental and single market objectives. The Directive aims to harmonise the management of packaging waste in the EU and tackle the impact that packaging and packaging waste have on the environment. Although the primary objective is to increase the recovery and recycling of packaging waste in a consistent way in all Member States of the EU (so as to avoid barriers to trade), priority is also given to reducing the amount of packaging used and the reuse of packaging. The Directive sets Member States mandatory recovery and recycling targets, the first of which were to be met in 2001.

A revised Packaging Directive (2004/12/EC) was published in February 2004. It sets new recovery and recycling targets, as a percentage of all packaging waste arising in the UK, to be met by 31 December 2008.

The new targets are:

Minimum recovery	60%
Recycling	55% – 80%

Of which minimum material-specific recycling targets are:

Glass	60%
Paper/board	60%
Metals	50%
Plastics	22.5%
Wood	15%

In the UK, the Directive is implemented by the Producer Responsibility Obligations (Packaging Waste) Regulations 2005 “the 2005 Regulations” (see page 19 for details of how you can obtain a copy) and by the Packaging (Essential Requirements) Regulations 2003 (as amended). For more information on the latter you should contact the Department for Trade and Industry (see page 20).

What do the Regulations say?

The 2005 Regulations place obligations on certain businesses to register with the Environment Agency, (or the Scottish Environment Protection Agency (SEPA) in Scotland, or the Environment and Heritage Service (EHS) in Northern Ireland) or via a ‘compliance scheme’, to recover and recycle specified tonnages of packaging waste each year and to certify that this recovery and recycling has been achieved. Some businesses must also provide certain information about recycling to consumers. This booklet briefly explains the main provisions of the 2005 Regulations and highlights new ones that start in 2006. A *User’s Guide*, which explains the requirements of the 2005 Regulations in more detail is available from the Department for Environment, Food and Rural Affairs. See page 19 for more information.

Who do the Regulations affect?

Any business which handles more than 50 tonnes of packaging per annum and has a turnover of more than £2 million per annum is obligated (i.e. affected by the Regulations) if it is involved in one or more of the following activities:

- manufacturing raw materials for packaging – raw material manufacturer;
- converting raw materials into packaging – convertor;
- filling packaging (i.e. putting goods or products into packaging) – pack/filler;
- selling packaged goods to the final user (which can be other businesses or the public) – seller;

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- performs a “service provision” (new in 2006, see page 15 for further information) – service provider;
- importing packaging/ packaging materials/ packaged goods into the UK for any of the above activities – importer.



Did you know that....

the energy saved by recycling 1 glass bottle will power a computer for 25 minutes, or a television for 20 minutes, or a washing machine for 10 minutes.

The activities

Examples of the activities are:

- manufacturing raw materials for packaging
 - e.g. for plastics – the manufacture of powder flakes, granules or liquid resin;
 - for aluminium and steel – the manufacture of sheets, coils, slabs, ingots or other raw material for packaging manufacture;
 - for paper / board – the manufacture of sheets or rolls;
 - for glass – the manufacture of molten glass;
 - for wood – the supply of timber.
- converting raw materials into packaging
 - e.g. for plastics – converting plastic granules into film, bottles, crates etc.;
 - for aluminium and steel – converting sheets of metal into cans or drums;

for paper / board – converting sheets into cartons, corrugated boxes;

for glass – converting molten glass into bottles, jars;

for wood – converting timber into pallets, boxes, kegs;

for composites – converting a mixture of paper, plastics, metals into packaging (defined by the weight of the heaviest material used).

- filling packaging (i.e. putting goods or products into packaging)
 - e.g. for plastics – wrapping a product in shrink wrap;
 - for aluminium and steel – putting chemicals into a drum or strapping a product onto a pallet;
 - for paper / board – putting a product into a box;
 - for glass – filling a jar with jam;
 - for wood – transporting goods on a wooden pallet.

- selling packaged goods to the final user
 - e.g. for plastics – selling a product in a plastic tray or a bottle of soft drink;
 - for aluminium and steel – selling a drum of chemicals;
 - for paper / board – selling a box of spare parts;
 - for glass – selling a bottle of vinegar or wine;
 - for wood – selling fruit in a wooden box.

- performing a “service provision” (new in 2006)
 - e.g. for all materials – this is where a business leases reusable packaging to another business, which then uses the packaging to supply goods to their customer;

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- importing¹
 - e.g. importing tins of sardines from Africa or wine in glass bottles from France and selling them to the final user; in both cases you will be obligated for the raw material, converting and pack/filling activities (which occurred prior to import) and as a 'seller' you will also pick up the selling activity.

Each of these activities has a percentage obligation associated with it. These obligations and why they are needed are set out on pages 8-12.



Did you know that....

recycling one tonne of steel cans saves 1.5 tonnes of iron ore, 0.5 tonnes of coal, 40% water usage, 75% of energy usage and 80% of the CO₂ emissions.

Threshold tests

There are two threshold tests in the Regulations. You must satisfy both threshold tests to have obligations. You are obligated if:

- your business's reported turnover is more than £2 million per annum; and
- your business handles more than 50 tonnes of packaging per annum.

A group of companies must consider its total packaging handled and its total turnover (i.e. the aggregate of all the subsidiaries) when considering the threshold tests. Refer to the User's Guide for further information.

¹ As of 1st January 2006 all imported transit packaging is now obligated (see page 16) irrespective of whether it is being or is capable of being reused.

What do I have to do?

You have two choices. You may either:

- carry out your obligations under the 2005 Regulations yourself (the individual route); or
- join a registered compliance scheme. Membership of a scheme will exempt you from your obligations because the compliance scheme will take on your obligations and discharge them for you. However, you will still need to provide data to the scheme on the amount of packaging you handle.

The individual route

If you decide to discharge your recovery and recycling obligations yourself, you will need to

- register with the Environment Agency by the 7 April *at the latest* each year;
- assess how much packaging went through your business in the previous year, complete a data form and calculate tonnage obligations for the amount of recovery and recycling of packaging waste you must discharge that year (see pages 8-12) and you must provide this information to the Environment Agency when you register;
- pay a registration fee to cover registration and the Agency's costs of monitoring and data analysis and management;
- ensure that the required amount of packaging waste is recovered and recycled that year;
- confirm compliance with your obligations to the Environment Agency by 31 January of the following year;
- provide certain information to consumers (this only applies if you are a retailer or other "seller").

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Joining a compliance scheme

If you prefer, you can join a compliance scheme, which will exempt you from carrying out your obligations yourself. The majority of obligated businesses do choose to join a compliance scheme (approximately 90% in 2005). The compliance scheme will take on your legal liabilities and will carry out the recovery and recycling obligations for you. However, you will still be required to pay a (reduced) registration fee (to the Agency) and calculate the tonnages of packaging you handle. You should also be considering whether you can minimise the amount of packaging you use and can obtain advice on this from your scheme.

There are currently 19 registered compliance schemes in England and Wales. A list can be obtained from the Environment Agency or from the Department for Environment, Food and Rural Affairs' website.



Did you know that....

recycling seven steel cans saves enough energy to power a 60-watt light bulb for 26 hours.

How do I calculate the tonnage of packaging waste I need to recover and recycle?

In order to calculate your recovery and recycling obligations you will need to have/use three pieces of information (unless you are a “small producer” and you are opting for the allocation method – new in 2006 – see page 15 for further information):

- i. you need to know the tonnages of packaging and packaging materials that you handled in the previous calendar year. The main packaging materials are:
- paper/board;
 - glass;
 - steel;
 - aluminium;
 - plastic;
 - wood;
 - composites of any of the above.

There is also a category of “other” packaging such as jute, hessian, cork, ceramics etc.

Note: you are recording the tonnages of **packaging** handled by your business **not** packaging waste!

- ii. you need to know what activity you performed on each material and the percentage obligation associated with each activity. These are:
- | | |
|------------------------------|-------|
| • raw material manufacturing | 6% |
| • converting | 9% |
| • pack/filling | 37% |
| • selling | 48% |
| • service providing | 85% |
| • importing | 100%* |

* If you import packaging, filled packaging or packaging materials you will pick up the “rolled-up” obligations for any activities that took place before import (see example on page 6). You have a 100% obligation on any transit packaging (see page 16) used for goods that you import unless you can show that a similar amount and type of packaging has been exported.

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iii. you will need to know the UK business recovery and recycling targets. These are:

	2006	2007	2008	2009	2010
Paper	66.5	67	67.5	68	68.5
Glass	65	69.5	73.5	74	74.5
Aluminium	29	31	32.5	33	33.5
Steel	56	57.5	58.5	59	59.5
Plastic	23	24	24.5	25	25.5
Wood	19.5	20	20.5	21	21.5
Overall recovery	66	67	68	69	70
Min. Recycling*	92%	92%	92%	92%	92%

* Minimum amount of recovery to be achieved through recycling

You will see that the UK “business targets” for 2008 are higher than those in the Directive; for instance, the UK business recovery target is 68% while the Directive target is 60%. The “business targets” are to be used by businesses to calculate their recovery and recycling obligations, while the Directive targets are the one that the UK must meet in 2008. The two sets of targets differ because not all businesses that handle packaging in the UK are obligated under the Regulations (smaller businesses which do not satisfy the threshold tests are not obligated). The business targets are therefore set at a level that will enable the UK to meet the Directive targets.



Did you know that....

producing an aluminium can from recycled material takes only 5% of the energy needed to make it from the virgin raw material (bauxite).

Packaging handled – imports, exports, reuse

When calculating the amount of packaging you handle you should:

- include the tonnage of packaging owned by you that you supply on to the next or another stage in the chain;
- include the tonnage of packaging, including reused/reusable transit packaging, or packaging materials owned by you which were imported into the United Kingdom either by you directly or through an agent working on your behalf;
- exclude any packaging or packaging materials which were exported from the United Kingdom either by you or through an agent working on your behalf, or exported by a customer downstream from you in the packaging distribution chain if you have evidence of this;
- exclude production residues/process losses from the production of packaging or packaging materials;
- exclude reused primary packaging;
- exclude domestically sourced reused transit packaging (but not reused transit imported into the UK).

Further advice on how to calculate your packaging handled is included in the User's Guide.

Calculating your obligations

You will then need to carry out the calculations below. These will give you a tonnage of packaging waste to be recovered, and within that, the tonnages of packaging waste to be recycled in the current year. The material-specific recycling obligations are part of the overall recovery obligation, they are not additional to it. The obligation for any compliance year to recycle packaging waste is based on your packaging data for the previous calendar year.

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Recovery and Recycling Obligations

Packaging handled **X** activity obligation **X** UK recovery target **=** recovery obligation

Packaging handled by material **X** activity obligation **X** UK recycling target **=** recycling obligation by material*

* This calculation must be repeated for each packaging material you handle and your recycling obligation forms part of your overall recovery obligation.

Further guidance and worked examples are included in the User's Guide.



Did you know that....

recycling one aluminium can saves enough energy to run a television for three hours.

Demonstrating compliance

You (or your compliance scheme on your behalf) are required to demonstrate compliance by purchasing/acquiring evidence that the required amount of packaging waste has been recovered or recycled. The only form of evidence that may be used is the Packaging Waste Recovery Note (PRN) and/or Packaging Waste Export Recovery Note (PERN).

The only businesses which are entitled to issue PRNs or PERNs are packaging waste reprocessors and exporters respectively which have been accredited by the Environment Agency (a list can be obtained from the Environment Agency's website). Reprocessors and exporters are expected to use this income to increase collection and recycling capacity and to develop end use markets.

You should note that the evidence of compliance demonstrates that certain activities have been completed, i.e. that packaging waste has been collected and delivered to reprocessors (or exporters) for recycling. Those with producer

responsibility obligations are responsible for ensuring that sufficient packaging waste is collected and delivered to reprocessors and exporters to generate the PRNs or PERNs they need to demonstrate that they have met their obligations.

Offences

It is an offence not to discharge your obligations under the 2005 Regulations. The penalties regime is a criminal one and cases may be heard in the High Court. If you fail to comply you are also jeopardising the UK's achievement of its legally binding Directive targets. You should also note that it is an offence not to be registered if you are a producer and you meet the threshold tests.



Did you know that...

a tree will be planted in the drylands of Africa for every tonne of aluminium recycled in the UK – the aim is to plant 40,000 trees in 2006.



Changes to the packaging Regulations in 2006

The Government consulted in 2005 on a number of changes designed to improve the workings of the 1997 Regulations, reduce the burdens placed on smaller businesses and to spread the packaging obligation more equitably amongst a greater number of businesses.

The majority of these changes were the subject of recommendations from the Advisory Committee on Packaging (ACP). The ACP is a body which represents the packaging industry and was appointed by Ministers to monitor the effectiveness of the 1997 Regulations and advise Government as and when changes are needed. Some changes, however, are being introduced by the Government with a view to simplifying the provisions of the 1997 Regulations (e.g. the simplification of data provisions for smaller producers). The following new provisions came into force on 1 January 2006 (note: only the more significant changes are listed below, but all of the changes are discussed in the User's Guide).

All of the changes are effective as of 1 January 2006, unless it is specifically indicated otherwise.

Packaging waste recovery and recycling targets

Revised recovery and recycling targets for 2006 to 2008 and indicative targets for 2009 and 2010 have been set (see page 10 for new targets). It was necessary to amend the previous targets (published in 2003) following changes to underlying data, in particular the amounts of packaging entering the UK waste stream, but the targets also needed to be revised to take account of other changes being made this year, i.e. those designed to bring more packaging into the Regulations, such as that associated with lessors, licensors, pub operating companies and companies operating similar business models.

Smaller obligated businesses – allocation method

The allocation method enables “small producers” (i.e. businesses handling more than 50 tonnes of packaging and with a turnover between £2 million and £5 million) to choose to have a recycling obligation allocated to them rather than having to collate and provide data each year to the Agency and calculate their own obligations. The allocation is based on the company’s turnover in the previous year and recycling is to be carried out in the main material handled. The allocation method is voluntary, but if this approach is chosen, it must be adhered to for at least 3 years (providing the turnover of the business remains under £5 million). The tonnage allocations per £1 million turnover are as follows (for which evidence must be provided in the form of PRNs and/or PERNs):

	2006	2007	2008	2009	2010
Recycling Allocation (tonnes)	25	26	27	28	29

New obligations

New provisions have been included in the 2005 Regulations to obligate some businesses for the first time (or to extend existing businesses’ obligations) to ensure that packaging is, as far as possible, picking up a 100% obligation. Provisions have been included in the Regulations to obligate:

- lessors, which are businesses that lease/hire out packaging, such as wooden or plastic pallets, to other companies (lessees). Lessors will pick up a new “service provision” activity (85%) for all **first trip** leased packaging. The remaining 15% should already be picked up by the businesses manufacturing the raw materials (6%) and converting materials into packaging (9%);
- franchisors and other “licensors”, pub operating companies and companies operating under similar business models. These businesses will now be obligated for certain packaging bearing their trade mark or associated with goods that bear their trade mark or provided by an agreement between themselves and their non-obligated (i.e. do not meet the threshold tests in the 2005 Regulations) licensees or tenanted pubs;

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- all imported transit packaging (e.g. packaging that is used to facilitate handling and transport of a number of sales units) that will end up in the UK waste stream (irrespective of whether it is being, or is capable of being reused), unless it can be shown that a similar amount has been exported.

Other changes

Compliance schemes and large producers are now required to submit their operational plans to Defra as well as the Environment Agency. The requirement for producers to provide operational plans has been amended so that only those producers who handle more than 500 tonnes of packaging now need to do so.

The reference to 'reasonable steps' provision for schemes and producers has been removed from the 2005 Regulations. This provision has been removed not only because of the uncertainty that the term has generated, but also because experience in 2001, and again in 2004, has shown that its use could, in some circumstances, jeopardise the UK's ability to meet packaging targets.

The introduction of 'conditional approval' to the 2005 Regulations. The Secretary of State is now able to grant conditional approval to a compliance scheme which may have failed to meet its targets, but has put forward an acceptable reason for this failure. In such circumstances, the Government may not wish to grant full approval, but would not wish to simply allow the scheme to continue as though no failure had occurred. A scheme granted conditional approval must adhere to a set of requirements specified in the 2005 Regulations and will be subject to additional Agency monitoring.

Future challenges

Between now and 2008 it is expected that producers will have to extract more packaging waste from the household waste stream in order to meet the increasing recovery and recycling targets.

Producers will therefore need to work with local authorities e.g. through their packaging compliance schemes and/or accredited reprocessors/exporters to ensure that packaging materials can be collected by local authorities for recycling, particularly where producers' needs extend beyond the local authorities' own recycling obligations.

These partnerships might be expected to involve joint financial investment in the collection and recycling systems needed.

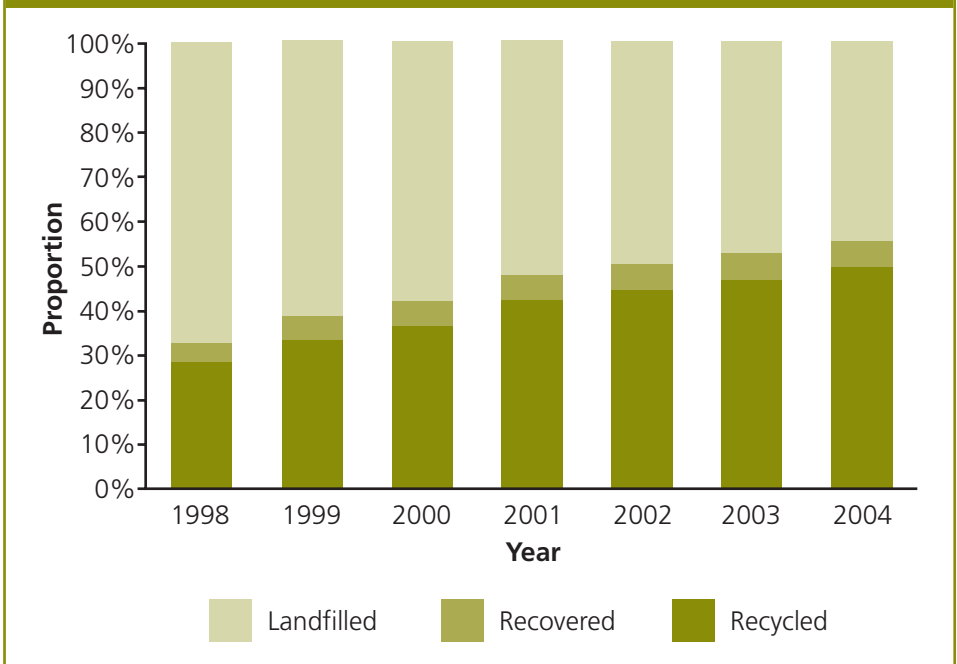


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Achievements to date

The U.K. system has been successful in increasing the levels of packaging waste recovered and recycled from 30% in 1997 to 55.6% by 2004. In real terms, the total amount of packaging waste recovered and recycled in 1998 was 3.3 million tonnes; in 2004, it was almost 5.65 million tonnes therefore over 2.3 million tonnes of additional packaging waste was diverted from landfill in 2004 compared with 1998. The graph below shows how much of the packaging that entered the UK waste stream between 1998 and 2004 was either recycled, recovered (energy from waste) or sent to landfill.

Graph showing proportions of packaging waste recycled, recovered and landfilled from 1998 to 2004



The UK's market based system enables least cost compliance with the Directive targets and is widely regarded as one of the most cost-effective in Europe.

Further advice/contact points

The 2005 Regulations

A copy of the new 2005 Regulations can be downloaded from the OPSI website at www.opsi.gov.uk

Alternatively you can buy a copy from TSO (The Stationery Office) by telephone on 0870 600 5522 or by visiting their website at

www.tso.co.uk/bookshop

If you require further advice on the 2005 Regulations, help is available as shown below:

Department for Environment, Food and Rural Affairs (Defra)

More detailed guidance on the 2005 Regulations the "*User's Guide*" is produced by Defra and can be downloaded from the Defra website (as can other documents, such as the *packaging data note*) at

<http://www.defra.gov.uk/environment/waste/topics/packaging/index.htm>

A free copy of the *User's Guide* may also be obtained from:

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SW1E 6DE.

Tel: 020 7082 8780

Fax: 020 7082 2470

Email: James.Biott@Defra.gsi.gov.uk

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The Environment Agency

Further information and guidance can be found on the Environment Agency's website at

<http://www.environment-agency.gov.uk/business/444304/444641/595811/136872/>

Alternatively they can be contacted at

National Waste Registration Unit (NWRU)

Producer Responsibility

Environment Agency

10 Albert Embankment

London

SE1 7TJ

Tel: 020 7091 4036

Fax: 020 7091 4027

Email: James.Adams@environment-agency.gov.uk

Free Rider Hotline Number

If you know of a producer who is not complying with their obligations to register and/or recover/recycle packaging waste, please call 020 7091 4026 to report them. Your call will be in confidence.

The Department of Trade and Industry (DTI)

The DTI leads on single market aspects of the Directive, including the Packaging (Essential Requirements) Regulations 2003 (as amended). For further information and guidance please visit

<http://www.dti.gov.uk/sustainability/packaging.htm>

Alternatively they can be contacted at

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