

## The composition and use of packaging

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### This guidance is for England, Scotland and Wales

The Packaging (Essential Requirements) Regulations 2015 are concerned with environmental impacts from packaging and packaging waste. Businesses that make or use packaging or its raw materials (including manufacturers, packers, fillers and retailers) are required by law to ensure that a certain percentage of the packaging that is placed on the market is recoverable and recycled. The Regulations also require packaging to comply with concentration limits for heavy metals.

Packaging must satisfy certain 'essential requirements' relating to its size, design and manufacture. Responsibility for compliance lies with the person who places the packaging or packaging components on the market for the first time. This includes anyone who puts their name, mark or trade mark on the package, or the importer.

### Definition of packaging

The Packaging (Essential Requirements) Regulations 2015 define packaging as "all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods". This includes everything "from raw materials to processed goods" and includes packaging at any stage of a product's journey, not just that which is received by a consumer.

Types of packaging:

- **sales packaging or primary packaging.** This is the packaging used to constitute a final sales unit when the product is presented to the consumer or end user - for example, a plastic bottle containing shampoo, a plastic or paper wrapper around bread or a coat hanger sold with a garment
- **grouped packaging or secondary packaging.** This is packaging that presents products in groups at the point of purchase and can be removed from the final product without affecting its characteristics. This could include a cardboard presentation stand holding individual cosmetic items

for the consumer to select

- **transport packaging or tertiary packaging.** This is packaging conceived to facilitate the transport of a number of sales items or grouped packages in order to prevent physical transport or handling damage. This could include plastic shrink wrap, wooden pallets, polystyrene beads or bubble wrap but does not include road, rail, air or ship containers

Further inclusions under the definition of 'packaging':

- items that perform a secondary function may also be considered packaging when supplied with the product - for example, clothes hangers and match boxes. However, if the item is an integral part of a product and it is necessary to contain, support or preserve that product throughout its lifetime and all elements are intended to be used, consumed or disposed of together - for example, tea bags, the wax around cheese or a printer ink cartridge - then this would not be considered packaging. Certain items sold separately, such as clothes hangers, would not be considered packaging on their own.
- items designed or intended to be filled at point of sale, including disposable items for this purpose - for example, plastic carrier bags
- packaging components or ancillary items integrated into packaging or hung directly on or attached to a product that perform a packaging function - for example, a label or ribbon. Components that are designed to be an integral part of that product and all elements that are intended to be consumed or disposed of together are not considered packaging

## Concentration limits for heavy metals

The concentration limits apply to lead, cadmium, mercury and hexavalent chromium. The sum of the concentration level of these metals in the packaging, or in packaging components, must not exceed 100 parts per million (subject to certain exemptions).

## The essential requirements

The essential requirements are aimed at minimising packaging weight and volume, and reducing packaging waste in line with the product's safety, hygiene and consumer acceptance.

Packaging is taken to satisfy the essential requirements if it satisfies the national standards that have been deemed to comply with the essential requirements or that implement the relevant harmonised standards (BS EN 13427: *Packaging. Requirements for the use of European Standards in the field of packaging and packaging waste and related standards*).

A summary of the essential requirements is given below.

## Manufacturing and composition

The following requirements must be satisfied:

- packaging must be manufactured so that the packaging volume and weight is limited to the minimum adequate amount to maintain the necessary level of safety, hygiene and acceptance for the packed product and for the consumer
- packaging must be designed, produced and sold in such a way that reuse or recovery (including recycling) is possible, and that packaging waste (packaging that is not reused or recovered) has a minimal impact on the environment
- packaging must be manufactured so that, when it is incinerated or landfilled, the presence of

noxious and other hazardous substances in emissions, ash or leachate is minimised

## Specific requirements

All of the following requirements must also be satisfied.

Requirements specific to reusable packaging:

- packaging should be designed so that it can be reused several times under normal conditions of use
- processing for reuse must meet health and safety requirements for the workforce
- when it reaches the end of its useful life, the packaging must meet one of the recoverability requirements listed below

Requirements specific to the recoverable nature of packaging:

- **packaging recoverable in the form of recycling.** A certain percentage of weight of the packaging materials must be recyclable, according to published standards in the EU
- **packaging recoverable in the form of energy recovery.** Packaging waste processed to produce energy must have a minimum calorific value
- **packaging recoverable in the form of composting.** Packaging waste processed for the purpose of composting must be so biodegradable that it does not adversely affect the composting process or collection of compost
- **biodegradable packaging.** Biodegradable packaging waste must ultimately decompose into mainly carbon dioxide, biomass and water

## Who is responsible?

The person who places the packaging or packaging components on the market is responsible, including anyone who puts their name, mark or trade mark on the package, or the importer. The person also has a duty to maintain technical documentation to show that the packaging complies with the essential requirements and heavy metal concentration limits. The documentation must be kept for four years and be produced to the enforcement authority (trading standards) within 28 days of a request.

Particular care should be taken when considering 'consumer acceptance' of over-packaging. If it could be argued that consumers are buying goods despite the excessive packaging then you may not be complying with the Regulations.

Special rules apply if you handle more than 50 tonnes of packaging a year and you have a turnover of more than £2 million.

## Further information

Guidance notes on the Packaging (Essential Requirements) Regulations 2015 have been produced by the Department for Business, Energy and Industrial Strategy (BEIS, which was known as the Department for Business, Innovation and Skills at the time) and can be found on the GOV.UK website, where you can also find information on producer responsibilities.

## Penalties

Failure to comply with trading standards law can lead to enforcement action and to sanctions, which may include a fine and/or imprisonment. For more information please see 'Trading standards: powers, enforcement and penalties'.

## Key legislation

Producer Responsibility Obligations (Packaging Waste) Regulations 2007

Packaging (Essential Requirements) Regulations 2015

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## In this update

No major changes

## Please note

This information is intended for guidance; only the courts can give an authoritative interpretation of the law.

The guide's 'Key legislation' links may only show the original version of the legislation, although some amending legislation is linked to separately where it is directly related to the content of a guide. Information on amendments to legislation can be found on each link's 'More Resources' tab.

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