

European Packaging and Packaging Waste Regulation (PPWR): The best things come in small packages... or do they?

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Following years of assessments, discussions, stakeholder meetings and intense trilogue consultations, on April 24, 2024, the European Parliament adopted the **Packaging and Packaging Waste Regulation** (PPWR) at first reading, which should contribute to the transition to a circular economy. Once in full effect, the PPWR will replace the Packaging Directive 94/62/EC.

The PPWR marks a far-reaching shift in the way packaging is regulated in the European Union and harmonizes the Union's internal market for packaging (Art. 1(2) PPWR). It will cover a broad range of packaging types that are produced, imported, distributed, or used in inter-company logistics by millions of companies and citizens in the EU. Companies must prepare for significant changes regarding the handling of their product packaging to comply with the PPWR.



Shrink foils and pallets, plastic bottles, single-use cosmetics packaging in hotels, filling material in cardboard boxes, single-use plastic packaging for condiments: all affected by the new PPWR.

Key takeaways for businesses

The new PPWR will undoubtedly shake up the European packaging and logistics sector. Moreover, the changes will affect e-commerce, the HORECA sector, retailers, as well as other players that are new to the game in most Member States, such as fulfilment service providers. Established producer responsibility organizations (PROs) and authorized representatives will discover a new range of services to offer to market participants. Due to numerous new obligations, manufacturers and distributors will need to know 'their' packaging holistically at an unprecedented level. Failing to do so might result in sales bans and fines. The days when packaging was (only) differentiated by its price and logistical effectiveness will belong to the past. Recommendations in a nutshell:

- **Follow the ambitious timeline and monitor the EU Commission’s subsequent acts.** The general transition period of 18 months gives businesses only a short period of time to review, and where necessary adapt, their production and distribution process. As countless specifics of individual PPWR provisions will still need to be spelled out in delegated and implementing acts of the EU Commission, planning will be challenging for companies and will require constant monitoring and immediate adaptation in the affected areas during and after the general transition period.
- **Know your packaging.** Individual players in the supply chain are subject to different obligations. Packaging manufacturers are affected, as they will have to assess and declare the compliance of their packaging with numerous PPWR obligations. Producers and economic operators—meaning manufacturers as well as inter alia importers and distributors under the wide definition of Art. 3(13)(15) PPWR—will also need to fulfil a multitude of obligations. For example, producers need to document the quantities used, by weight, in 22 (!) packaging categories and report annually to the future national packaging registers. While certain practicalities may be delegated, there is no general exception for small and micro-enterprises.
- **The legislative wheels will keep spinning.** Over the next few years, the Commission will adopt implementing acts for numerous provisions of the PPWR—such as those concerning design for recycling criteria and recycling performance grades. Implementing acts may be subject to stricter scrutiny by the ECJ and must strictly adhere to the scope and principles of the parent legislative act (see, e.g., [Judgment of the General Court](#), T-544/13, Dyson v Commission). Businesses should openly communicate practical difficulties, engage in dialogue with their trade associations and aim to influence the ongoing political process.

Unpacking some of the new provisions

The PPWR sets out a comprehensive framework aimed at preventing packaging waste and fostering re-use and recycling of packaging.

Recyclability of packaging—per unit and at scale. The PPWR requires all packaging to be recyclable, with very limited exceptions (Art. 6 PPWR, Annex II Table 1 PPWR). Three recyclability performance grades and thresholds—A, B and C—will gradually increase pressure on producers over the coming years (Annex II Table 3 PPWR).

- **First**, packaging must be designed for material recycling (from 2030). In Germany, this basic concept—albeit with significantly less far-reaching consequences—is set out in § 21 of the [German Packaging Act](#) (VerpackG). Going forward, packaging with a recyclability grade below 70% will not be considered recyclable and may not be placed on the market. Above this threshold, design for recycling will be fostered by eco-modulated fees according to performance grades.
- **Second**, packaging must be fit to be sorted into specific waste streams without affecting the recyclability of other waste streams and be recycled at scale (from 2035). “At scale” refers to an annual quantity of recycled material equal or greater than 55% (30% for wood). Producers will thus need to ensure an efficient recyclability infrastructure which they control only to a limited extent.

The Commission is tasked with adopting delegated and implementing acts to establish design for recycling criteria (2028) and a methodology for the recycled at scale assessment (2030).

Notable exemptions exist for compostable packaging (Art. 9 PPWR), certain packaging of medicinal products, contact sensitive packaging of medical devices and in vitro diagnostics, packaging used for the transport of dangerous goods, sales packaging made from specific materials (lightweight wood, cork, textile, rubber, ceramic, porcelain or wax), contact sensitive packaging for processed cereal-based food, food for special medical purposes and baby food as well as, for a limited period and upon notification of the competent authority, so-called “innovative packaging” (Art. 3(1)(8) PPWR).

Percentages of recycled plastics content in packaging. Any plastic part of packaging placed on the market, in future, must contain a minimum percentage of recycled content, recovered from post-consumer plastic waste, and calculated as an average per manufacturing plant and year (Art. 7 PPWR). The minimum percentages differ depending on packaging type, such as:

- 10% for contact sensitive packaging made from plastic materials other than PET and not utilized as single-use plastic beverage bottles,
- 30% for contact sensitive packaging made from PET,
- 30% for single-use plastic beverage bottles made from PET or any other plastic material.

The minimum percentages will increase significantly from 2040 onwards—for example to 25%, 50% and 65%, respectively, for the above forms of packaging.

Article 7(3) PPWR requires that packaging and packaged products imported into the EU from third countries must also comply with the minimum recycled content requirements. In addition, imports may enter the market only when originating from a country that has equivalent rules concerning the prevention and reduction of emissions into air, water and land associated with recycling operations. It remains to be seen, whether third countries see these requirements as violating World Trade Organization (WTO) rules, and seek to challenge them in WTO dispute settlement against the EU.

PFAS in food contact packaging. The PPWR prohibits food contact packaging if it contains per- and polyfluorinated alkyl substances (PFAS) in a concentration at or above specific thresholds (Art. 5 PPWR). The definition of PFAS substances in scope and prohibitive concentration levels in question are adopted from the universal PFAS REACH restriction proposal currently under consideration within the ECHA. The aspects of potential PFAS REACH restrictions may still change during ECHA's elaborations.

Packaging minimization by design and use. Aside from fostering recycling, the PPWR places a key emphasis on avoiding “unnecessary” packaging.

- **First**, from **January 1, 2030**, manufacturers and importers must ensure that the packaging they place on the market “is designed so that **its weight and volume is reduced to the minimum necessary for ensuring its functionality**”. The PPWR prohibits packaging with characteristics only aimed at increasing the perceived volume of the product, e.g., double walls and false bottoms (Art. 10 PPWR).
- **Second**, from **January 1, 2030**, grouped packaging, transport packaging and e-commerce packaging must adhere to a **maximum empty space ratio of 50%**, with space filled by materials such as bubble wrap or Styrofoam chips being considered “empty space” (Art. 24 PPWR).

Harmonized labeling of packaging. The PPWR will require that packaging must be labeled with an EU-wide harmonized label (Art. 12 PPWR), in particular:

- **First**, packaging (including e-commerce packaging, but not transport packaging or packaging which is part of a deposit and return system) must be labeled with a harmonized label, which indicates its material composition to facilitate the sorting of packaging waste by consumers.
- **Second**, following the adoption of an implementing act by the Commission, reusable packaging must also bear a label informing users of its reusability and, via a QR code, provide users with information on collection points and other relevant instructions for re-use.
- **Third**, compostable packaging (as now defined by Art. 9 (1), (2), Annex III PPWR) must indicate that the material is compostable, but not suitable for home-composting, and that compostable packaging must not be thrown away in nature.

Green claims. Article 14 PPWR limits so-called “green claims.” Such statements on packaging may only be made if they go beyond the applicable minimum requirements set out in the PPWR. Any claims need to specify whether they relate to the packaging unit, part of the packaging unit or to all packaging placed on the market. Compliance with these requirements needs to be demonstrated by a technical declaration (Annex VII PPWR). It remains to be seen if these limitations will lead to increased legal action on unfair competition grounds, and as a result effective self-regulation that complements public enforcement. In any case, further legislation on the matter of “green claims” is looming at EU level. The proposed “Green Claims Directive” and the Directive on Empowering Consumers for the Green Transition (EU) 2024/825, which was adopted last month, will provide for tighter restrictions on “green claims.”

EU conformity declaration. The PPWR will require packaging manufacturers to issue a declaration of conformity for packaging before placing it on the market. That declaration requires an assessment that the packaging complies with Art. 5-12 PPWR (Art. 15, 39 PPWR). The declaration must follow a specific format and content and

must be kept and provided to authorities upon request for 5 years after placing single-use packaging on the market and 10 years after reusable packaging is placed on the market.

Packaging bans. The PPWR implements vast bans on single-use packaging from January 1, 2030 (Art. 25 and Annex V PPWR), particularly on plastic packaging.

- **First**, the PPWR bans single-use plastic packaging used at the point of sale to group goods sold in bottles, cans, tins, pots, tubs, and packets designed as convenience packaging to enable or encourage consumers to purchase more than one product, e.g., collation films or shrink wrap. Grouped packaging necessary to facilitate handling is not covered by the ban.
- **Second**, the PPWR bans single-use plastic packaging for less than 1.5 kg of pre-packed fresh fruit and vegetables, e.g., nets, bags, trays, containers (subject to far-reaching exceptions by Member States).
- **Third**, the PPWR prohibits single-use plastic packaging for foods and beverages filled and consumed in hotels, restaurants, cafés and the like (HORECA-sector) as well as single-use plastic packaging containing individual portions of condiments, preserves, sauces, coffee creamer, sugar and seasoning in the HORECA sector (subject to very limited exemptions).
- **Fourth**, in contrast to other bans, the PPWR provides a material neutral ban on all single-use packaging for cosmetics, hygiene, and toiletry products for use in the accommodation sector (e.g., shampoo bottles in hotels).
- **Fifth**, the PPWR prohibits very lightweight plastic carrier bags (plastic carrier bags with a wall thickness below 15 microns), except for very lightweight plastic carrier bags required for hygiene reasons or provided as primary packaging for loose food when this helps to prevent food wastage. Furthermore, Article 34 PPWR sets certain thresholds in relation to the consumption of a wide variety of lightweight plastic carrier bags within EU Member States.

Far-reaching re-use targets. Art. 29 PPWR sets out re-use targets for different types of packaging. These will affect numerous sectors and packaging materials, in particular:

- **First**, from January 1, 2030, economic operators using transport packaging or sales packaging for transport, for example in the form of pallets, foldable plastic boxes, plastic crates, pails, and trays, shall ensure that at least 40% of the packaging used is reusable packaging within a system for re-use (70% from 2040).
- **Second**, transport packaging and sales packaging for transport, which is used between different economic operators within the same Member State or between different sites of the same operator or between partner enterprises within the territory of the EU, must be fully reusable. It remains to be seen if the logistical practices currently in place (e.g., the common use of shrink foil on pallets) may be able to adapt.
- **Third**, from January 1, 2030, economic operators using grouped packaging in the form of boxes, excluding cardboard, used outside of sales packaging to group a certain number of products to create a stockkeeping or distribution unit shall ensure that at least 10% of the packaging used is reusable packaging within a system for re-use (25% from 2040).
- **Fourth**, from January 1, 2030, final distributors selling alcoholic and non-alcoholic beverages in sales packaging shall ensure that at least 10% of the packaging made available is reusable packaging within a system for re-use (40% in 2040).

Notable exemptions exist for all re-use targets, e.g., cardboard boxes, packaging used for the transport of dangerous goods and certain food contact packaging are generally excluded from these re-use targets as well as packaging of certain beverages (in particular wine products). Further, final distributors having a sales area of not more than 100 m² are exempt.

Refill/re-use systems in the HORECA sector. The PPWR will require final distributors in the HORECA sector offering beverages or ready-prepared food in take-away packaging (of all materials) to provide the option of refill and re-use systems to consumers at no higher costs and no less favorable conditions than beverages and food in single-use packaging (Art. 32, 33 PPWR). Final distributors must inform end consumers about these possibilities at the point of sale. For German final distributors, this will lead to changes of the existing obligations under § 33 of the German Packaging Act (VerpackG), which already covers single-use beverage cups of all materials, but so far is limited to single-use plastic packaging for food.

National packaging registers and extended data reporting obligations on packaging. Packaging producers making available packaging for the first time on the German Market—which covers approximately 1 million companies as of April 2024—are already familiar with the obligation to register in a national packaging register (§ 9 VerpackG). The PPWR now makes this measure compulsory (albeit with some significant alterations to the German provision) in all Member States. Moreover, packaging producers must comply with numerous new data reporting obligations. These reporting obligations will be highly complex, not least in light of 22 (!) relevant packaging categories set out in Annex II Table 1 PPWR. The PPWR provides for the option to entrust PROs or authorized representatives to fulfil these obligations. Note that the PPWR does not provide an exception for small and micro-enterprises.

Extended producer responsibility. Articles 44-47 PPWR introduce extended producer responsibility (EPR) for packaging producers, e.g., in the form of financial participation in the costs of collecting, sorting, and recycling packaging waste (Art. 8, 8a Waste Directive 2008/98/EG). Producers may delegate their EPR obligations to **PROs**. Reporting duties will become significantly more complex.

Return, collection and deposit return systems. Articles 48-50 PPWR require Member States to set up systems and infrastructure for the return and separate collection of all packaging waste from end users to facilitate its preparation for re-use and high-quality recycling.

Furthermore, every Member State is required to establish, by January 1, 2029, deposit and return systems to ensure the separate collection of single use plastic beverage bottles and single use metal beverage containers with a capacity of up to three liters. These deposit and return systems need to ensure the separate collection of at least 90% per year by weight of the respective packaging. Notable exemptions exist for wine products, alcohol-based spirituous beverages, milk, and milk products as well as the option for Member States to exempt packaging with capacities lower than 0,1 liters, as well as national deposit and return systems already established. Stakeholders in Germany are already familiar with such systems as nationwide return and collection systems as well as a nationwide deposit and return system are already established.

Green public procurement. Article 63 PPWR sets out minimum mandatory requirements for public contracts in which the packaging or packaged products represent more than 30% of the estimated contract value or of the value of products used by the services object of the contract. As the EU Commission is asked to adopt implementing acts specifying these minimum requirements, it remains to be seen how this measure will affect future public procurement procedures in the Member States.

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