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NEWSLETTER // **Environmental law**



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New Packaging Regulations on Waste and Recycling

Changes Introduced by Regulation (EU) 2025/40

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1. Introduction

In the context of environmental sustainability, one of the most significant measures of recent years regarding packaging and packaging waste has been introduced: Regulation (EU) 2025/40, also known as the “*Packaging and Packaging Waste Regulation*” – PWR (hereinafter the “**Regulation**”), published in the Official Journal of the European Union on 22 January 2025, which entered into force on 11 February 2025 and will apply generally from 12 August 2026. Through the Regulation, the European legislator has repealed legislation that had remained largely unchanged for over thirty years, introducing a shift in perspective: packaging is no longer considered merely as a product destined to become waste, but as an element to be regulated throughout its entire life cycle, from design through to the end-of-life phase. This entails a comprehensive review of the ways in which packaging is designed and used, with implications for the entire supply chain – manufacturers, importers, distributors and users – which is required to adapt to a model that is more focused on circularity.

2. The legislation in force prior to the Regulation

The European regulatory framework on packaging was, until now, governed by Directive 94/62/EC (hereinafter the “**Directive**”), adopted on 20 December 1994, which required transposition by each Member State and left room for discretion that, over time, had led to significant regulatory fragmentation across the European level.

In substance, the Directive focused primarily on the management of packaging waste, setting general recovery and recycling targets, without directly and specifically addressing the technical characteristics of packaging placed on the market.

Regulation marks a shift from a system focused on the end-of-life of packaging to a model that regulates its entire life cycle, from the design phase through to waste management. In this context, binding technical requirements are introduced that directly affect the design and composition of packaging, moving beyond the more flexible approach of the Directive.

3. The Regulation

The Regulation introduces a comprehensive framework for packaging and packaging waste, with the aim of reducing waste generation, increasing reuse, improving recyclability and promoting the use of recycled materials. As provided for in Article 1 of the Regulation, the new framework covers the entire life cycle of packaging, setting out requirements regarding environmental sustainability, labelling, extended producer responsibility (hereinafter “EPR”) and end-of-life management, as well as contributing to the functioning of the internal market and the transition to a circular economy.

Article 2 of the Regulation states that it *«applies to all packaging, regardless of the material used, and to all packaging waste, regardless of the context in which the packaging is used or the origin of the packaging waste: industry, other manufacturing activities, retail or distribution, offices, services or households»*.

Furthermore, it will be directly applicable in Member States, without the need for national transposition, thereby eliminating the regulatory asymmetries that characterised the previous regime, with the aim of creating a harmonised framework for economic operators, producers, importers, distributors and users of packaging.

Article 3 of the Regulation defines “*packaging*” as any item, regardless of the material of which it is composed, intended to contain, protect, handle, deliver or present products to an economic operator or an end-user. The definition also includes items intended to be used and disposed of together with the product, accessories integrated into or connected to the packaging, service packaging filled at the point of sale, as well as certain specific types of single-dose units, such as tea bags and beverage capsules. The same article defines “*packaging waste*” as packaging or packaging material that constitutes waste, except for production residues.

The Regulation pursues three fundamental objectives:

- i) waste reduction and minimisation, as it sets binding targets for the quantitative reduction of packaging waste. To this end, economic operators are required to use packaging to the minimum necessary, eliminating so-called ‘over-packaging’ and design solutions aimed solely at increasing the volume of the product;
- ii) promoting reuse by introducing binding reuse targets for 2030 and indicative targets for 2040, broken down by type of packaging. The aim is to steer the market towards models less reliant on single-use items, favouring packaging reuse systems such as returnable containers and refill solutions;

- iii) increasing recycled content and recyclability through the “*Design4Recycling*” principle. On this point, the Regulation requires that packaging be designed from the outset to be effectively recyclable, whilst introducing mandatory minimum quotas for post-consumer recycled content.

4. The obligations set out in the Regulation

The Regulation comprehensively governs the entire life cycle of packaging, introducing a series of progressive and technically detailed obligations that affect both the design phase and end-of-life management.

- i) Mandatory recyclability and classification system: from 1 January 2030, all packaging placed on the market must meet recyclability requirements, assessed through a system of classification into performance classes (A, B and C). Under Article 6 of the Regulation, packaging that does not fall within these classes will be prohibited, whilst from 2038 only packaging belonging to the highest classes (A and B) may be placed on the market. The technical classification criteria and related thresholds will be defined by the Commission through delegated acts to be adopted by 1 January 2028.
- ii) Minimum content of post-consumer recycled material: in Article 7, the Regulation introduces, with effect from 1 January 2030, binding obligations regarding the minimum content of post-consumer recycled plastic in plastic packaging, setting out differentiated percentages depending on the type of packaging and its intended use. These percentages are higher for specific categories – such as beverage bottles – and are set to increase progressively by 2040.
- iii) Bans on single-use plastic packaging: from 1 January 2030, the placing on the market of certain types of single-use plastic packaging will be prohibited, including packaging for fresh fruit and vegetables weighing less than 1.5 kg; single-serve sachets for sauces, sugar and condiments; single-use packaging for food and drink consumed on the premises of catering establishments; single-use mini bottles used in hotels; ultra-thin plastic bags thinner than 15 microns.
- iv) Minimisation of packaging and limitation of empty space: by 2028, those responsible for filling packaging must ensure that empty space is minimised, with a ban on non-functional design features such as double walls or raised bases. From 1 January 2030, for the transport and *e-commerce* sectors, a maximum limit on empty space of 50% of the total volume of the packaging is set.
- v) Hazardous substances: in Article 5, the Regulation introduces specific restrictions on the use of perfluoroalkyl substances (PFAS) in packaging intended to come into contact with food, setting limits that can be measured and verified through technical analysis. These provisions form part of the requirements applicable from the date the Regulation becomes fully operational, which is 12 August 2026.

- vii) Deposit-refund schemes:** the Regulation provides for the establishment of deposit-refund schemes for certain types of single-use plastic beverage bottles and for certain single-use metal containers.
- viii) Consumer's right to use their own container:** as part of measures to encourage reuse, the Regulation requires establishments offering takeaway food and drinks to allow customers to use their own reusable containers, without charging any additional costs compared to single-use options.

5. Strengthening EPR

The Regulation applies to all economic operators involved in the packaging supply chain, including packaging producers, importers, distributors, suppliers, end users and waste management operators. For each category, it establishes specific responsibilities, significantly strengthening the principle of Extended Producer Responsibility (EPR), under which responsibility for the end-of-life management of packaging is extended across the entire supply chain.

In this regard, Section III of the Regulation introduces a structured EPR system pursuant to which producers – defined as entities placing packaging or packaged products on the market of a Member State for the first time – are required to bear the costs associated with the management, collection and recycling of waste arising from their packaging.

The financial contributions payable by producers cover not only the ordinary costs of waste management, but also the costs associated with the labelling of containers for separate collection and with surveys concerning the composition of unsorted municipal waste.

In order to ensure compliance with these obligations, each Member State is required to establish a national register of producers. Producers must register in every Member State in which they operate; failing such registration, they are prohibited from placing packaging on the relevant market.

Producers may fulfil their EPR obligations individually or delegate them to a producer responsibility organisation previously authorised by the competent authority. Such organisations must demonstrate that they possess the organisational, financial and operational capacity necessary to ensure the return and management of all packaging waste free of charge to consumers.

The Regulation also requires the provision of an adequate financial guarantee covering waste management costs, including in cases of cessation of business activities or insolvency, thereby providing an additional safeguard for the continuity of the system.

6. Penalties

Article 68 of the Regulation does not introduce directly applicable penalties, but leaves it to Member States to define their own national penalty regimes. By 12 February 2027, each Member State must adopt rules on penalties applicable in the event of a breach of the Regulation and notify them to the European Commission. The penalties must be effective, proportionate and dissuasive. With specific regard to breaches of the provisions on the reuse of packaging, the Regulation expressly provides that Member States must introduce administrative penalties, without prejudice to the possibility, for legal systems that do not provide for such a mechanism, of entrusting the imposition of the penalty to the competent judicial authority, provided that substantial equivalence is guaranteed.

For businesses operating in multiple Member States, the absence of a uniform penalty system may lead to differences in the application of the rules across countries, at least initially. Consequently, it will be important to closely monitor developments in national legislation in order to properly assess the risks of non-compliance in the various markets in which they operate.

7. Conclusions

The Regulation represents a legislative measure designed to structurally redefine the rules governing the packaging sector in the European Union. Its direct application in all Member States without the need for national transposition marks a clear break from the previous regime, addressing the need to overcome the regulatory fragmentation that had characterised the thirty years during which the Directive was in force. The deadlines for the obligations set out in the Regulation are spread over a period extending from 2026 to 2040, offering economic operators a defined timeframe for compliance, whilst at the same time requiring immediate action.



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