

Packaging Extended Producer Responsibility (EPR)

General Guidance Note

For packaging supplied in the 2023 calendar year, businesses are obligated to report data if they are classed as a producer under the Packaging Waste (Data Reporting) (England) Regulations 2023 (as amended), the “Data Reporting Regulations”. The UK is currently transitioning from the packaging compliance regime that has been largely in place since 1997 under legislation referred to as the “Packaging Waste Regulations”, to Extended Producer Responsibility (EPR) for packaging, with the Data Reporting Regulations being the first stage of this transition. EPR is currently timetabled to replace the Packaging Waste Regulations and the Data Reporting Regulations in 2025. Since in the interim, many producers will need to report data under both the Packaging Waste Regulations and the Data Reporting Regulations, please also read our separate Packaging Waste Regulations briefing note to ascertain if you need to report data under both regimes.

In addition to the above Regulations which provide for the recycling of packaging that producers place on the market in the UK, the following Regulations apply to packaging and affect many businesses:

- **Plastic Packaging Tax (PPT)** - importers and manufacturers of plastic packaging components are subject to PPT if they manufacture or import more than 10t of finished plastic packaging components in any 12-month period. Business affected by PPT are required to register with HMRC and then submit data and pay PPT quarterly.
- **Packaging Essential Requirements** - businesses that import, pack/fill, affix a trademark or brand, or recondition packaging for reuse are also required to comply with the essential requirements. Under these Regulations, businesses have responsibilities with respect to the design, use and composition of packaging and must comply with specified limits, for example with respect to heavy metals.

These are obligations which you must meet yourself directly. You can join a REPIC packaging scheme if you are a large producer to report your data under the Data Reporting Regulations and to meet your recycling obligations under the current Packaging Waste Obligations and in future EPR. It is your obligations under the Data Reporting Regulations that we refer to in this briefing note.

What is packaging?

Packaging is “all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer”.

Packaging comprises the following packaging layers:

- Sales packaging or primary packaging, which is packaging that constitute a sales unit to the final user or consumer at the point of purchase;
- Grouped packaging or secondary packaging, which is packaging that constitutes at the point of purchase, the grouping of a certain number of sales units, which can be removed from the product without affecting its characteristics; and
- Transport packaging or tertiary packaging, which is packaging to facilitate transportation and handling of a number of sales units of grouped packagings in order to prevent physical handling and transport damage.
- Shipment packaging, which is packaging, added in addition to primary packaging, on items which are sold online or by mail order which are either delivered direct to the purchaser or collected by the purchaser after they have been purchased.

Are you a packaging producer?

An organisation is a packaging producer if they meet all of the following criteria:

- perform any of the functions of a producer on packaging; and
- supplied or imported and discarded over 25t packaging in the preceding year; and
- had an annual turnover of over £1 million based on their latest accounts that were delivered to Companies House prior to the 7th April in the current year.

Organisations meeting the above criteria are large producers if they supplied or imported and discarded over 50t of packaging in the preceding year and their latest turnover exceeded £2 million, otherwise they are a small producer.

Where a business does not have a UK registered office, a supply is considered to have taken place when a person makes a supply on behalf of the owner of the packaging. If the overseas owner of the packaging has a UK presence such as an address or a physical operation, they are classed as having made the first supply of the packaging. This mirrors the requirements of the Batteries Regulations, however, differs to the WEEE Regulations in which businesses do not need to have a UK presence

At a very high-level, the functions of a producer are:

- **Brand owner** – organisation whose brand, trademark or other distinctive mark appears on packaging;
- **Packer /filler** – organisation that fills packaging for which there is no brand owner;
- **Importer** – organisation that imports filled packaging other than on the behalf of a brand owner that is a large producer;
- **Service provider** – an organisation that is the first supplier of reusable packaging;
- **Online marketplace operator** – an organisation that operates an online marketplace through which persons not established in the UK can supply filled packaging, or can supply unfilled packaging to an organisation that is not a large producer;
- **Distributor** – organisation that manufactures or imports unfilled packaging which is not supplied to a large producer, unless a brand owner is the producer of the packaging once it is filled;
- **Seller** – organisation that supplies filled or unfilled packaging to a user or a consumer of that packaging.

Packaging materials are:

- Paper / cardboard
- Glass
- Plastic
- Steel
- Aluminium
- Wood
- Fibre-based composites
- Other, for example, cord, hessian, rubber or jute

When organisations are members of a UK group, the turnover and tonnage thresholds apply collectively to each member of the group that handles packaging. This means that if collectively the group exceeds 50t of packaging handled and £2 million turnover in their latest accounts, every member of the group that handles packaging is a producer, even if they only handle a few kilograms.

What are my obligations as a packaging producer?

All producers

Producers need to open an account on Defra's Report Packaging Data (RPD) system before they can meet their reporting obligations under the Regulations. If a producer is part of a UK Group, each company can open its own individual account, or the holding company can open an account on behalf of one or more subsidiaries.

Producers are required to report packaging data and company information such as their Companies House registration number, registered address and for brand owners, details of each brand, each trademark and each other type of distinctive mark that appears on packaging.

Once a producer has opened their account, they can either meet their own reporting obligations by reporting their company information, brand details and packaging data on RPD, or they can join a compliance scheme such as REPIC to do this for them. Producers joining a REPIC compliance scheme will receive advice as to the data required and an audit, typically site-based in the first year of membership to verify that their data meets the requirements of the Regulations in being "as accurate as reasonably possible".

All producers except Sellers

Under the Data Reporting Regulations, all large producers except Sellers need to submit separate H1 and H2 data for each year that they are producer providing:

- the quantity of each packaging material, by packaging layer and by producer function. For example, if an organisation imports products in individual branded cardboard boxes, several of which are packed in unbranded outer cartons, then the weight of the individual branded boxes would need to be reported as cardboard, brand owner, primary packaging, whilst the weight of the outer boxes would need to be reported as cardboard, importer, secondary packaging. Additional data is required for producers of some reusable packaging and drinks containers;
- the quantity of packaging waste that they have collected in each UK nation, with the quantity collected from consumers that is not commonly collected by local authorities reported separately from the total packaging waste collected. If the packaging waste is transferred from one UK nation to another, the quantity transferred to each nation must also be reported.

All small producers except Sellers need to report data annually for each year that they are a producer, however, whilst separate data is required for each packaging material and layer and also for some reusable packaging and drinks containers, it does not need to be reported separately by producer function.

Under the Data Reporting Regulations, the obligations of producers are limited to record keeping and reporting. Once EPR is in force, large producers will be required to finance the recycling of their market share of packaging and in addition, for household packaging, finance their share of local authority costs incurred in the collection and for packaging in residual waste, its disposal.

Sellers

Sellers are required to report annually, the quantity of packaging that they have supplied in each year to the final user or consumer separately for each UK nation. This includes packaging that they have imported and themselves are the final user. This is referred to as “nation reporting” and includes primary, secondary, tertiary and shipment packaging that they have supplied to business and consumer final user customers.

What information will I need to provide as a member of the REPIC Packaging Scheme?

You will need to provide the basic Company Information and Brand Information to us in January and July each year that you are a member of the REPIC scheme.

If you are a large producer for your obligations other than as a Seller, you will need to provide packaging data on a form that we will provide for you to complete:

- For H1 packaging you have supplied in any given year – by 15th August that year;
- For H1 packaging you have supplied in any given year – by 15th February the following year.

For the packaging you have supplied as a seller, we expect to require your 2023 data on a form that we will provide for you to complete by 15th November 2024. We will advise on the deadline in subsequent years after this.

We ask that you provide your working files that contain the information which you have used to complete your packaging data form. We undertake a detailed review of the data that you send us, which may result in revisions being made before we jointly agree the final version that must be signed by an Approved Person.

You should check the information that you have provided to us for registration purposes on a regular basis and notify us within 14 days of any changes to this information.