



Producer responsibility obligations

(packaging waste) regulations 1997



ENVIRONMENT AGENCY

NATIONAL LIBRARY &
INFORMATION SERVICE

HEAD OFFICE

Rio House, Waterside Drive,
Aztec West, Almondsbury,
Bristol BS32 4UD

EA Waste Management
Box 5

Introduction

The EC Directive on Packaging and Packaging Waste only gives general guidance on what is and what is not packaging.

It is essential that a standard interpretation of the definition of 'packaging' exists for Great Britain so that the Environment Agency and Scottish Environment Protection Agency (SEPA) can assess obligations consistently under the Regulations. The agencies, in developing principles that apply the definition of packaging, must have regard to the common understanding of what is and what is not packaging. They must also have regard to the objective of sustainability and to the expressed purpose of the EC Directive to "reduce the overall volume of packaging waste".

This booklet includes a summary of items where agreement on packaging has been reached by Member States.

The notes are **the agencies' views** on how obligated producers (and Compliance Schemes) should assess the items of packaging and packaging materials they are responsible for when compiling records and calculating recovery and recycling obligations.

This booklet replaces the first edition issued by the Environment Agency and SEPA in July 1997. It reflects the constructive proposals from a number of packaging chain interests and the agencies' experience of interpreting and enforcing the regulations. The booklet does not cover exemptions from the legislation, matters such as evidence, or calculation of obligations (which will depend on criteria such as ownership and the nature of supply).

We would like to thank all those companies, trade associations and compliance schemes that responded to the consultation in April 1999.

The European Dimension

The Article 21 Committee helps the European Commission when applying the provisions of the Packaging Directive. All Member States are represented on the Committee; the UK by the Department of Trade and Industry.

A list of items with agreed packaging status has been published by the Committee. The list (which is subject to change) is intended to promote understanding. Some examples from the document are:

Packaging

- Boxes for watchmaker's products
- Toy boxes for consumable toys
- Cigarette cartons
- Charcoal sacks
- Dosage delivery caps
- Paint tins
- Film overwrap around a CD case
- Match boxes
- Paper or plastic carrier bags
designed / aimed for being filled at point of sale
- Sticky labels *attached to another packaging item*
- Mascara brush *which forms part of the container closure*
- Accessory packaging *hung directly on or attached to the product*
- Sweet boxes

ENVIRONMENT AGENCY



093768

Interpretation tests

notes on steps A to F in the flow chart

Step A – Identify the sales unit

Interpretation begins with the 'sales unit'; this is the product and its packaging. The purpose of Step A is to identify it. For example, a silver spoon, preserves, jars, caps, labels, plastic sleeve, and price label all comprise the 'sales unit' of a presentation pack of preserves with serving spoon.

Step B – Remove the product

The product (or products) is to be used or consumed. In the example given in Step A, this is the preserves and the spoon.

Some items are regarded by the agencies as products in their own right although the boxes, bags, etc they come in are packaging; examples include tea bags, pencils, fire extinguishers, 35mm film cassettes and toner cartridges.

Step C – Durable packaging for durable products

Durable products that cannot be used up (or consumed) may require durable packaging for long-term storage. An item that provides such long-term storage for a durable product is not regarded as obligated packaging by the agencies.

The Article 21 Committee considers that a durable item is one that a majority of consumers use for longer than five years, and is intended for repeated use and not for disposal after the first use.

Preserves are consumable so no part of the 'sales unit' for them can be for long-term storage. Power tools on the other hand are durable products, so it is reasonable to assume their carrying cases as long-term storage. This also applies to durable carrying cases or moulded containers designed to last the lifetime of durable items such as spectacles, laptop computers, electric razors, cutlery, and cameras.

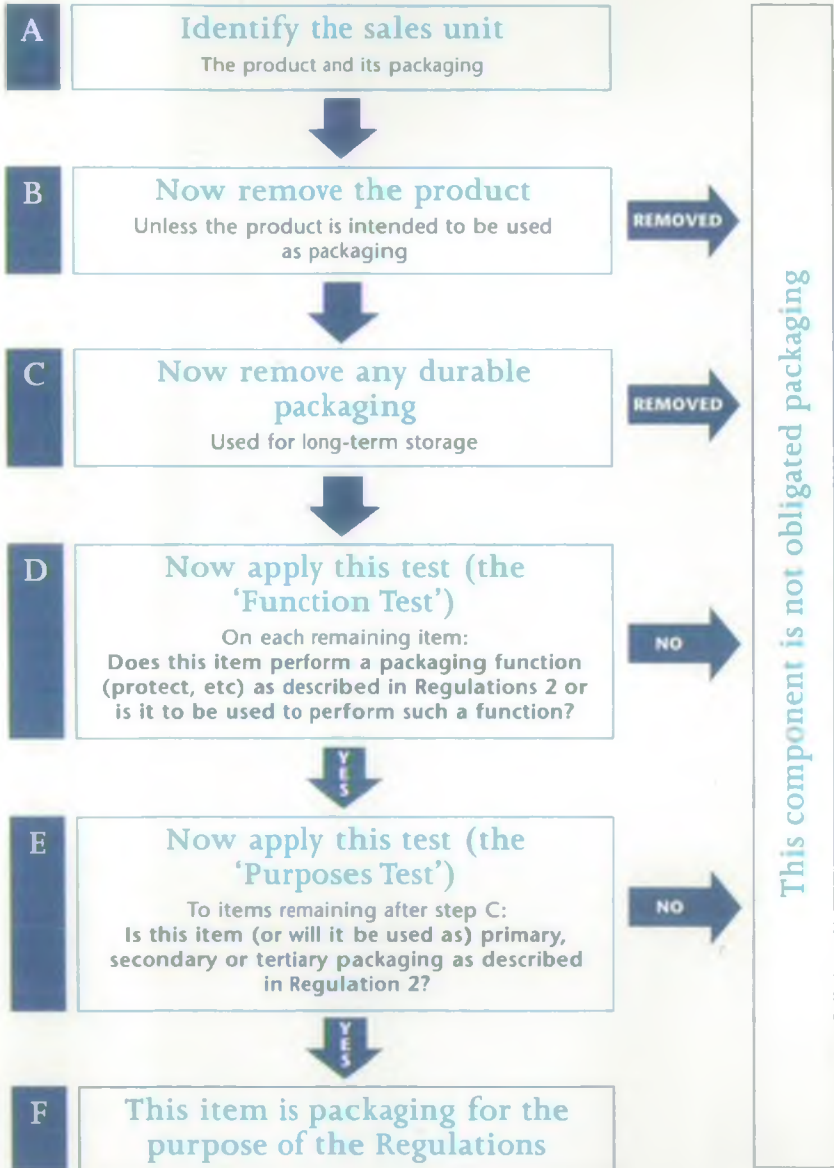
Not packaging

- Toy boxes for durable toys
- Flower pots *intended to stay with the plant throughout its life*
- Ink cartridges
- Tool boxes
- First aid boxes
- Boxes for contact lenses
- Tea bags
- Sausage skins
- Stirrers
- Blood bags
- Urine bags

Please note that these lists have no statutory force in the UK. Whether or not these items are obligated packaging in the UK will depend on whether they satisfy the other criteria for packaging given in the regulations (e.g. ownership, nature of supply, etc).

Interpretation – flow chart

to be used in conjunction with the explanatory text in this booklet



Step D – The ‘Function Test’

Regulation 2 states that ‘packaging’ means “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....”. The agencies consider that a given item of packaging does not to perform **all** of these functions, one function is sufficient.

Definitions of these specific functions have been adapted according to the purpose of the Packaging Directive:

- “containment” is the act or process of restraining or enclosing e.g. drums and cans;
- “protection” means the defence from harm, e.g. bubble wrap;
- “handling” means facilitating movement, e.g. carpet cores;
- “delivery” is the conveyance of the product(s) to the final user or consumer; and
- “presentation” means to exhibit or display the product(s), which may include attracting attention to them e.g. a label, or a brightly coloured box containing an Easter egg.

Step E – The ‘Purposes Test’

Regulation 2 sets out a second test. For part of a ‘sales unit’ to be packaging, it must also be:

- “(a) sales packaging or primary packaging, that is to say packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;*
- (b) grouped packaging or secondary packaging, that is to say packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale; it can be removed from the product without affecting its characteristics;*

- (c) *transport packaging or tertiary packaging, that is to say packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packs in order to prevent physical handling and transport damage; for the purposes of these Regulations transport packaging does not include road, rail, ship and air containers¹.*

An important word found in the descriptions of primary, secondary and tertiary packaging is “conceived”. For an item to be primary, secondary or tertiary packaging it does not have to have been conceived as such at the manufacturing stage, but at any stage. Once it passes the Function Test and the Purpose Test, it is deemed to have been packaging throughout the chain. This highlights the need for information to be passed between activities in the packaging chain.

Step F

All items which have reached this point in the flow diagram are considered to be packaging for the purposes of the regulations.

¹ Note: such containers are described in an Agencies’ Explanatory Note.



Printed on Clovercoat, the Environment Agency’s own recycled, totally chlorine free paper. Clovercoat is made from 100% post consumer waste - including the Agency’s own waste paper - supplied to the mill through a paper recycling merchant. The making of this paper meets all of the Agency’s stringent environmental standards.

Further information

Legislation

- The European Parliament & Council Directive on Packaging & Packaging Waste (94/62/EC)
- The Environment Act 1995
- The Producer Responsibility Obligations (Packaging Waste) Regulations 1997; (as amended)

Government publications

- The Packaging Waste Regulations 1997 User's Guide. Department of the Environment, 1997; (as amended)

Agency publications

- The Packaging Waste Regulations – Guidance on Evidence of Compliance and Voluntary Accreditation of Reprocessors and Exporters. (Booklet); Second Edition, 1999.

Explanatory Notes (ENs)

Explanatory Notes (ENs) are internal documents used to assist Agency officers in the interpretation and enforcement of the legislation. ENs are published on the agencies' internet websites.

Environment Agency: www.environment-agency.gov.uk

SEPA: www.sepa.org.uk

General packaging queries should be directed to your local Agency office.



ENVIRONMENT AGENCY

MANAGEMENT AND CONTACTS:

The Environment Agency delivers a service to its customers, with the emphasis on authority and accountability at the most local level possible. It aims to be cost-effective and efficient and to offer the best service and value for money.

Head Office is responsible for overall policy and relationships with national bodies including Government.

Rio House, Waterside Drive, Aztec West, Almondsbury, Bristol BS32 4UD

Tel: 01454 624 400 Fax: 01454 624 409

Internet World Wide Web www.environment-agency.gov.uk
www.environment-agency.wales.gov.uk

ENVIRONMENT AGENCY REGIONAL OFFICES

ANGLIAN

Peterborough
Tel: 01733 371 811
Fax: 01733 231 840

MIDLANDS

Solihull
Tel: 0121 711 2324
Fax: 0121 711 5824

NORTH EAST

Leeds
Tel: 0113 244 0191
Fax: 0113 246 1889

NORTH WEST

Warrington
Tel: 01925 653 999
Fax: 01925 415 961

SOUTHERN

West Sussex
Tel: 01903 832 000
Fax: 01903 821 832

SOUTH WEST

Exeter
Tel: 01392 444 000
Fax: 01392 444 238

THAMES

Reading
Tel: 0118 953 5000
Fax: 0118 950 0388

WELSH

Cardiff
Tel: 01222 770 088
Fax: 01222 798 555

For general enquiries please call your local Environment Agency office. If you are unsure who to contact, or which is your local office, please call our general enquiry line.

ENVIRONMENT AGENCY GENERAL ENQUIRY LINE

0645 333 111

The 24-hour emergency hotline number for reporting all environmental incidents relating to air, land and water.

ENVIRONMENT AGENCY EMERGENCY HOTLINE

0800 80 70 60

SEPA HEAD OFFICE

Erskine Court
The Castle Business Park
STIRLING FK9 4TR
Tel: 01786 457700
fax: 01786 446885

NORTH REGION HQ

Graesser House
Fodderty Way
Dingwall Business Park
DINGWALL IV15 9XB
Tel: 01349 862021
Fax: 01349 863987

EAST REGION HQ

Clearwater House
Heriot Watt Research Park
Avenue North, Riccarton
EDINBURGH EH14 4AP
Tel: 0131 449 7296
Fax: 0131 449 7277

WEST REGION HQ

5 Redwood Crescent
Peel Park
EAST KILBRIDE G74 5PP
Tel: 01355 574200
Fax: 01355 574688



SEPA GENERAL ENQUIRY LINE

01786 45 77 00

SEPA EMERGENCY POLLUTION HOTLINE

0800 80 70 60

scottish environment protection agency