

SUBSIDIARY LEGISLATION 549.43

**WASTE MANAGEMENT (PACKAGING AND
PACKAGING WASTE) REGULATIONS**

1st March, 2007

LEGAL NOTICE 277 of 2006, as amended by Legal Notices 426 of 2007, 442 of 2012, 358 of 2013, 444 of 2014, 226 of 2017 and 227 of 2017.

1. The title of these regulations is the Waste Management (Packaging and Packaging Waste) Regulations. Citation.

2. (1) These regulations bring into effect the provisions of European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste as amended by Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004 amending Directive 94/62/EC on packaging and packaging waste and Directive 2005/20/EC of the European Parliament and of the Council of 9 March 2005 amending Directive 94/62/EC on packaging and packaging waste. Scope.
*Amended by:
L.N. 442 of 2012;
L.N. 444 of 2014.
S.L. 549.63
Substituted by:
L.N.226 of 2017.*

(2) The objective of the Directive is to harmonise national measures concerning the management of packaging and packaging waste in order, on the one hand, to prevent any impact thereof on the environment of all Member States as well as of third countries or to reduce such impact thus providing a high level of environmental protection, and, on the other hand, to ensure the functioning of the internal market and to avoid obstacles to trade and distortion and restriction of competition within the European Union.

(3) These regulations shall apply to all packaging put on the market in Malta and all packaging waste, whether it is used or released at industrial, commercial, office, shop, service, household or any other level, regardless of the material used, unless such packaging is expressly excluded from the application of these regulations. These regulations, with the exception of regulations 4, 5, 6, 7, 11, 18, 25 and Schedule 2, shall not apply to:

- (a) packaging not intended for putting on the market in Malta; and
- (b) producers putting less than 100 kilograms on the market of packaging or packaging material in a calendar year.

(4) These regulations provide additional measures, procedures and guidance to those in the Waste Regulations, which aim, as a first priority, at preventing the production of packaging waste and, as additional fundamental principles, at reusing packaging, at recycling and other forms of recovering packaging waste and, hence, at reducing the final disposal of such waste. S.L. 549.63.

(5) These regulations shall apply without prejudice to existing provisions, in particular with regard to quality requirements for packaging such as those regarding safety, the protection of health and the hygiene of the packed products or to existing transport requirements, or to the provisions of the Waste Regulations. S.L. 549.63.

Interpretation.
Amended by:
L.N. 444 of 2014.
L.N.226 of 2017;
L.N.227 of 2017.

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3. (1) In these regulations, unless the context otherwise requires:

"the Act" means the Environment Protection Act;

"agreement" means the formal agreement concluded between the competent authority and the producers concerned, which has to be open to all partners who wish to meet the conditions of the agreement with a view to working towards the objectives of these regulations;

"authorised packaging waste recovery scheme" means a scheme authorised by the competent authority in accordance with these regulations, whose members for the time being are, by virtue of these regulations and their membership of that scheme, exempt from part of these regulations;

"authorised waste management undertaking" means an undertaking that holds a valid permit issued by the relevant competent authority under national laws and regulations relating to environmental protection;

"back-end store packaging" means any packaging or packaging material that remains at the warehouse, store or manufacturing facility, including that at the distributor's end. In the case of distributors, the packaging and packaging material remaining at their end, excluding 'consumer packaging', shall also be considered to be 'back-end store' packaging for which the producer can opt to be self-compliant. This may include outer boxes, pallets, shrink-wrap, metal straps, production scraps, etc.;

"categories of packaging" means packaging made of glass, plastic, paper and board, metal, wood or any other material;

"the competent authority" means the Environment and Resources Authority and such other body or person as the Minister may by order in the Gazette, prescribe and different bodies or persons may be designated as the competent authority for different provisions and different purposes of these regulations;

"composite packaging" means packaging made of different materials, and which cannot be separated by hand, none exceeding a given percentage by weight;

"consumer packaging" means any packaging or packaging material that is sold with or without the product and ends at the final retailer or final consumer, for example, bottles, carton boxes, jars etc.; which consumer packaging waste is collected from the end users through systems which are in place;

"to convert" means to use or modify packaging or packaging material in the production or formulation of packaging;

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"disposal" shall have the same meaning as that assigned to it in regulation 4 of the Waste Regulations;

"distributor" means any natural or legal person in the supply chain, who provides packaging, packaging material or packaged goods on a professional basis to the party who is going to use it, mainly the final retailer or the final consumer. This definition does not prevent a distributor from being, at the same time, a producer within the

meaning of the term "producer";

"energy recovery" means the use of combustible packaging waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;

"filler" or "packer" means a person who puts goods into packaging, and "fill" and "pack" shall be construed accordingly;

"generated packaging waste" means the amount of packaging that becomes waste within the meaning of regulation 4 of the Waste Regulations within the territory of Malta, after having been used to contain, protect, handle, deliver and present goods;

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"incidental presence" means the presence of a metal as an unintended ingredient of a packaging or packaging component;

"intentional introduction" means the act of deliberately utilising a substance in the formulation of a packaging or a packaging component where its continued presence is desired in the final packaging or packaging component to provide a specific characteristic, appearance or quality and "intentionally introduced" shall be construed accordingly. The use of recycled materials as feedstock for the manufacture of new packaging materials, where some portion of the recycled materials may contain amounts of regulated metals, is not considered intentional introduction;

"lightweight plastic carrier bags" means plastic carrier bags with a wall thickness below 50 microns

"the Minister" means the Minister responsible for the Environment Protection Act and the Product Safety Act respectively;

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"organic recycling" means the aerobic (composting) or anaerobic (biomethanization) treatment, under controlled conditions and using micro-organisms, of the biodegradable parts of packaging waste, which produces stabilized organic residues or methane. Landfill shall not be considered a form of organic recycling;

"oxo-degradable plastic carrier bags" means plastic carrier bags made of plastic materials that include additives which catalyse the fragmentation of the plastic material into micro-fragments;

"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, from the producer to the user or the consumer. "Non-returnable" items used for the same purposes shall also be considered to constitute packaging;

"packaging" consists only of -

- (a) sales packaging or primary packaging, which is 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, which is 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, which is packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packagings in order to prevent physical handling and transport damage. Transport packaging does not include road, rail, ship and air containers:

Provided that:

- (i) items shall be considered to be packaging if they fulfil the abovementioned definition without prejudice to other functions which the packaging might also perform, unless 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;
- (ii) items designed and intended to be filled at the point of sale and 'disposable' items sold, filled or designed and intended to be filled at the point of sale shall be considered to be packaging provided they fulfil a packaging function;
- (iii) packaging components and ancillary elements integrated into packaging shall be considered to be part of the packaging into which they are integrated. Ancillary elements hung directly on, or attached to, a product and which perform a packaging function shall be considered to be packaging unless they are an integral part of this product and all elements are intended to be consumed or disposed of together.

The items listed in Schedule 1 are illustrative examples of the application of these criteria;

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"packaging waste" means any packaging or packaging material covered by the definition of waste in the Waste Regulations, excluding production residues;

"packaging waste recovered or incinerated at waste incineration plants with energy recovery" means the quantity of packaging waste generated in Malta that is recovered or incinerated at waste incineration plants with energy recovery, irrespective of whether the packaging waste is recovered or incinerated at waste incineration plants with energy recovery within Malta, in another Member State or outside the Community;

"plastic" means a polymer within the meaning of Article 3(5) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council, to which additives or other substances may have been added, and which is capable of functioning as a main structural component of carrier bags;

"plastic carrier bags" means carrier bags, with or without handle, made of plastic, which are supplied to consumers at the point of sale of goods or products;

"prevention" means the reduction of the quantity and of the harmfulness for the environment of:

- materials and substances contained in packaging and packaging waste,
- packaging and packaging waste at production process level and at the marketing, distribution, utilization and elimination stages,

in particular by developing "clean" products and technology;

"economic operator" means a person who for the purpose of trade or otherwise in the course of business, imports, manufactures, converts, distributes, fills, packs, sells or otherwise supplies to other persons or otherwise puts packaging material or packaging, or packaged products, on the market; and "produce" shall be construed accordingly;

"producer" means any natural or legal person who:

- (a) is established in Malta and manufactures packaging or packaging material to be put on the market in Malta;
- (b) is established in Malta and puts on the market of Malta, on a professional basis, packaging, packaging material or packaged goods, from a third country or from another EU Member State;
- (c) sells packaging or packaging material by means of distance communication as defined in the Consumer Rights Regulations directly to consumers in Malta and is established in another EU Member State or third country.";

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"product loops which are in a closed and controlled chain" means product loops in which products circulate with a controlled reuse and distribution system and in which the recycled material originates only from these entities in the chain so that the introduction of external material is just the minimum technically feasible and from which these entities may only be removed in a specially authorised procedure so that return rates are maximised;

"put on the market" means any supply of packaging, packaging material or packaged goods for distribution, packing, filling, consumption or use on the market in Malta for the first time, in the course of a commercial activity, whether in return for payment or free of charge;

"rate of recovery or incineration at waste incineration plants with energy recovery" means the total quantity of packaging waste recovered or incinerated at waste incineration plants with energy recovery, divided by the total quantity of generated packaging waste, expressed as a percentage;

"recovered packaging waste" means the quantity of packaging waste generated in Malta that is recovered, irrespective of whether the packaging waste is recovered within Malta, in another Member

State or outside the Community;

"recycled packaging waste" means the quantity of packaging waste generated in Malta that is recycled, irrespective of whether the packaging waste is recycled within Malta, in another Member State or outside the Community;

"recycling" means the reprocessing in a production process of the waste materials for the original purpose or for other purposes including organic recycling but excluding energy recovery;

"recycling rate" means the total quantity of recycled packaging waste, divided by the total quantity of generated packaging waste, expressed as a percentage;

"reuse" means any operation whereby packaging, which has been conceived and designed to accomplish within its life cycle a minimum number of trips or rotations, is refilled or used for the same purpose for which it was conceived, with or without the support of auxiliary products present on the market enabling the packaging to be refilled; such reused packaging will become packaging waste when no longer subject to reuse;

"seller" means a person who supplies packaging to a user or a consumer of that packaging, whether or not the filling of the package has taken place at the time of the supply, and "sell" shall be construed accordingly.

"very lightweight plastic carrier bags" means plastic carrier bags with a wall thickness below 15 microns which are required for hygiene purposes or provided as primary packaging for loose food when this helps to prevent food wastage.

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(2) All other terms shall have the same meaning as is assigned to them in the Waste Regulations.

Essential requirements of packaging.
Amended by:
L.N. 442 of 2012.

4. (1) The competent authority shall take necessary measures to ensure that all packaging complies with all essential requirements defined by the regulations including Schedule 2:

Provided that the requirements for the manufacturing of packaging shall in no case apply to packaging used for a given product before the date of entry into force of these regulations.

(2) Packaging shall be deemed to comply with the essential requirements of Schedule 2 if it complies with Maltese standard MSA EN 13427::2004 or MSA EN 13428::2004 or MSA EN 13429::2004 or MSA EN 134230::2004 or MSA EN 13431::2004 or MSA EN 13432::2004.

Concentration levels of regulated metals in packaging.

5. (1) Producers shall not import, manufacture, supply or use packaging material and packaging if the aggregate concentrations of lead, cadmium, mercury and hexavalent chromium present in each packaging material or packaging exceeds 100 parts per million (ppm) by weight.

(2) The concentration levels referred to in subregulation (1) shall not apply to packaging entirely made of lead crystal glass as defined in the relevant regulations.

6. (1) Without prejudice to regulation 5, plastic crates and plastic pallets shall, until the 8th February, 2009, be allowed to exceed the limits of 100 ppm by weight of the sum of the concentration levels of lead, cadmium, mercury and hexavalent chromium. This provision applies exclusively to plastic crates and plastic pallets used in product loops which are in a closed and controlled chain.

Derogation for plastic crates and plastic pallets.

(2) Plastic crates and plastic pallets referred to in subregulation (1) shall have been:

- (a) manufactured in a controlled recycling process, in which the recycled material originates only from other plastic crates or plastic pallets and in which the introduction of external material is just the minimum technically feasible, up to a maximum of 20% by weight. Returned entities that are no longer reusable shall be treated in accordance with paragraph (b):

Provided that no lead, cadmium, mercury or hexavalent chromium shall be intentionally introduced as an element during the manufacture or distribution as opposed to the incidental presence of any of these elements:

Provided further that the plastic crate or plastic pallet to which this derogation applies may only exceed the concentration limits as a result of the addition of recycled materials;

- (b) introduced in a controlled distribution and reuse system complying with the following conditions:
- (i) new plastic crates or pallets containing the regulated metals shall be identified in a permanent and visible way,
 - (ii) the producer establishes to the satisfaction of the competent authority a system of inventory and record keeping, including a method of regulatory and financial accountability, to document the compliance with this derogation including the return rates, that is the percentage of returnable entities which are not discarded after use but are returned to the manufacturer or packer and, or filler or an authorised representative. Such return rate shall be as high as possible and shall in no case be lower than 90% over the life cycle of the plastic crates or plastic pallets. The system shall account for all the reusable entities put into, and removed from service,
 - (iii) all returned entities that are no longer reusable shall be either disposed of by a procedure specifically authorised by the competent authority or be recycled in a recycling process, in which the recycled material is made up of plastic crates or plastic pallets in the circuit, and the introduction of external material is the minimum technically feasible, up to a maximum

of 20% by weight,

- (iv) the manufacturer or his authorised representative shall draw up and submit to the competent authority on an annual basis a written declaration of conformity, including an annual report demonstrating how the conditions of this derogation have been complied with. Possible changes to the system and to authorised representatives shall be contained therein,
- (v) the manufacturer or his authorised representative shall make this documentation at the disposal of the competent authority for inspection purposes for at least four years:

Provided that where neither the manufacturer nor his authorised representative is established within the Community, the obligation to keep the technical documentation available is the responsibility of the person who puts the product on the market.

Derogation for
glass packaging.

7. Without prejudice to regulation 5, glass packaging shall be allowed to exceed the limit of 100 ppm by weight of the sum of the concentration levels of lead, cadmium, mercury and hexavalent chromium:

Provided that:

- (a) no lead, cadmium, mercury or hexavalent chromium shall be intentionally introduced during the manufacturing process. The packaging material may only exceed the concentration limits because of the addition of recycled materials;
- (b) where the average heavy metals concentration levels on any twelve consecutive monthly controls made from the production of each individual glass furnace, representative of normal and regular production activity, exceeds the 200 ppm limit, the manufacturer or his authorised representative who puts the product on the market shall submit a report to the competent authority;
- (c) such report as is mentioned in paragraph (b) shall provide information as to -
 - measure values,
 - description of measurement methods employed,
 - suspected sources for the presence of heavy metals concentration levels,
 - detailed description of the measures taken to reduce the heavy metals concentration levels:

Provided that where neither the manufacturer nor his authorised representative is established within the Community, the obligation to keep the technical documentation available is the responsibility of the person who puts the product on the market;

- (d) measurement results from production sites and measurement methods employed shall be made available at any time to the competent authority if requested.

8. (1) Producers shall take necessary measures to attain the targets laid down in Schedule 3.

Recovery and recycling targets.
Amended by:
L.N. 226 of 2017.

(2) For the purpose of calculating the targets referred to in sub-regulation (1), the competent authority shall consider that:

- (a) generated packaging waste shall not include any kind of residues from the production of packaging or packaging materials, or from any other production process;
- (b) packaging waste generated in Malta may be deemed to be equal to the amount of packaging or packaging material put on the market in the same calendar year (i.e. from 1 January to 31 December) within the territory of Malta by each producer;
- (c) the data for total packaging shall cover all packaging as defined in regulations 2(3) and 3(1). In particular for materials occurring in smaller quantities and those not mentioned in these regulations, estimates may be used. These estimates shall be based on the best information available and shall be described in accordance with regulation 15(2);
- (d) reusable packaging shall be considered to be put on the market when it is made available for the first time, together with the goods it is intended to contain, protect, handle, deliver or present;
- (e) reusable packaging shall not be considered packaging waste when it is sent back for reuse;
- (f) reusable packaging shall not be considered to be put on the market as packaging when it has been reused with a good and is made available again;
- (g) reusable packaging discarded at the end of its useful life shall be considered packaging waste;
- (h) packaging waste generated in Malta from reusable packaging may be deemed to be equal to the amount of reusable packaging or packaging material put on the market in the same calendar year (i.e. from 1 January to 31 December) within the territory of Malta by each producer;
- (i) the weight of recovered or recycled packaging waste shall be the input of packaging waste to an effective recovery or recycling process. If the output of a sorting plant is sent to effective recycling or recovery processes without significant losses, it shall be acceptable to consider this output to be the weight of recovered or recycled packaging waste;
- (j) the weight of recovered or recycled packaging waste

shall be measured using a natural humidity rate of the packaging waste comparable to the humidity of equivalent packaging put on the market;

- (k) corrections shall be made to measured data relating to the weight of recovered or recycled packaging waste, if the humidity rate of that packaging waste regularly and significantly differs from that of packaging put on the market and if this factor risks leading to substantial over or under estimates of packaging recovery or recycling rates. Those corrections shall be limited to exceptional cases, caused by specific climatic or other conditions;
- (l) the weight of recovered or recycled packaging waste shall, as far as is practical, exclude non-packaging materials collected together with the packaging waste;
- (m) corrections shall be made to the data relating to the weight of recovered or recycled packaging waste, if non-packaging materials in the waste sent to an effective recovery or recycling process risk leading to substantial over or under estimates of packaging recovery or recycling rates; and
- (n) no corrections shall be made in the case of small amounts of non-packaging materials, or for such contamination as can regularly be found in packaging waste.

(3) In sub-regulation (2), the provisions on recovery shall apply *mutatis mutandis* to packaging waste incinerated at waste incineration plants with energy recovery.

(4) Packaging waste generated in other Member States or imported from outside the Union and sent to Malta for subsequent recovery or incineration at waste incineration plants with energy recovery within or outside Malta shall not count for the achievement of the obligations and targets of sub-regulation (1).

(5) Packaging waste exported from Malta shall only count towards the attainment of the targets set out in sub-regulation (1) if the exporter can prove that the shipment of packaging waste is in compliance with Regulation (EC) No 1013/2006 and that the treatment of waste took place in conditions that are equivalent to the requirements of the relevant European environmental legislation.

Database for packaging.

Powers of the competent authority.
Amended by:
L.N. 442 of 2012;
L.N. 226 of 2017;
L.N. 227 of 2017.

9. The competent authority shall maintain a database containing annual records about packaging and packaging waste according to the format specified in Schedule 4.

10. (1) The competent authority shall take such measures in order to -

- (a) implement other preventive measures in addition to the measures to prevent the formation of packaging waste taken in accordance with regulation 4. Such other measures may consist of national programmes, projects to introduce producer responsibility to minimise the environmental impact of packaging or

similar actions designed to bring together and take advantage of the many initiatives taken in Malta as regards prevention. They shall comply with the objectives of these regulations as defined in regulation 1(2);

- (b) conduct information campaigns for users or consumers and producers of packaging on:
 - (i) the measures and targets referred to in these regulations,
 - (ii) the return, collection and recovery systems available to them,
 - (iii) their role in contributing to reuse, recovery and recycling of packaging and packaging waste,
 - (iv) the meaning of markings on packaging existing on the market,
 - (v) the appropriate elements of the management plans for packaging and packaging waste as referred to in subregulation (2);
 - (vi) the adverse environmental impact of the excessive consumption of lightweight plastic carrier bags.
- (c) promote consumer information and awareness campaigns;
- (d) encourage, where appropriate, energy recovery, where it is preferable to material-recycling for environmental and cost-benefit reasons. This could be done by considering a sufficient margin between national recycling and recovery targets;
- (e) encourage, where appropriate, the use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products by:
 - (i) improving market conditions for such materials;
 - (ii) reviewing existing regulations preventing the use of those materials;
- (f) encourage, where appropriate, studies and pilot projects concerning the following and other prevention instruments:
 - (i) additional prevention measures to reduce the environmental impact of packaging as far as possible without compromising its essential functions;
 - (ii) the possible development of a packaging environment indicator to render packaging waste prevention simpler and more effective;
 - (iii) packaging waste prevention plans;
 - (iv) encouragement of reuse and, in particular, comparison of the costs and benefits of reuse and those of recycling;
 - (v) producer responsibility including its financial aspects.

(g) achieve a sustained reduction in the consumption of lightweight plastic carrier bags within the territory of Malta, through the adoption of either or both of the following:

- (i) measures ensuring that the annual consumption level does not exceed 90 lightweight plastic carrier bags per person by 31 December 2019 and 40 lightweight plastic carrier bags per person by 31 December 2025, or equivalent targets set in weight;
- (ii) instruments ensuring that by 31 December 2018, lightweight plastic carrier bags are not provided free of charge at the point of sale of goods or products, unless equally effective instruments are implemented.

Measures and instruments to be adopted may include the use of national reduction targets, economic instruments and marketing restrictions in derogation from regulation 11 of these Regulations, provided that these restrictions are proportionate and non-discriminatory.

Measures may vary depending on the environmental impact of lightweight plastic carrier bags when they are recovered or disposed of, their composting properties, durability or specific intended use.

Very lightweight plastic carrier bags may be excluded from these measures.

(2) In pursuance of the objectives and measures referred to in these regulations, the competent authority shall include in the waste management plans required pursuant to the provisions of regulation 28 of the Waste Regulations, a specific chapter on the management of packaging and packaging waste, including:

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- (i) prevention measures taken pursuant to this regulation; and
- (ii) appropriate measures to minimise the disposal of packaging waste in the form of unsorted municipal waste to achieve a high level of separate collection of dry recyclables, including packaging waste.

Freedom to put on the market.

11. Without prejudice to other existing laws and regulations, the competent authority shall not impede the putting on the market of packaging that satisfies the provisions of these regulations.

Charging of fees by the competent authority.

12. The competent authority may charge producers such fees as necessary to cover the costs of the administration of these regulations.

13. (1) Without prejudice to regulation 16, producers or third parties acting on their behalf shall, with respect to packaging waste arising from their activities, use existing systems or set up systems, individually or collectively, or both, in accordance with any existing laws and regulations, to provide for:

Collection, treatment and disposal of packaging waste.
Amended by:
L.N. 442 of 2012;
L.N. 444 of 2014.
Substituted by:
L.N.226 of 2017.

- (a) the return and, or collection of used packaging and, or packaging waste from the consumer, other final user, or from the waste stream in order to channel it to the most appropriate waste management alternatives, ensuring that these systems are open to all economic operators;
- (b) the reuse or recovery including recycling of the packaging and, or packaging waste collected;
- (c) the use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products.

(2) For the purposes of achieving the provisions of sub-regulations (1), producers or third parties acting on their behalf shall:

- (a) carry out information campaigns, highlighting the importance of separate collection of packaging waste, ensuring the correct treatment of packaging waste;
- (b) provide adequate facilities at their premises or at other designated areas or premises for the deposition of packaging by customers at no net cost to the latter, and for the reception, segregation and storage of packaging waste;
- (c) ensure that the facilities referred to in paragraph (b) are easily identifiable and accessible by customers;
- (d) arrange for the packaging waste collected to be made available for recycling or recovery.

(3) Producers or third parties acting on their behalf shall not dispose of collected packaging waste without first making it available for reuse or recovery including recycling.

(4) The systems referred to in sub-regulation (1) shall be open to the participation of the economic operators of the sectors concerned and to the participation of the public authorities under non-discriminatory conditions. They shall be designed so as to avoid any barriers to trade or distortions of competition in conformity with the relevant regulations.

(5) For measures referred to sub-regulation (1), producers shall take into account, in particular, requirements regarding the protection of environmental and consumer health, safety and hygiene, the protection of the quality, the authenticity and technical characteristics of the packed goods and materials used; and the protection of industrial and commercial property rights.

(6) Those producers who opt to self-comply for the 'back-end store' packaging or packaging material shall ensure that packaging waste arising on their premises undergoes proper treatment,

necessary for the achievement of the recovery and recycling targets set out in regulation 8.

With prejudice to regulation 28, a self-compliant producer who fails to achieve the recovery and recycling targets set out in regulation 8 shall submit to the competent authority an additional fee as prescribed in Part B of Schedule 8:

Provided that until the producer submits to the competent authority the additional fee as prescribed in Part B of Schedule 8 he shall not be deemed to have renewed his registration in accordance with regulation 21(2).

(7) An authorised packaging waste recovery scheme shall finance any systems set up for the collection, treatment, recovery and environmentally sound disposal of consumer packaging waste generated from households and other sources:

Provided that an authorised packaging waste recovery scheme shall make the necessary arrangements with Local Councils for the:

- (i) door-to-door collection of consumer packaging waste; and
- (ii) provision of bring-in sites for the separate collection, by categories, of consumer packaging waste. For the purposes of bring-in sites under this provision, separate collection shall not include co-mingled collection in accordance to the definition of co-mingled collection in regulation 4 of the Waste Regulations.

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Further provided that should authorised packaging waste recovery schemes fail to reach an agreement with particular Local Councils, the competent authority shall allocate those Local Councils without arrangements amongst authorised packaging waste recovery schemes on the basis of the average weight of packaging or packaging material put on the market by schemes and the actual demographics of those Local Councils without arrangements.

Packaging Waste
Characterisation.
Substituted by:
L.N.226 of 2017.

14. (1) The competent authority shall conduct a packaging waste characterisation survey, determining the nature and the percentage (%) breakdown of the packaging waste in household waste and waste other than household waste.

(2) The survey referred to in sub-regulation (1) shall be conducted periodically every three (3) to five (5) years.

(3) The outcome(s) of the packaging waste characterisation survey referred to in sub-regulation (1) shall be applied by producers and authorised packaging waste recovery scheme(s) for the purposes of calculating the actual rates of packaging waste recovered and recycled according to regulation 8.

15. (1) For packaging waste treated in Malta, it shall be the duty of the producers or third parties acting on their behalf to acquire a signed declaration from local waste management undertakings or establishments, authorised by the competent authority according to the Waste Regulations indicating:

Proof of recovery or recycling.
Amended by:
L.N. 442 of 2012.
Substituted by:
L.N.226 of 2017.
S.L. 549.63

- (a) the actual rate that has been recovered and/or recycled by the facility;
- (b) that the packaging waste has been recovered or disposed of in an environmentally sound manner.

(2) For packaging waste exported for further treatment, it shall be the duty of the producers or third parties acting on their behalf to acquire a signed declaration issued by the foreign facility recovering and/or recycling the packaging waste indicating:

- (a) the actual rate that has been recovered and/or recycled by the facility in the Member State or third country;
- (b) that the packaging waste has been recovered or disposed of in an environmentally sound manner.

(3) Without prejudice to commercial and industrial confidentiality, if producers or third parties acting on their behalf engage the services of an authorised waste management undertaking or establishment to export packaging waste for further treatment, then such undertaking or establishment is to provide the information referred to in sub-regulation (2) to the producers or third parties acting on their behalf.

(4) Packaging waste treated locally or abroad shall only count towards the fulfilment of the recovery and recycling targets set out in regulation 8, if producers or third parties acting on their behalf present the proof of recovery and/or recycling referred to in sub-regulations (1) and (2) to the competent authority.

16. (1) A producer is exempt from part of these regulations provided he is a member of an authorised packaging waste recovery scheme.

Participation in a packaging waste recovery scheme.
Substituted by:
L.N.226 of 2017.

(2) For the purposes of achieving the objectives of these regulations, producers are obliged to join a packaging waste recovery scheme duly authorized by the competent authority for all consumer packaging.

(3) Producers can opt to be self-compliant for all packaging remaining at the back-end store. If the producer opts to self-comply, the producer is obliged to sign an agreement with the distributor(s) to collect back the 'back-end store' packaging waste.

If no agreement is in place, the 'back-end store' packaging and packaging material would be deemed to be consumer packaging and packaging material and hence participation in a packaging waste recovery scheme for all of the packaging or packaging material at the distributor's end would be required.

(4) In the case of producers who opt to join an authorised packaging waste recovery scheme for the 'back-end store'

packaging or packaging material, they should do so for all packaging waste streams.

(5) A producer, who opts to participate in an authorised packaging waste recovery scheme, shall upon request by the competent authority submit a copy of the signed agreement with the operator of the authorised packaging waste recovery scheme.

Operation of a
packaging waste
recovery scheme.
*Substituted by:
L.N.226 of 2017.*

17. (1) The operator of a packaging waste recovery scheme, authorised according to regulation 24 shall:

- (a) Bind himself to carry out the activities agreed to and on behalf of the producer in accordance with any existing laws and regulations, as well as all the conditions in the authorisation issued by the competent authority;
- (b) Provide the competent authority by 31 March of each year with the required information in respect of packaging or packaging material put on the market by each producer participating in the scheme, in the previous year;
- (c) Provide the competent authority a statement of compliance by 31 March each year in respect of the recovery and recycling obligations in accordance with regulation 8 of these regulations. The provisions of Schedule 12 shall apply as regards the information to be contained in a statement of compliance.

The information referred to in paragraphs (b) and (c) shall be issued and signed by any of the authorised signatories referred to in Schedule 13.

(2) The authorised packaging waste recovery scheme shall submit quarterly reports to the competent authority within forty (40) working days following the end of that period, whereas annual reports shall be submitted to the competent authority within six (6) calendar months of the closing of the year.

The quarterly and annual reports shall contain at least the information set out in Part A and Part B of Schedule 7 together with any other information as specified in the authorisation issued by the competent authority.

The quarterly and annual reports shall be issued and signed by any of the authorised signatories referred to in Schedule 13.

(3) Without prejudice to commercial and industrial confidentiality, a copy of the quarterly and annual reports referred to in sub-regulation (2) shall be made available in accordance with the Act:

Provided that only the information relating to Part A of Schedule 7 shall be made available.

(4) An authorised packaging waste recovery scheme shall use the services of an independent auditor, approved in accordance with the Act, to certify all of the information reported to the competent authority. The auditor shall be required to certify that all the information reported is in conformity with the obligations of these regulations and is as specified in the authorisation issued by the competent authority.

Furthermore, the authorised packaging waste recovery scheme shall ensure that a sound auditing procedure for traceability, monitoring and control is put into place for all the packaging waste managed.

(5) The authorised packaging waste recovery scheme shall submit the audit report referred to in sub-regulation (4) together with the annual report referred to in sub-regulation (2).

(6) It shall be the responsibility of an authorised packaging waste recovery scheme to retain for a minimum of five (5) years the information referred to in sub-regulations (1) and (2). Such records shall be made available on request to the competent authority.

18. (1) Producers shall ensure that the nature of any packaging material used is indicated on the packaging on the basis of Commission Decision 97/129/EC for the purposes of its identification and classification in order to facilitate the collection, reuse and recovery including recycling of packaging waste.

Marking and identification system.
Amended by:
L.N. 226 of 2017.

(2) Producers shall ensure that packaging bears the appropriate marking either on the packaging itself or on the label according to any existing laws and regulations. Such marking shall be clearly visible and easily legible, appropriately durable and lasting, even when the packaging is opened.

19. The users and consumers of packaging and the holders of packaging waste shall co-operate with, and participate in any system set up for the reuse, recovery and recycling of packaging waste. Accordingly, they shall segregate, deposit and return packaging as required by the system.

Duty of users and consumers of packaging.

20. (1) The competent authority shall maintain and make available in accordance with this regulation a register relating to the producers who register in accordance with regulation 21 and containing information relating to producer registration as prescribed in Schedule 6.

Register of producers.
Amended by:
L.N. 226 of 2017.

(2) The competent authority shall ensure that the register of producers is publicly available free of charge and shall be uploaded online on its website.

(3) The register may be kept in any form but shall be indexed and arranged so that members of the public can readily trace information contained in it.

(4) The competent authority shall amend the relevant entry in the register to record any change to the information entered and shall note the date on which the amendment is made.

(5) For the avoidance of doubt, nothing in this regulation shall require a register maintained by the competent authority to contain information relating to any criminal proceedings (including prospective proceedings) or to anything which is the subject matter of such proceedings, at any time before those proceedings are finally disposed of.

(6) Nothing in this regulation shall require a register maintained by the competent authority to contain any information which has been superseded by later information after four years have elapsed from that later information being entered in the register.

Registration.
Amended by:
L.N. 442 of 2012.
Substituted by:
L.N.226 of 2017.

21. (1) Producers shall, during the calendar year of putting packaging or packaging material on the market for the first time within the territory of Malta, apply to be registered with the competent authority and shall be provided with a registration number upon registration:

Producers shall make the registration number clearly visible on their invoices and fiscal receipts.

(2) Producer registered under sub-regulation (1) shall renew their registration on an annual basis with the competent authority by the 31st March of each year:

Provided that as from 1 April of each year the competent authority shall accept renewals until the end of the year at an additional fee of seventy euro (€70) per month or part thereof of the fee/s prescribed in Part A of Schedule 8.

(3) An application for registration or renewal by a producer shall:

- (a) be made either online or in writing;
- (b) be signed by any of the authorised signatories referred to in Schedule 13; and
- (c) be accompanied by a fee as prescribed in Part A of Schedule 8.

(4) A producer shall not be deemed to be registered or to have renewed his registration until an acknowledgement notice is issued by the competent authority, approving the producer's application for registration or renewal.

The competent authority shall issue the acknowledgement notice within:

- (a) one (1) month of the date of receipt of an application for registration or renewal; or
- (b) one (1) month after the date of receipt of further information or particulars requested by the competent authority in relation to such application, whichever is the later.

(5) Where a producer ceases to put packaging or packaging material on the market, the producer shall apply for deregistration with the competent authority the following year of his ceasing to do so.

An application for deregistration shall be signed by any of the authorised signatories referred to in Schedule 13.

(6) Without prejudice to the obligations and liabilities of the person applying for deregistration relating to the time when the person was a registered producer, the competent authority shall terminate a person's registration with effect from the last day of the year during which such person ceased to be liable to be registered, and shall notify that person in writing:

Provided that any pending information is submitted by the person to the competent authority upon applying for de-registration according to sub-regulation (5).

(7) Without prejudice to regulation 28, any producer who either fails to apply for registration in accordance to sub-regulation (1) or who fails to renew his registration by the end of the year in accordance to sub-regulation (2) shall, on conviction, be liable to a fine as prescribed in Schedule 9.

22. (1) An application for registration by producers shall contain the information set out in Part A of Schedule 5 and that for renewal shall contain at least the reporting information set out in Part B of Schedule 5.

Information and reporting.
Amended by:
L.N. 442 of 2012.
Substituted by:
L.N.226 of 2017.

Furthermore, self-compliant producers shall not later than one (1) month of submitting an application for registration prepare a three-year implementation plan specifying the steps to be taken by the said producer in order to comply with the requirements of these regulations, including the steps which the producer intends to take to prevent or minimise packaging waste.

Where the three-year implementation plan expires, a self-compliant producer shall not later than one (1) month of submitting an application for renewal provide to the competent authority a revised version of the three-year implementation work plan.

The competent authority shall specify the format in which such information is to be made available and shall issue guidance concerning the presentation, structure and content of the three-year implementation plan.

(2) In the case the data submitted by the producer in accordance with Schedule 5 changes, the said producer shall inform the competent authority thereof no later than one month after the change.

(3) The information referred to in sub-regulation (1) shall be provided either online or in writing and shall be signed by any of the authorised signatories referred to in Schedule 13.

(4) It shall be the responsibility of a registered producer to retain for a minimum of five (5) years the information referred to in sub-regulation (1). Such records shall be made available on request to the competent authority.

(5) Where a producer fails or refuses to supply a complete application within one (1) month of the date of a request by the competent authority for a completed application, the competent authority shall refuse and return such incomplete application to the producer.

(6) Without prejudice to commercial and industrial confidentiality, the information referred to in sub-regulation (1) shall be made available in accordance with the Act.

(7) A self-compliant producer shall use the services of an independent auditor, approved in accordance with the Act, to certify that all of the information reported to the competent authority is in conformity with the obligations of these regulations.

Furthermore, the self-compliant producer shall ensure that a sound auditing procedure for traceability, monitoring and control is put into place for all the packaging waste managed.

A self-compliant producer is exempt from such provision provided that:

The said producer provides evidence of participating in a certified environmental management system(s) in accordance with international or European Union standards.

And further provided he fulfils any requirements that the competent authority may introduce in relation to such exemption.

(8) Self-compliant producers shall submit the audit report referred to in sub-regulation (7) upon applying to renew their registration according to 21(2) together with the information referred to in sub-regulation (1).

(9) A self-compliant producer shall submit to the competent authority a statement of compliance in respect of his recovery and recycling obligations in accordance with regulation 8, upon applying to renew his registration according to regulation 21(2).

The provisions of Schedule 12 shall apply as regards the information to be contained in a statement of compliance. Furthermore, the statement of compliance shall be issued and signed by any of the authorised signatories referred to in Schedule 13.

(10) Producers or third parties acting on their behalf may provide, on a voluntary basis, such further data on packaging and packaging waste as is available. Such data may include the following:

- (a) data on production, exports and imports of empty packaging;
- (b) data on reusable packaging; and
- (c) specific sub-fractions of packaging such as composite packaging.

(11) The competent authority may take into account the particular problems of small and medium sized enterprises in providing detailed data.

23. (1) Where the business of a producer is transferred in whole or in part to another person the producer shall be treated as remaining responsible for packaging and packaging material in respect of which he has made an application to register under regulation 21, unless he is able to demonstrate to the competent authority that the person to whom the transfer has been made has agreed to meet the producer's obligations in respect of any such packaging and packaging material under these regulations.

Transfer of a producer's business to another.

(2) Where subregulation (1) applies, the person to whom the whole or part of a business is transferred is a producer for the purposes of these regulations, and that person shall:

- (a) apply to the competent authority for registration under regulation 21; and
- (b) undertake to meet the recovery and recycling targets in regulation 8.

24. (1) Without prejudice to the Waste Regulations, persons who intend to operate a packaging waste recovery scheme as required under these regulations, including the collection, sorting, storage, export, recovery and recycling of packaging waste, on behalf of producers, shall require and obtain a valid authorisation from the competent authority.

Authorisation to operate a packaging waste recovery scheme.
Substituted by:
L.N.226 of 2017.
S.L. 549.63

(2) An application for an authorisation under sub-regulation (1) shall:

- (a) be made in writing;
- (b) contain the information set out in Part A of Schedule 10;
- (c) be signed by any of the authorised signatories referred to in Schedule 13;
- (d) be accompanied by a non-refundable fee of five hundred euro (€500); and
- (e) be accompanied by a work plan providing the information referred to in Part B of Schedule 10 and to the satisfaction of the competent authority."

(3) The competent authority may specify the format in which the work plan referred to in sub-regulation (2) is to be made available.

(4) An authorisation to operate a packaging waste recovery scheme shall be processed in accordance with the Act.

An authorisation granted by the competent authority shall be subject to conditions included in the authorisation, inter alia, the requirement that the services offered by an authorised packaging waste recovery scheme shall be:

- (i) open to the participation of all producers under non-discriminatory conditions and such participation shall not be refused or revoked without reasonable justification; and
- (ii) designed so as to avoid any barriers to trade or distortions of competition in conformity with the relevant regulations.

(5) An authorisation granted by the competent authority under these regulations shall be valid for a period of time determined in the authorisation itself. Such period shall in no case exceed three (3) years.

(6) Where it appears to the competent authority that an authorised packaging waste recovery scheme is in breach of any conditions of its authorisation, or that relevant packaging waste recovery and recycling targets, including material specific recycling targets, have not been or are not being met, the competent authority may by a decision revoke or modify an authorisation granted under this regulation.

Where the competent authority proposes to revoke or modify an authorisation granted under this regulation, the competent authority shall give notice in writing to the authorised packaging waste recovery scheme of the proposed decision and the reasons thereof.

(7) Where an authorisation granted under sub-regulation (4) is due to expire, an authorised packaging waste recovery scheme that wants to continue to operate as an authorised packaging waste recovery scheme shall, not later than one (1) month before the expiry of the authorisation:

- (a) make an application to the competent authority to renew the authorisation granted under sub-regulation (4);
- (b) provide to the competent authority a revised version of the work plan for the operation of the scheme that complies with Part B of Schedule 10, signed by any of the authorised signatories referred to in Schedule 13.

(8) The renewal of the authorisation to operate a packaging waste recovery scheme shall be approved where the competent authority is satisfied as to the contents of the revised version of the work plan provided as required by sub-regulation (7)(b).

(9) A packaging waste recovery scheme that has been granted an authorisation according to sub-regulation (4) and (8) is to be charged a fee as prescribed in Part A of Schedule 11.

(10) With prejudice to regulation 28, an authorised packaging waste recovery scheme that fails to achieve the recovery and recycling targets set out in regulation 8 shall submit to the

competent authority an additional fee as prescribed in Part B of Schedule 11.

The competent authority shall revoke an authorisation granted under this regulation if the packaging waste recovery scheme refuses to submit the additional fee.

25. (1) A registered producer who during the course of his activity puts less than 100kgs on the market of packaging or packaging material in a calendar year shall:

- (i) not apply for renewal as a producer of packaging or packaging material;
- (ii) inform the competent authority that he is putting less than 100kgs on the market of packaging or packaging material, provided that the communication is issued and signed by any of the authorised signatories referred to in Schedule 13;
- (iii) retain for a minimum of three (3) years the information referred to in regulation 22(1); and
- (iv) remain responsible for fulfilling his obligations relating to the time when the producer was putting more than 100kgs on the market of packaging or packaging material.

Producers putting less than 100kgs on the market of packaging or packaging material.
*Substituted by:
L.N.226 of 2017.*

(2) The competent authority shall terminate the registration of the producer referred to in sub-regulation (1) after three (3) calendar years:

Provided that any producer referred to in sub-regulation (1) shall apply for renewal as a producer of packaging or packaging material if he puts more than 100kgs on the market of packaging or packaging material within those three (3) years.

26. (1) For the purposes of achieving the objectives, and satisfying the provisions of these regulations, economic operators may be parties to agreements with the competent authority. Such agreements shall specify the detailed rules of implementation of these regulations.

Agreements.

(2) Moreover:

- (a) these agreements shall be enforceable at law;
- (b) they shall specify the objectives with the corresponding deadlines;
- (c) they shall be published in the Gazette;
- (d) the results achieved under an agreement shall be monitored regularly, reported to the competent authorities and made available to the public under the conditions set out in the agreement;
- (e) the competent authorities shall make provisions to examine the progress reached under an agreement.

27. Any person shall be guilty of an offence under these regulations if:

Offences under these regulations.

- (a) he fails to comply with any provision of these

regulations or fails to comply with permit conditions or with any order lawfully given in terms of any provision of these regulations; or

- (b) he contravenes any restriction, prohibition or requirement imposed by or under these regulations; or
- (c) he acts in contravention of any of the provisions of these regulations; or
- (d) he conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or to fail to comply with any such provisions (including any order lawfully given in terms of any of the provision of these regulations) or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

Penalties.
Amended by:
L.N. 426 of 2007.

28. Any person who commits an offence against these regulations shall, on conviction, be liable:

- (a) on a first conviction, to a fine (*multa*) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69), but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37);
- (b) on a second conviction or subsequent convictions, to a fine (*multa*) of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37), but not exceeding four thousand and six hundred and fifty-eight euro and seventy-five cents (€4,658.75), or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Provided that whenever any person is found guilty of committing an offence under these regulations by means of a vehicle, the owner of the said vehicle, where applicable, is held liable in the same manner and degree:

Provided further that the court may order any person who has been found guilty of committing an offence against these regulations to pay for the expenses incurred by the competent authority mentioned in these regulations as a result of the said offence, the revocation of the permit issued by the competent authority and the confiscation of the *corpus delicti*, including the vehicle, if applicable.

Applicability of
Criminal Code.
Cap. 9.

29. (1) The provisions of articles 23 and 30 of the Criminal Code shall, *mutatis mutandis*, apply to proceedings in respect of offences against these regulations, so however that the disqualification from holding or obtaining a licence, permit or authority shall in no case be for less than one year.

Cap. 9.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these

regulations shall be held before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations. Cap. 9.

*Substituted by:
L.N. 358 of 2013.*

SCHEDULE I
ILLUSTRATIVE EXAMPLES FOR THE
CRITERIA REFERRED TO IN REGULATION 3

1. Illustrative examples for criterion (i):
 - (a) Packaging
 - Sweet boxes;
 - Film overwrap around a CD case;
 - Mailing pouches for catalogues and magazines (with a magazine inside);
 - Cake doilies sold with a cake;
 - Rolls, tubes and cylinders around which flexible material (e.g. plastic film, aluminium, paper) is wound, except rolls, tubes and cylinders intended as parts of production machinery and not used to present a product as a sales unit;
 - Flower pots intended to be used only for the selling and transporting of plants and not intended to stay with the plant throughout its life time;
 - Glass bottles for injection solutions;
 - CD spindles (sold with CDs, not intended to be used as storage);
 - Clothes hangers (sold with a clothing item);
 - Matchboxes;
 - Sterile barrier systems (pouches, trays and materials necessary to preserve the sterility of the product);
 - Beverage system capsules (e.g. coffee, cacao, milk) which are left empty after use; and
 - Refillable steel cylinders used for various kinds of gas, excluding fire extinguishers.
 - (b) Non-packaging
 - Flower pots intended to stay with the plant throughout its life time;
 - Tool boxes;
 - Tea bags;
 - Wax layers around cheese;
 - Sausage skins;
 - Clothes hangers (sold separately);
 - Beverage system coffee capsules, coffee foil pouches, and filter paper coffee pods disposed together with the used coffee product;
 - Cartridges for printers;
 - CD, DVD and video cases (sold together with a CD, DVD or video inside);
 - CD spindles (sold empty, intended to be used as storage);
 - Soluble bags for detergents;
 - Grave side lights (containers for candles); and
 - Mechanical quern (integrated in a refillable recipient, e.g.

refillable pepper mill).

2. Illustrative examples for criterion (ii):
 - (a) Packaging, if designed and intended to be filled at the point of sale
 - Paper or plastic carrier bags;
 - Disposable plates and cups;
 - Cling film;
 - Sandwich bags;
 - Aluminium foil; and
 - Plastic foil for cleaned clothes in laundries.
 - (b) Non-packaging
 - Stirrer;
 - Disposable cutlery;
 - Wrapping paper (sold separately);
 - Paper baking cases (sold empty); and
 - Cake doilies sold without a cake.
 3. Illustrative examples for criterion (iii):
 - (a) Packaging
 - Labels hung directly on or attached to a product.
 - (b) Part of packaging
 - Mascara brush which forms part of the container closure;
 - Sticky labels attached to another packaging item;
 - Staples;
 - Plastic sleeves;
 - Device for measuring dosage which forms part of the container closure for detergents; and
 - Mechanical quern (integrated in a non-refillable recipient, filled with a product, e.g. pepper mill filled with pepper).
 - (c) Non-packaging
 - Radio frequency identification (RFID) tags.
-

SCHEDULE 2

ESSENTIAL REQUIREMENTS ON THE COMPOSITION AND THE
REUSABLE AND RECOVERABLE, INCLUDING RECYCLABLE, NATURE
OF PACKAGING

1. Requirements specific to the manufacturing and composition of packaging:
 - Packaging shall be so manufactured that the packaging volume and weight be 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 shall be designed, produced and commercialized in such a way as to permit its reuse or recovery, including recycling, and to minimize its impact on the environment when packaging waste or residues from packaging waste management operations are disposed of.
 - Packaging shall be so manufactured that the presence of noxious and other hazardous substances and materials as constituents of the packaging material or of any of the packaging components is minimized with regard to their presence in emissions, ash or leachate when packaging or residues from management operations or packaging waste are incinerated or landfilled.
2. Requirements specific to the reusable nature of packaging:

The following requirements must be simultaneously satisfied:

 - the physical properties and characteristics of the packaging shall enable a number of trips or rotations in normally predictable conditions of use,
 - possibility of processing the used packaging in order to meet health and safety requirements for the workforce,
 - fulfil the requirements specific to recoverable packaging when the packaging is no longer reused and thus becomes waste.
3. Requirements specific to the recoverable nature of packaging:
 - (a) Packaging recoverable in the form of material recycling

Packaging must be manufactured in such a way as to enable the recycling of a certain percentage by weight of the materials used into the manufacture of marketable products, in compliance with current standards in the European Community. The establishment of this percentage may vary, depending on the type of material of which the packaging is composed.
 - (b) Packaging recoverable in the form of energy recovery

Packaging waste processed for the purpose of energy recovery shall have a minimum inferior calorific value to allow optimization of energy recovery.
 - (c) Packaging recoverable in the form of composting

Packaging waste processed for the purpose of composting shall be of such a biodegradable nature that it should not hinder the separate collection and the composting process or activity into which it is introduced.
 - (d) Biodegradable packaging

Biodegradable packaging waste shall be of such a nature that it is capable of undergoing physical, chemical, thermal or biological decomposition such that most of the finished compost ultimately decomposes into carbon dioxide, biomass and water.

SCHEDULE 3

*Substituted by:
L.N.226 of 2017.*

(Regulation 8)

RECOVERY AND RECYCLING TARGETS

Producers shall take the necessary measures to ensure that in any year, for the aggregate weight of packaging waste which is collected by the producers or third parties acting on their behalf:

- not less than 60% of the aggregate weight of packaging or packaging material put on the market is recovered or incinerated at waste incineration plants with energy recovery;
 - a minimum of 55% and a maximum of 80% of the aggregate weight of packaging or packaging material put on the market is recovered by way of recycling, and where appropriate;
 - a minimum of:
 - (i) 60% by weight for glass packaging or packaging material, and as appropriate,
 - (ii) 60% by weight for paper and board packaging or packaging material, and as appropriate,
 - (iii) 50% by weight for metals packaging or packaging material, and as appropriate,
 - (iv) 22.5% by weight for plastics packaging or packaging material, and as appropriate,
 - (v) 15% by weight for wood packaging or packaging material, put on the market is recovered by way of recycling.
-

SCHEDULE 4

DATA TO BE INCLUDED BY THE COMPETENT AUTHORITY IN ITS
DATABASE ON PACKAGING AND PACKAGING WASTE
(IN ACCORDANCE WITH TABLES 1 TO 4)

Table 1: Quantities of packaging material or packaging put on the market by each producer

(Tonnes)

Producer's details:		
Material		Packaging material or packaging put on the market
<i>GLASS</i>		
<i>PLASTIC</i>		
<i>PAPER/BOARD</i>		
<i>METAL</i>	<i>Aluminium</i>	
	<i>Steel</i>	
	<i>Total</i>	
<i>WOOD</i>		
<i>OTHER</i>		
<i>TOTAL</i>		

Notes:

(5) The data in this table refer only to quantities that are supposed to be counted under the obligations of the regulations.

(6) Light shaded boxes: Provision of data is mandatory, but rough estimates are acceptable. These estimates should be explained in the description of the methodology.

(7) Dark shaded boxes: Provision of data is voluntary.

Table 2: Quantities of packaging waste generated in Malta and recovered or incinerated at waste incineration plants with energy recovery within or outside Malta
(Tonnes)

Material	Packaging waste generated	Recovered or incinerated at waste incineration plants with energy recovery by:						
		Material recycling	Other forms of recycling	Total recycling	Energy recovery	Other forms of recovery	Incineration at waste incinerators with energy recovery	Total recovery and incineration at waste incineration plants with energy recovery
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
GLASS								
PLASTIC								
PAPER/BOARD								
METAL	Aluminium							
	Steel							
	Total							
WOOD								
OTHER								
TOTAL								

Notes:

- (1) White boxes: Provision of data is mandatory. Estimates may be used though they should be based on empirical data and explained in the description of the methodology.
- (2) Light shaded boxes: Provision of data is mandatory, but rough estimates are acceptable. These estimates should be explained in the description of the methodology.
- (3) Dark shaded boxes: Provision of data is voluntary.
- (4) For the purpose of these regulations, the data on material recycling for plastics shall include all material recycled back into plastics.
- (5) Column (c) includes all forms of recycling including organic recycling but excluding material recycling.
- (6) Column (d) must be the sum of columns (b) and (c).
- (7) Column (f) includes all forms of recovery excluding recycling and energy recovery.
- (8) Column (h) must be the sum of columns (d), (e), (f) and (g).
- (9) Rate of recovery or incineration at waste incineration plants with energy recovery for the purpose of regulation 8(2) of these regulations: column (h)/column (a).
- (10) Recycling rate for the purpose of regulation 8(2) of these regulations: column (d)/column (a).
- (11) The data for wood shall not be used for the purpose of evaluating the minimum recycling targets for materials contained in packaging waste, as provided for in regulation 8(2) of these regulations.

Table 3: Quantities of packaging waste sent to other Member States or exported outside the Community for recovery or incineration at waste incineration plants with energy recovery

(Tonnes)

Material		Packaging waste sent to other Member States or exported outside the Community for:				
		Material recycling	Other forms of recycling	Energy recovery	Other forms of recovery	Incineration at waste incineration plants with energy recovery
<i>GLASS</i>						
<i>PLASTIC</i>						
<i>PAPER/BOARD</i>						
<i>METAL</i>	<i>Aluminium</i>					
	<i>Steel</i>					
	<i>Total</i>					
<i>WOOD</i>						
<i>OTHER</i>						
<i>TOTAL</i>						

Notes:

(1) The data in this table refer only to quantities that are supposed to be counted under the obligations of these regulations. They are a subset of the data already provided in the table 2.

(2) Light shaded boxes: Provision of data is mandatory, but rough estimates are acceptable. These estimates should be explained in the description of the methodology.

(3) Dark shaded boxes: Provision of data is voluntary.

(4) For the purpose of these regulations, the data on material recycling for plastics shall include all material recycled back into plastics.

Table 4: Quantities of packaging waste generated in other Member States or imported from outside the Community and sent to Malta for recovery or incineration at waste incineration plants with energy recovery

(Tonnes)

Material		Packaging waste generated in other Member States or imported from outside the Community and sent to the Member State for:				
		Material recycling	Other forms of recycling	Energy recovery	Other forms of recovery	Incineration at waste incineration plants with energy recovery
<i>GLASS</i>						
<i>PLASTIC</i>						
<i>PAPER/BOARD</i>						
<i>METAL</i>	<i>Aluminium</i>					
	<i>Steel</i>					
	<i>Total</i>					
<i>WOOD</i>						
<i>OTHER</i>						
<i>TOTAL</i>						

Notes:

- (1) The data in this table are provided for information purposes only. They are neither contained in table 2 nor can they be counted for the fulfillment of targets by Malta.
- (2) Dark shaded boxes: Provision of data is voluntary.
- (3) For the purpose of these regulations, the data on material recycling for plastics shall include all material recycled back into plastics.

SCHEDULE 5
(Regulation 22)
INFORMATION TO BE CONTAINED
IN AN APPLICATION
FOR REGISTRATION OR RENEWAL

*Substituted by:
A.L. 226 tal-2017.
Amended by
A.L. 227 tal-2017.*

Part A: Information to be submitted upon registration

Name and address of the producer and where:

- (i) the producer is a company, the registered office;
 - (ii) the producer is not a company, the principal place of business.
- National identification code of the producer, including the national tax number and the company number (where applicable) of the producer
 - The NACE Code and the employment size of the company, where applicable
 - The details of the contact person to whom the competent authority shall

address any communications

- Details on the commercial nature of the producer (e.g. manufacturer, importer or distance seller)
- Type of packaging or packaging material put on the market (back-end store packaging or consumer packaging)
- Information on how the producer meets his/her responsibilities, either individually or collectively
- A signed declaration stating the information provided is true.
- The date of the application for registration.

Part B: Information to be submitted upon renewal

- Registration number of the producer and any national identification code of the producer, including the national tax number and the company number (where applicable) of the producer;
 - The NACE Code and the employment size of the company, where applicable;
 - Quantity of packaging or packaging material put on the national market, by weight and by material during the specific reporting period in accordance with Table 1 of Schedule 4;
 - Quantity, by weight and by material, of collected packaging waste that has been recycled and recovered within Malta or shipped within or outside the Union during the specific reporting period in accordance with Tables 2 and 3 of Schedule 4;
 - A signed declaration stating the information provided is true;
 - The date of the application for renewal of registration;
 - An audit report referred to in sub-regulation (7) of regulation 22;
 - A statement of compliance referred to in sub-regulation (9) of regulation 22 in respect of his recovery and recycling obligations in accordance with regulation 8;
 - List of Authorised Waste Management Undertakings used by the producer for the carrying out of the waste management operations;
 - An appropriate description of how the data has been compiled, including any explanation of any estimates used; and
 - Proof of reuse, recycling, recovery or incineration at waste incineration plants with energy recovery as well as disposal in accordance with regulation 15.
 - Quantity of plastic carrier bags put on the national market, by weight and by thickness during the specific reporting period;
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SCHEDULE 6
(Regulation 20)
PUBLIC REGISTER

*Substituted by:
L.N.226 of 2017.*

The following information shall be contained in the register in relation to a producer whose application for registration has been processed by the competent authority under regulation 21.

- Name of the producer and locality from where the producer operates;
- Registration number of the producer;
- Information as to whether the producer self-complies or is a member of an authorised packaging waste recovery scheme.

SCHEDULE 7
(Regulation 17)
INFORMATION TO BE CONTAINED IN THE
QUARTERLY AND ANNUAL REPORT OF AN
AUTHORISED PACKAGING WASTE RECOVERY
SCHEME

*Added by:
L.N.226 of 2017.*

Part A: Environmental Information on the operations of the packaging waste recovery scheme

- Statement of Compliance with the obligations of these regulations;
- Quantities of packaging or packaging material put on the national market by the producers who participate in the Scheme, by weight and by material during the specific reporting period in accordance with Table 1 of Schedule 4;
- Quantities, by weight and by material, of collected packaging waste that has been recycled and recovered within Malta or shipped within or outside the Union during the specific reporting period in accordance with Tables 2 and 3 of Schedule 4;
- Information about concentration levels of heavy metals such as lead, cadmium, mercury and hexavalent chromium present in packaging material or packaging put on the market within the meaning of regulations 5 and 7, and the presence of noxious and other hazardous substances and materials within the meaning of the third indent of point 1 of Schedule 2;
- Information about packaging waste considered as hazardous due to

contamination by product contents, within the meaning of the Waste Regulations, , in particular if it is not suitable for recovery; and

- List on information and awareness campaigns carried out by the Scheme.

Part B: Commercial and other information on the operations of the packaging waste recovery scheme

- List of Producers participating in the Scheme during the reporting period;
- List of Authorised Waste Management Undertakings used during the reporting period for the carrying out of the waste management operations involved in the Scheme;
- An appropriate description of how the data has been compiled, including any explanation of any estimates used;
- A description of any system(s) adopted by the Scheme to ensure the return of packaging by consumers;
- A description of the return, collection and recovery systems used or set up in accordance with regulation 13;
- Proof of reuse, recycling, recovery or incineration at waste incineration plants with energy recovery as well as disposal in accordance with regulation 15; and
- Details on information and awareness campaigns carried out by the Scheme.

Added by:
L.N.226 of 2017.

SCHEDULE 8
(Regulation 13 and 21)
SCHEDULE OF FEES FOR A PRODUCER OF
PACKAGING OR PACKAGING MATERIAL

Part A: Fee for a producer of packaging or packaging material

<i>Category of Activity</i>	<i>Fee (€)</i>
Online Registration for producers of packaging or packaging material	10
Manual Registration for producers of packaging or packaging material	35

Part B: Additional fee for a self-compliant producer of packaging or packaging

material

A self-compliant producer of packaging or packaging material who fails to achieve the recovery and recycling targets set out in regulation 8 during an operational year shall submit an additional fee calculated as follows:-

$$A*(55\% - B)*C = AF$$

where:-

"A" is the weight, in tonnes of back-end store packaging or packaging material put on the market in Malta during the operational year;

"B" is the rate of back-end store packaging waste recycled by the self-compliant producer during the operational year provided that if B is greater than or equal to 55%, AF would be considered to be equal to zero (0);

"C" is a fee equivalent to:-

- three hundred and twenty euro (€320) per tonne if "B" is less than 25%;
- two hundred and fifty euro (€250) per tonne if "B" is less than 50% but greater than or equal to 25%; and
- one hundred and eighty euro (€180) per tonne if "B" is less than 55% but greater than or equal to 50%.

"AF" is the additional fee for a self-compliant producer who fails to achieve the recovery and recycling targets.

The additional fee shall be submitted to the competent authority upon applying to renew his/her registration as a producer of packaging or packaging material.

All revenue generated under Part B of this Schedule shall be payable to the Waste Management Fund as established in regulation 37 of the Waste Regulations, S.L. 549.63.

SCHEDULE 9

(Regulation 21)

Added by:
L.N.226 of 2017.

SCHEDULE OF FINES FOR A PRODUCER OF PACKAGING OR PACKAGING MATERIAL

- Any producer who fails to apply for registration in accordance to sub-regulation (1) shall, on conviction, be liable to a fine of seven hundred and fifty euro (€750) per tonne of packaging or packaging material put on the market from the first putting of packaging or packaging material on the market until he applies for registration.
 - Any producer who fails to renew his registration by the end of the year in accordance to sub-regulation (2) shall, on conviction, be liable to a fine of seven hundred and fifty euro (€750) per tonne of packaging or packaging material put on the market from the beginning of the year in which he should have renewed until he applies for renewal.
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Added by:
L.N.226 of 2017.

SCHEDULE 10

(Regulation 24)

INFORMATION TO BE SUBMITTED ON
APPLYING FOR AN AUTHORISATION TO
OPERATE A PACKAGING WASTE RECOVERY
SCHEME*Part A: Information to be included in an application for registration of a scheme*

- The name of the Scheme;
- The name of the operator and, where the operator is a partnership, the names of all the partners;
- The address and telephone number of the registered office of the operator or, if not a company, the main place of business of the operator, and, if more than one, all the operators; and
- A signed declaration stating the information provided is true.

Part B: Information to be contained in the work plan to operate a packaging waste recovery scheme

- A copy of the Memorandum and Articles of Association;
- A copy of the Certificate of Registration issued by the Registry of Companies, where applicable;
- A business and financial plan in relation to the proposed scheme;
- Quality Control and Quality Assurance measures to be adopted by the proposed scheme;
- Administrative measures to be adopted to ensure effective control of the process;
- A copy of the rules of membership of the packaging waste recovery scheme together with details of the membership fee structure;
- Proposals for the certification of producers for the purpose of regulation 16;
- A description of the type of packaging waste to be handled and incorporated in the scheme;
- Information on the projected quantities and weights of packaging waste to be handled by the scheme;
- Annual packaging waste recovery and recycling targets, including material specific recycling targets, to be achieved by the proposed

- scheme;
- Details of any system to be adopted in order to ensure the return of packaging by end-users;
 - A description of the proposed system which will provide for the acceptance, at no net cost to the consumer, segregation, storage and transportation of the packaging waste;
 - Information on the waste management undertakings that would be required for the scheme to operate;
 - Proposals on how the level of recovery and recycling of packaging waste under the proposed scheme will be determined and verified, including estimations and assumptions to be made in this process;
 - Proposals of how the information under the provisions of these regulations will be compiled and made available to the competent authority;
 - Public awareness campaigns to be carried out by the proposed scheme;
 - Projected date of commencement for the activity;
 - Any other relevant information as required by these regulations or as requested by the competent authority.

SCHEDULE 11

(Regulation 24)

SCHEDULE OF FEES FOR AN AUTHORISED
PACKAGING WASTE RECOVERY SCHEME

Added by:
L.N.226 of 2017.

Part A: Fee for an authorised packaging waste recovery scheme

The fee which is to be paid by a packaging waste recovery scheme upon being granted a authorisation or upon being granted a renewal of its authorisation according to regulation 24 is calculated as follows:-

$$A*B = SF$$

where:-

"A" is the number of registered producers participating in the scheme;

"B" is a fee of ten euro (€10) to be charged for each registered producer participating in the scheme;

"SF" is the scheme fee.

The fee shall be submitted to the competent authority within six (6) months of the issuance of the authorisation or its renewal.

Part B: Additional fee for an authorised packaging waste recovery scheme

A packaging waste recovery scheme that fails to achieve the recovery and recycling targets set out in regulation 8 during an operational year shall submit an additional fee calculated as follows:-

$$A*(55\% - B)*C = \text{SAF}$$

where:-

"A" is the total weight, in tonnes of packaging or packaging material put on the market in Malta by its members during the operational year;

"B" is the rate of total packaging waste recycled by the Scheme during the operational year provided that if B is greater than or equal to 55%, SAF would be considered to be equal to zero (0);

"C" is a fee equivalent to:-

one hundred euro (€100) per tonne if "B" is less than 25%;

seventy-five euro (€75) per tonne if "B" is less than 50% but greater than or equal to 25%; and

fifty-five euro (€55) per tonne if "B" is less than 55% but greater than or equal to 50%.

"SAF" is the additional fee for an authorised packaging waste recovery scheme that fails to achieve the recovery and recycling targets.

The additional fee shall be submitted to the competent authority within six (6) months from the termination of the operational year.

All revenue generated under this Schedule shall be payable to the Waste Management Fund as established in regulation 37 of the Waste Regulations, S.L. 549.63.

SCHEDULE12

Added by:
L.N.226 of 2017.

(Regulation 17 and 22)

INFORMATION IN THE STATEMENT OF
COMPLIANCE

- The information to be contained in a statement of compliance is:-
 - The name and address of the approved person who is issuing and signing the certificate;
 - The date of the certificate;
 - The producer in respect of whom the approved person is issuing the certificate; and
 - Certification by the approved person as to whether the relevant producer has complied with his recovery and recycling obligations.
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SCHEDULE13

Added by:
L.N.226 of 2017.

LIST OF AUTHORISED SIGNATORIES

For the purposes of issuing and signing official documentation including correspondence, the competent authority shall only accept documentation from a producer or an authorised packaging waste recovery scheme that is signed by the following person:-

- A natural person, if the producer is a natural person;
 - A partner, where the producer or an authorised packaging waste recovery scheme is a partnership;
 - A director or company secretary of that company, where the producer or an authorised packaging waste recovery scheme is a company registered in Malta;
 - A person who has control or management of the body, where the producer or an authorised packaging waste recovery scheme is an unincorporated body;
 - The president or any other member of the committee of management, where the producer or an authorised packaging waste recovery scheme is a co-operative.
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