

THE FUTURE OF PACKAGING WASTE IN THE UK: GOVERNMENT OUTLINES FRAMEWORK FOR EXTENDED PRODUCER RESPONSIBILITY

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Legal Briefings - By **Rebecca Perlman, Julie Vaughan and Stéphanie Regalia**

The UK Department for Environment, Food, and Rural Affairs (DEFRA) launched a [second consultation](#) on the introduction of UK-wide Extended Producer Responsibility (EPR) for Packaging (deadline to submit responses is **4 June 2021**). The proposals provide further information on Government's plans to shift the full net cost of managing packaging waste onto producers, including how to identify obligated producers, modulation of fees depending on recyclability of the packaging, reforms to packaging waste recycling targets, labelling and more.

SNAPSHOT:

- The proposed reform shifts the full net cost of packaging waste management onto a single point of obligation: producers of packaging.
- To achieve goals of increased recycling targets and waste reduction, the reform introduces modulated fees by packaging type to encourage producers to invest in packaging with better recyclability.
- Beyond responsibility for waste management costs, the consultation sets out new recycling targets, labelling requirements for packaging, and must be read in conjunction with other legislative initiatives: the introduction of a Deposit Return Scheme in England, Northern Ireland and Wales, and the introduction of consistent recycling collections for all households and businesses in England.

SHIFTING THE COST OF MANAGING PACKAGING WASTE ONTO PRODUCERS

Following a [first consultation in 2019](#), Government confirmed its intention to proceed with the introduction of EPR for packaging in 2023 and is taking new powers in the [Environment Bill](#) to enable this reform.

Under the current Packaging Waste Regulations responsibility for the cost of managing, recycling and disposing of packaging waste is shared between the public purse and private purse, and the obligation for a single item of packaging is shared across multiple businesses. The proposed EPR scheme shifts the full net cost of managing packaging waste to producers. Under this scheme, obligated producers will report the type and quantity of packaging they place on the UK market and/or pay corresponding fees to cover the cost of waste management.

The consultation identifies six types of obligated producers under this system:

- **Brand Owners:** businesses that put goods into packaging or have goods put into packaging, and place those goods on the UK market under their brand name. Brand Owners are the main point of waste management cost obligation under this scheme, though the consultation identifies five additional types of obligated producers to cover other situations where packaging is placed on the UK market (listed below).
- **Importers:** businesses who import filled packaging into the UK market for sale.
- **Distributors:** businesses who sell unfilled packaging to producers under the de-minimis threshold (the consultation also considers changing the threshold to reduce the scope of packaging not captured under the current system).
- **Online Marketplaces:** businesses based in the UK who operate an online platform through which persons based outside of the UK are able to offer filled packaging for sale in the UK.
- **Sellers:** businesses in the UK who sell any filled packaging to the end user (for example supermarkets in relation to primary packaging).
- **Service Providers:** business who supply reusable packaging to a user by hiring out or lending that packaging.

The consultation distinguishes obligations owed by each type of producer:

Type of Producer	Obligation to pay fees for waste management costs	Obligation to separately report packaging placed on the UK market
Brand Owners	Yes	No
Importers	Yes	Yes
Distributors	Yes	Yes
Online Marketplaces	Yes	Yes
Sellers	No	Yes
Service Providers	Yes	Yes

As noted in the consultation, businesses may take on more than one obligation where they act in multiple capacities. Examples include:

- situations where a business is both a Brand Owner and a Seller of packaged product and would therefore incur both obligations of waste management costs and data reporting; and
- situations where an Online Marketplace adds packaging to a product sold through their platform by another business, in which case it would take on obligations as both Brand Owner and Online Marketplace.

MODULATED FEES WILL INCENTIVISE PRODUCERS TO SHIFT TOWARDS RECYCLABLE PACKAGING

The reform introduces modulated fees based on the positive and negative aspects of packaging put on the UK market. Packaging which is easily recyclable would be subject to lower fee rates, whereas unrecyclable or more difficult to recycle packaging would see an increase in fee rates. The intention is to incentivise producers to minimise their waste management costs by using different packaging, making improvements to the packaging they use or funding improvements to the management of their packaging.

The consultation proposes that this modulation be determined by a Scheme Administrator, to provide flexibility to modify the fee structure when needed, for example to respond to changes in packaging design and waste management.

Collected fees will cover the necessary costs of efficient and effective waste management-related activities incurred by local authorities, businesses and public sector bodies, such as schools and hospitals. These costs include operational costs to collect, manage and dispose of packaging waste, as well as support costs linked to those activities (communication to the public, provision of information, data gathering and reporting, efficiency reviews, and supporting local authorities in contract negotiations with service providers).

OTHER MAJOR WASTE REFORMS ON THE RADAR

The consultation proposes setting specific recycling targets for six packaging materials (plastic, card, steel, aluminium, glass and wood) that fall under the scope of EPR obligations, for an overall recycling rate of 73% by 2030.

To increase responsible consumer behaviour towards recycling, the consultation also proposes mandatory labelling requirements for Brand Owners and Importers. Packaging would need to follow binary labelling requirements ('recycle' or 'do not recycle') by end of financial year 2026/27.

DEFRA is also [accepting feedback](#) on EPR scheme administration and governance, digital design for reporting data required from obligated producers and implementation timeline. Businesses should also take into consideration that EPR is part of broader legislative efforts towards waste reduction in the United Kingdom. DEFRA is currently conducting a [simultaneous consultation](#) on a proposed Deposit Return Scheme for England, Northern Ireland, Wales, and is expected to launch a consultation on the introduction of consistent recycling collections for all households and businesses across England in the near future. Both consultations are intrinsically linked to the design and roll-out of EPR for packaging.

[More on ESG Transformation](#)

RESOURCES

- [DEFRA Consultation on Extended Producer Responsibility for Packaging](#) (open until 4 June 2021)
- [Extended Producer Responsibility for Packaging Consultation Document](#) (24 March 2021)
- [DEFRA Consultation on Introducing a Deposit Return Scheme in England, Wales and Northern Ireland](#) (open until 4 June 2021)

- [Environment Bill](#)

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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