

ACT NOW ON EXTENDED PRODUCER RESPONSIBILITY



THE UK Government and the Devolved Administrations are reforming packaging waste regulations to implement Extended Producer Responsibility in full from January 2025. The intention is to move from shared responsibility along supply chains to a single point of compliance. EPR shifts the full cost of dealing with packaging waste away from local authorities and Council Tax payers and onto

the primary producers.

When the new regulations come into force, they will replace the existing Producer Responsibility Obligations (Packaging Waste) Regulations 2007. This means that from early in the new year, the fees you face will be based on data that you submitted throughout 2024. With just months to go, Brett Amphlett (BMF Policy Manager) updates members on important legal obligations, data collection requirements and cost implications you should be aware of, and act upon, straightaway.

AM I OBLIGATED ?

Extended Producer Responsibility began to be phased in from January 2023 with reporting requirements being steadily introduced alongside current packaging waste regulations. You will have several obligations as we head towards full implementation. Since March 2023, you ought to

have been collecting the relevant data and submitting your returns in readiness for EPR. The new regulations will apply throughout the UK and place new legal duties on company directors to act.

This article describes the main policy aspects - and the advice & guidance set out is the latest we have available to assist you. But we urge all BMF members to take professional advice from your waste management contractor or compliance scheme operator.

You must act if you have turnover of £1 million or more - and are responsible for over 25 tonnes of packaging in a calendar year. You are responsible if you:

- supply packaged goods to the UK market under your own brand;
- package goods for another UK organisation;
- use transit packaging to protect goods during transport so they

- can be sold to UK consumers;
- import products in packaging;
- own an online marketplace;
- hire or loan out reusable packaging;
- or sell empty packaging.

WHAT DATA DO I COLLECT ?

You must report your role when you put packaging on the UK market. As a small producer, you are responsible for reporting only. As a large producer, you have reporting and payment obligations. Everybody is required to collect data about packaging they handle and supply throughout the UK. This data has to be submitted bi-annually for large producers but annually for small producers.

You must collect data about the packaging you have put on the UK market, or imported into the UK, in these categories:

- packaging activity - for example,

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supplying under your own brand, packing or filling, or importing;

- packaging type - for example, if the packaging is household or non-household;
- packaging class - whether the packaging is primary, secondary, shipment or tertiary;
- packaging material and weight.

You are likely to have to collect and report where in the UK your packaging was supplied and later discarded. This is called 'nation data' and refers to the 4 home nations of the UK.

Large producers should have already opened an online account here on the DEFRA Report Packaging Data Service and be using it to upload the required data you have collected: <https://www.gov.uk/guidance/report-packaging-data>

1. Packaging Activity

You must report what your role was when you put the packaging on the UK market. You do this by breaking down your data into these activities:

- supplied under your own brand
- packed or filled
- imported or as first UK owner

- supplied as empty
- hired or loaned
- supplied via your own online marketplace.

2. Packaging Type

You must report what type of waste the packaging is likely to become when it is discarded.

Large Producers

You must report whether the packaging is:

- household waste
- non-household waste
- commonly ends up in public bins
- is a drinks' container
- is re-useable
- becomes self-managed waste.

Small Producers

You only have to report your total packaging weight (excluding drinks containers) and separately, any drinks containers - which is very unlikely for SME members.

3. Packaging Class

There are 4 packaging types to report on. They will be familiar to those members with experience of current regulations. You should categorise your data under these headings:

- primary packaging

- shipment packaging
- secondary packaging
- transit or tertiary packaging.

If you are unsure, please check the definitions here: <https://www.gov.uk/guidance/how-to-collect-your-packaging-data-for-extended-producer-responsibility#packaging-class-data>

4. Packaging Material and Weight

After categorising your data, you must report the weight of individual materials in kilograms (not tonnes). You should categorise your data under these headings:

- aluminium
- fibre-based composite
- glass
- paper or cardboard
- plastic
- steel
- wood
- other.

'Other' could include bamboo, ceramic, copper, cork, hemp, rubber or silicone.

Household and Non-Household Packaging Waste

You must report the weight of

packaging that ends up (or is likely to end up) as household waste and non-household waste. All primary and shipment packaging should be classed as 'household waste' unless it meets specific conditions (see below). All secondary and transit packaging should be classed as 'non-household waste'.

If you supply primary or shipment packaging to a business which does not then supply that packaging or the goods it contains to anyone else, it can be classed as 'non-household waste'. You have to be able to prove this.

Household packaging is defined in the legislation as all primary and shipment packaging unless it meets specific criteria that require you to report it as 'non-household' waste.

- primary packaging is the individual container that you store goods in to sell to consumers - including multipack packaging - namely a sales unit.
- shipment packaging (also called e-commerce packaging) is used for shipping single or multiple sales units directly to consumers

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Policy - UK

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If you are unsure, please check the conditions here: <https://www.gov.uk/guidance/extended-producer-responsibility-for-packaging-how-to-assess-household-and-non-household-packaging>

Re-usable Packaging

You only have to submit data about re-usable packaging (notably pallets) the first time it is supplied - in line with the rest of your data - but shown as either (a) primary or (b) non-primary re-usable.

Self-Managed Packaging Waste

There are 2 types of waste to report in the self-managed category:

- consumer waste - such as waste you collect through a front of store take-back scheme to offset your household packaging;
- organisation waste - such as backhauled waste.

If you move self-managed waste between nations - it is collected in one and sent to another for recycling - it must be recorded. For

example: packaging in a Scottish branch is moved to a distribution centre in England before recycling. You are required to specify both nations and it has to be broken down by weight and material type.

HOUSEHOLD OR NON-HOUSEHOLD ?

The BMF understands that - following lobbying by trade bodies like the British Retail Consortium - DEFRA changed the draft regulations to correct and clarify an anomaly between household and non-household. Consequently, the household packaging definition was revised to widen the criteria that allows packaging to be exempt from being classified as household - and therefore exempt from disposal cost fees. This re-definition is now the same as the definition used in the data reporting regulations that currently apply in Scotland, Wales & Northern Ireland.

To re-cap: you can now class primary or shipment packaging as non-household packaging if:

- you supply it to a business or public institution which is either (a) the end user of the goods contained in the packaging or (b) an organisation that supplies

the goods to an end user with all of the packaging removed.

- you supply packaging for a product designed only for use by a business or public institution and the packaging is not reasonably likely to be disposed of in a household bin or a public bin.
- you are an importer and import packaging into the UK which you discard without supplying it to anybody in the UK.

As stated earlier, you have to be able to show evidence for this. If you cannot, you must treat this packaging as household. You are required to keep evidence for 7 years in case it is requested. If you are unsure, please check the conditions here: <https://www.gov.uk/guidance/extended-producer-responsibility-for-packaging-how-to-assess-household-and-non-household-packaging>

NEW REGULATIONS

Prior to the General Election, DEFRA published a full set of draft regulations which will bring in EPR next year - including a single UK-wide approach to labelling with a new logo & wording. They are called the Draft Producer

Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024. As Parliament was suspended during the General Election, they are still only draft regulations that await formal approval by MPs on their return to the House of Commons in September. We do not expect them to be rejected and therefore Extended Producer Responsibility is on track to apply from January 2025. You can find the 155-page draft statutory instrument here: https://members.wto.org/crnattachments/2024/TBT/GBR/24_02787_00_e.pdf

Under EPR, your recycling obligations will continue to be met via Packaging Waste Recycling Notes (PRNs) and Packaging Waste Export Recycling Notes (PERNs). If you are in a compliance scheme, the operator will continue to carry this out on your behalf - striving to make sure the amount you pay for your PRNs or PERNs remains competitively priced.

FEES

BMF members will be obliged to pay EPR fees from the next financial year - based on the

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packaging data you are (and have been) submitting online to report the amount of waste arising from your business for the 2024 calendar year. This information will be used by the scheme administrator (namely the Environment Agency) to charge EPR fees and pay local authorities for managing this packaging waste between 1 April 2025 and 31 March 2026.

In August 2024, DEFRA published the long-awaited illustrative base fees to give businesses some idea of the likely cost per tonne. Although this is welcome, it is very much a first attempt - based on the best information available so far - and will be refined and reissued again before Christmas. DEFRA gives estimated prices for each category of waste - lower, intermediate and higher to assess the worst & best case scenarios - and explains how they were calculated. You can find these first-year estimated fees here: <https://www.gov.uk/government/publications/extended-producer-responsibility-for-packaging-illustrative-base-fees>

Material	Estimated cost in £ per Tonne of LA Waste Management Fee Obligation		
	Lower	Intermediate	Higher
Paper or board	£185	£260	£350
Glass	£130	£260	£330
Aluminium	£245	£495	£655
Steel	£170	£295	£420
Plastic	£355	£515	£610
Wood	£225	£265	£330
Fibre-based composites	£410	£525	£655
Other	£225	£265	£330

The actual fees you will have to pay in the next financial year 2025/2026 will be calculated by the Environment Agency after April 2025. Further checking and approval of the submitted data will be required before the EA can begin to issue invoices. Given the magnitude of the task, our guess is that invoices may not appear until June or July 2025.

In the second year, the policy intention is to move to what are called 'modulated fees'. In other words, fees will be set for April 2026-March 2027 that reward BMF members who choose more environmentally-responsible packaging that can easily be recycled and/or has a higher recyclable content. Obviously, less sustainable materials with a higher environmental impact will attract higher payments (like

hard-to-recycle plastics) to force changes in attitude and behaviour. When modulated fees do come into force, they will replace the existing system of buying PRNs or PERNs and that current market will cease.

TAKE ACTION NOW Submission Dates

Small organisations: you should have collected year 2023 data but do not have to submit it. But you do have to collect and submit your data for the 2024 calendar year before 1 April 2025.

Large organisations: for the 2023 calendar year, you should have submitted your returns:

- before 1 October 2023 to report your data for January to June 2023.
- before 1 April 2024 to report your data for July to

December 2023.

- For this calendar year, you have to submit your returns:
- before 1 October 2024 to report your data for January to June 2024.
 - before 1 April 2025 to report your data for July to December 2024.

An unwelcome aspect of EPR is a new requirement to show where in the UK your packaging was sold, hired, loaned, gifted or discarded in. You must submit data in which of the home nation(s) it occurred. Data by nations for calendar year 2023 has to be submitted by 1 December 2024.

If you are in a compliance scheme, your scheme operator will submit your data on your behalf. If you have not reported your data by the appropriate deadline, please contact the environmental regulator in your part of the United Kingdom as follows:

- Environment Agency in England = packaging@environment-agency.gov.uk

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Policy - UK

- Natural Resource Wales = packaging@naturalresourceswales.gov.uk
- Scottish Environment Protection Agency = producer.responsibility@sepa.org.uk
- Northern Ireland Environment Agency = packaging@daera-ni.gov.uk

For questions about using the Report Packaging Data Service, please contact the DEFRA Service Desk on either (0300) 060 0002 or EPRCustomerService@defra.gov.uk

Create an Online Reporting Account

To create an account for your business, you must be:

- a director or company secretary
- a partner
- a sole trader
- a member of a limited liability partnership

Upon completion, you can nominate other people in your company to be users - and give permission for them to carry out tasks on your behalf within the account. The environmental regulator has to approve your account before you can submit data. But once completed, you

will be an approved person - and it will be your legal duty to ensure that the data your company submits is as accurate as reasonably possible. To enrol on the DEFRA Report Packaging Data Service, please go to: <https://www.gov.uk/guidance/report-packaging-data>

FURTHER ASSISTANCE Creating a Packaging Data File

Last month, DEFRA uploaded a new version of its spreadsheet to help you create a packaging data file. You can use this to check how your file should be structured before creating your own file. This tool will generate the codes and other functions before you submit your file. It is explained in more detail here: <https://www.gov.uk/government/publications/extended-producer-responsibility-for-packaging-generate-a-packaging-data-file>

Official Guidance

The main sources of guidance on the GOV.UK website are:

EPR: who is affected and what to do: <https://www.gov.uk/guidance/extended-producer-responsibility->

for-packaging-who-is-affected-and-what-to-do

EPR: what packaging data to collect: <https://www.gov.uk/guidance/how-to-collect-your-packaging-data-for-extended-producer-responsibility>

EPR: how to assess household and non-household packaging: <https://www.gov.uk/guidance/extended-producer-responsibility-for-packaging-how-to-assess-household-and-non-household-packaging>

EPR: report packaging data: <https://www.gov.uk/government/collections/extended-producer-responsibility-for-packaging-report-packaging-data>

The DEFRA EPR Helpdesk is available from 08:00 to 16:30, Monday to Friday, on either (0300) 060 0002 or at EPRCustomerService@defra.gov.uk

CONCLUSION

Extended Producer Responsibility is a major policy overhaul by all four governments that puts significant and costly regulatory burdens on BMF members. We have covered this topic at our

regional meetings and specialist forums around the country - and written in both this magazine and other members-only communications to offer advice & guidance when it became known.

Ready reckoners or calculators will not be allowed under the new regulations due to the nations' reporting obligation. This includes the BMF Packaging Reporting Waste Obligation Ratios dated February 2008 some of you use that are still recognised by the Environment Agency as a way to determine your existing obligations. We are aware of other online calculators currently offered by environmental consultancies.

We are grateful to the Wastepack Group (BMF Service Member) for advice in understanding the impact of these proposals. We cannot stress enough the intricacies you should be aware of, and act on, straightaway. Many of you already participate in compliance schemes like Wastepack, Valpack or Biffpack. If you are not in a scheme, please take professional advice straightaway.



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