

2013 No. 2212

ENVIRONMENTAL PROTECTION

**The Packaging (Essential Requirements) (Amendment)
Regulations 2013**

<i>Made</i> - - - -	<i>2nd September 2013</i>
<i>Laid before Parliament</i>	<i>5th September 2013</i>
<i>Coming into force</i> - -	<i>30th September 2013</i>

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the management of packaging and packaging waste. The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

Citation and commencement

1. These Regulations may be cited as the Packaging (Essential Requirements) (Amendment) Regulations 2013 and come into force on 30th September 2013.

Amendments to the Packaging (Essential Requirements) Regulations 2003

2.—(1) The Packaging (Essential Requirements) Regulations 2003(c) are amended as follows.

(2) In Regulation 2(2), for the definition of “packaging”, substitute —

““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, including non-returnable items used for the same purposes, but only where the products are—

- (a) sales packaging or primary packaging, that is to say packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;
- (b) grouped packaging or secondary packaging, that is to say packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale, and which can be removed from the product without affecting its characteristics; or
- (c) transport packaging or tertiary packaging, that is to say packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packagings in order to prevent physical handling and transport damage; for the

(a) S.I. 1996/266.

(b) 1972 c. 68. Section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a), and by the European Union (Amendment) Act 2008 (c. 7), Schedule Part 1.

(c) S.I. 2003/1941. Regulation 2(2) and Schedule V have been amended by S.I. 2004/1188. There are other amendments which are not relevant to these Regulations.

purposes of these Regulations 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 above 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 that product and all elements are intended to be consumed or disposed of together.

Schedule V lists the illustrative examples of packaging stated in the Annex of Commission Directive 2013/2/EU(a) amending Annex 1 of the Directive;”.

(3) For Schedule V, substitute —

“SCHEDULE V

Regulation 2(2)

ILLUSTRATIVE EXAMPLES OF PACKAGING REFERRED TO IN THE PROVISO TO THE DEFINITION OF PACKAGING IN REGULATION 2(2)

Illustrative examples for criterion (i)—

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)

(a) OJ No L 37, 8.2.2013, p10

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

Refillable steel cylinders used for various kinds of gas, excluding fire extinguishers

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)

Mechanical quern (integrated in a refillable recipient, e.g. refillable pepper mill)

Illustrative examples for criterion (ii)—

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

Plastic foil for cleaned clothes in laundries

Non-packaging

Stirrer

Disposable cutlery

Wrapping paper (sold separately)

Paper baking cases (sold empty)

Cake doilies sold without a cake

Illustrative examples for criterion (iii)—

Packaging

Labels hung directly on or attached to a product

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

Mechanical quern (integrated in a non-refillable recipient, filled with a product, e.g. pepper mill filled with pepper)

Non-packaging

Radio frequency identification (RFID) tags.”.

2nd September 2013

Michael Fallon
Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Packaging (Essential Requirements) Regulations 2003 (S.I. 2003/1941) (the “2003 Regulations”). The 2003 Regulations implement Articles 9 and 11 of Directive 94/62/EC of the European Parliament and the Council on packaging and packaging waste (OJ L 365, 31.12.1994, p.10) (the “1994 Directive”) which relate to the essential requirements to be satisfied by packaging.

These Regulations implement Article 1 and the Annex of Commission Directive 2013/2/EU (OJ L 37, 8.2.2013, p.10) (the “2013 Directive”), which amends Annex I of the 1994 Directive.

These Regulations amend the definition of “packaging”, which contains a reference to Schedule V to the 2003 Regulations and substitute Schedule V. Schedule V set outs the revised list of illustrative examples of packaging stated in the Annex of the 2013 Directive.

A full impact assessment has not been produced for these Regulations as no significant impact on the private, voluntary or public sectors is foreseen. As these Regulations transpose a Commission Directive, a transposition note setting out how the Government will transpose into UK law those elements of that Directive has been prepared. Copies of the transposition note have been placed in the libraries of both Houses of Parliament and are also annexed to the Explanatory Memorandum which is available alongside the instrument on the www.legislation.gov.uk website.

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