

Key questions about the application of the Verpackungsgesetz

'The ten most important questions'

On 1 January 2019, the Verpackungsgesetz – the German Packaging Act, known as the VerpackG for short – entered into force. Here is what producers and/or initial distributors of packaging and (online) retailers now need to know.

1. What does the entry into force actually mean and what will it improve?

Since January 2019, a **public register** makes it possible to see which producers, retailers and/or distributors of packaging are fulfilling their producer responsibility.

- Packaging has to **participate** in a system (under strict conditions it was and still is possible for producers to accept returns of their packaging via a sector-specific solution instead). These systems also used to be referred to as 'dual' systems. The agreement that the producer or retailer under obligation has to conclude with a system is called a 'system participation agreement'.
- Furthermore, producers or so-called initial distributors with one or more system participation agreements have **to register with the Packaging Register of the Stiftung Zentrale Stelle Verpackungsregister (Foundation Central Agency Packaging Register – ZSVR)**.

The Packaging Register is called 'LUCID'. It shows which producers and/or initial distributors have registered with their brands, and makes it possible to see who is fulfilling their financial responsibility for the collection and recycling of their packaging. In other words, transparency is emerging on the market.

This is particularly good news for all companies that have been complying with the law to date since the cost of recovering and recycling packaging via yellow bins, yellow sacks, paper bins, and other kerbside and drop-off systems for waste collection will now be distributed equally among all producers and retailers.

Anyone not complying with the law and, as a result, not fulfilling their obligations will be taking a greater risk of being discovered.

2. Who is affected by the Verpackungsgesetz?

The Verpackungsgesetz affects all companies that also had an obligation under the Verpackungsverordnung (Packaging Ordinance) to ensure that packaging from their commercially distributed products is collected and recycled – **if these typically accumulate as waste with a private household or a comparable source of comparable generation** (in other words: with private final consumers). This means that the Verpackungsgesetz applies to all producers and/or initial distributors who are the first to distribute retail and/or grouped packaging filled with goods (i.e. a packaged product), regardless of whether large or small, to a third party in a physical retail store or via a mail order company (with its shipment packaging) with the intention to distribute, consume or use it. This may be over the counter or online.

'Comparable sources of waste generation' are all sources of waste generation where packaging like that of private households typically accumulates as waste, such as cinemas, restaurants, hotels, amusement parks, canteens, hospitals, etc.

3. Who is under obligation and what needs to be done?

Whether directly sold or supplied to the final consumer: **packaging that typically accumulates as waste with private final consumers** is subject to **system participation (for the strictly defined exemption from this requirement in what is known as an sector-specific solution see the information under question 10)** and the initial distributor must **register with the LUCID Packaging Register**.

Since 3 July 2021, international producers under obligation without a branch within Germany can authorise a representative to fulfil their duties under the Verpackungsgesetz on their behalf (with the exception of the registration requirement). For further information about authorised representatives, please refer to the respective explanatory film and the checklist on the **ZSVR website**.

4. To what packaging do obligations under the Verpackungsgesetz apply? Are there differences?

Producers and retailers are able to check for themselves whether packaging is essentially subject to system participation by consulting the **system participation requirement catalogue**, which lists many different products published by the ZSVR at www.verpackungsregister.org and thereby gain greater legal certainty. The catalogue is available as a digital database, which allows for a specific search for products and their packaging.

Alternatively, in cases of doubt, they can submit an application asking the ZSVR to classify their packaging. The ZSVR has been issuing administrative acts about classification in this context since 1 January 2019. The classification decisions are published on its website.

5. What do I need to bear in mind? When does what need to be done by?

All **initial distributors of retail packaging subject to system participation**, for the most part producers of packaged products, must register with the **LUCID Packaging Register of the ZSVR since 1 January 2019** with their master data, and specify the brand names that they are distributing.

Registration has been designed to be very simple. Please note: when registering, producers and retailers must provide their national identification number, such as their commercial register number, as well as their taxpayer reference number, such as their VAT ID. The taxpayer reference number will be published in the register. Furthermore, an e-mail address must be provided in order to register. Since 3 July 2021, this e-mail address is no longer displayed in the public register. All the information listed should be to hand. The same applies to the brand names of the products sold; these should also be kept close at hand for registration, e.g. as a list.

All **data reports to the systems** must be made in identical form to the LUCID Packaging Register.

One of the most important new developments for large companies is that since 1 January 2019, the declarations of completeness no longer have to be filed with the chambers of industry and commerce, but electronically with the ZSVR. This also applies to any subsequent declarations of completeness from previous years. More specific information on the process and the registration content can be found at www.verpackungsregister.org.

6. What else is important?

Since 1 January 2019, the systems are required to use system participation fees as a way of creating incentives for promoting highly recyclable packaging and the use of recyclates (i.e. recycled materials) and renewable resources. It is likely that system participation ('licence fee') will become cheaper for packaging that can be recycled easily and thus re-enter the closed substance cycle, and for packaging that already contains recycled materials or renewable resources.

By 1 September each year, the ZSVR, in agreement with the German Environment Agency, determines the **minimum requirements which the systems must use as a basis when determining recyclability**.

7. Does registration involve costs for those affected? Will it get more expensive for producers or retailers?

The less packaging trade and industry cause to be incurred, and the more environmentally friendly it is in design, the lower the costs will be for participating in the yellow bin / yellow bag collection and recycling system and also for setting up and operating additional kerbside and drop-off systems for glass and paper/paperboard packaging.

It is free of charge for producers and/or initial distributors to register with, report data to, or use any services of the ZSVR. Financing is solely via the systems and sector-specific solutions. Costs are incurred for a producer's own packaging to be recovered and recycled by the selected system.

8. What happens if I do not register with the ZSVR?

All companies that place packaging that typically accumulates as waste with private households or comparable sources of waste generation – and that is therefore subject to system participation – on the German market commercially must ensure that the packaging participates in one or more systems (in clearly defined exceptional cases, a sector-specific solution may be an option as well). They must also register beforehand with the ZSVR in the LUCID Packaging Register.

Failure to comply with these requirements will result in an **automatic distribution ban on all packaging, and fines of up to €200,000 per case** may be imposed. Owing to the public nature of the register, producers and/or retailers not complying with the law must expect those reselling their goods to stop using them as a supplier.

The German Federal States are responsible for **enforcing** this. If producers and retailers do not fulfil their obligations, the ZSVR will set these facts out transparently and pass them on to the enforcement authorities of the Federal States.

9. What is the role of the ZSVR?

The ZSVR was set up by the government to establish **transparent and fair distribution of recovery costs on the market**. With this purpose in mind, it is responsible for operating a Packaging Register. Within a framework tightly controlled by antitrust law, the register is publicly available to companies and consumers, with the aim of providing an overview of registered producers and brand names. Anyone can see who is fulfilling their producer responsibility and complying with the law.

The ZSVR's responsibilities also include monitoring the systems, sector-specific solutions, registration of experts and other auditors, as well as the task of standardising how to assess the recyclability of packaging subject to system participation. As part of the latter, the ZSVR has a legal duty to work together with the German Environment Agency annually to define a minimum standard for assessing the recyclability of packaging subject to system participation. In order to establish appropriate incentives, the systems must at least use this minimum standard as a basis when assessing participation fees. Furthermore the ZSVR issues decisions on applications concerning whether packaging is subject to system participation, and is the point of contact for those under obligation when it comes to information or assistance regarding their obligations under the Act.

10. Where can I find more information?

You can contact the ZSVR at

<https://www.verpackungsregister.org/en>

A support hotline is also available and focused on IT-related registration questions. The support can be contacted from Monday to Friday between 9:00 and 17:00 CET (public holidays in Lower Saxony excepted). Content-related questions about the registration and system participation requirements (incl. information on the strict conditions set out for participating in a sector-specific solution) can be clarified as follows:

- Consulting the **FAQ** on the ZSVR's website (new questions and answers are added frequently)
- Using the **additional informational documents** such as **the how-to guide and other documents** on ZSVR's website
- Watching the **explanatory films**
- E-mailing the ZSVR with a written query to clarify any specific legal questions about interpreting the Verpackungsgesetz at anfrage@verpackungsregister.org.

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