

The ten most important questions regarding the implementation of the Packaging Act

From 1 January 2019 the new Packaging Act, abbreviated in German to VerpackG, shall be in force. This is what manufacturers and/or distributors of packaging materials and (online) retailers now know for sure!

1. On 1 January 2019, the new Packaging Act (VerpackG) enters into force. What does this mean and what will actually be improved as a result?

From 2019, it will be possible to see for the first time by means of a **public register** which manufacturers, retailers and/or distributors of packaging material are fulfilling their product responsibility.

- These packaging materials already have **to participate** in a system (previously often referred to also as a “dual” system). (Under strict conditions it was and still is possible for manufacturers to carry out their own return of packaging via an industry solution). The agreement which the manufacturer or retailer under obligation has to conclude with a system is called a “System Participation Agreement”.
- In addition, the manufacturers or “first distributors” who have one or more system participation agreements must **register from 1 January 2019 on the Packaging Register of the Foundation Central Agency Packaging Register (ZSVR). This is new!**

The Packaging Register with the name “LUCID” shows which manufacturers or “first distributors” have registered with which brands and are thereby fulfilling their financial responsibility for the collection and recycling of their packaging materials. Transparency is therefore being created in this market.

Above all, for all companies that have so far already behaved in compliance with the law, this is very good news – because the costs for disposing of and recycling packaging materials via the yellow bins, yellow bags, paper recycling bins and additional kerbside and drop-off systems for waste collection shall in the future be fairly allocated to all manufacturers and retailers.

Anyone who does not behave in compliance with the law and thereby does not fulfil their obligations will, from 2019 onwards, be taking a greater risk of being discovered.

2. Whom does the new Packaging Act affect?

The “new” Packaging Act affects all companies which, also hitherto, were obliged under the Packaging Ordinance to ensure the collection and recycling of the packaging materials from their commercially sold products **if these typically accumulate as waste for a private household or equivalent sources of waste generation to these** (abbreviated to: private end consumer). In other words it applies to all manufacturers and/or retailers who “are the first” to sell a packaged product – regardless of whether large or small – to the customer directly at the counter in a walk-in retail business or online to the end customer.

“Equivalent sources of waste generation” are all sources of waste generation where such packaging materials typically accumulate as they do in private households, for example cinemas, kiosks, restaurants, hotels, amusement parks, canteens, hospitals etc.

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

Whether a direct sale or a delivery to the end consumer: **packaging materials which typically accumulate for the private end consumer** must **participate** in a system **(for the narrowly restricted exemption from participation in what is known as an industry solution, see note under Question 10)** and the “first distributor” must **register with the Packaging Register LUCID**.

4. To what packaging materials do obligations under the Packaging Act apply? Are there differences?

In the future, manufacturers and retailers will be able to see whether the packaging materials are fundamentally subject to system participation requirements from the Foundation Central Agency Packaging Register (www.verpackungsregister.org) in a **system participation requirement catalogue** and thereby gain greater legal certainty. Alternatively, manufacturers/retailers can, in cases of doubt, submit a request to the Central Agency asking them to classify their packaging. In this case, the Central Agency shall, from 1 January 2019, issue an administrative decision regarding classification as a packaging material subject to system participation requirements.

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

All **first distributors of sales packaging materials subject to system participation requirements**, for the most part the manufacturers of packaged products, must register by **1 January 2019 with the Central Agency on the Packaging Register LUCID** with their master data; here they must state the brand names which they are distributing.

Registration is already possible **from the end of August 2018** and has been designed very simply. Important: When registering, the manufacturers and retailers must provide their national identification number, for example the commercial register number, including the European tax number (VAT ID No.). Should this not be available, alternatively the national tax number must be provided. All information listed should be kept ready. The same applies to the brand names of the products sold; these should also be kept close at hand e.g. as a list for registration.

All **data reports to the systems** must each be made in identical form to the Packaging Register LUCID. It is anticipated that this will be possible to do from mid-October 2018.

The most important new developments for large companies include the fact that the declarations of completeness must, from 1 January 2019, no longer be filed with the chambers of industry and commerce but – also for the 2018 data already – with the Central Agency.

Specific information on the procedure and content of registration will be available from mid-July 2018 on www.verpackungsregister.org.

6. What else is important?

From 1 January 2019, the systems are obliged to use the system participation fees as a way of creating incentives for promoting recyclable packaging materials and the use of recycled materials and renewable raw materials. It is likely that, in future, system participation (“licence fee”) for packaging materials that can be recycled easily and thus re-enter the recovered substances cycle, and for packaging materials that contain recycled materials or renewable raw materials, will be cheaper.

Which **minimum requirements the systems** must take as a basis **when assessing recyclability** are determined by the Central Agency Packaging Register in agreement with the Federal Environment Agency.

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

The fewer packaging materials that trade and industry create and the more environmentally friendly they are in their design, the lower the costs for participation in the “yellow bin” or “yellow bags” collection and recycling system and also for setting up and operating additional kerbside and/or drop-off systems for glass and paper/paperboard packaging materials.

Manufacturers and distributors of packaging materials subject to system participation requirements **do not have to make any payment to the register** for registration and data reporting in the packaging register LUCID. The costs are met by the systems and industry solutions.

8. What happens if I do not register with the Central Agency Packaging Register?

All companies which commercially market packaging materials subject to system participation requirements in Germany which typically accumulate as waste for the private household or sources of waste generation equivalent to these must ensure that these participate in one or more systems (as appropriate, in defined exceptional cases, dispose of them themselves via industry solutions) and register beforehand with the Central Agency on the Packaging Register LUCID.

Otherwise, there will be an **automatic distribution ban on all packaging materials and fines of up to € 200,000 per case**. Owing to the public nature of the register, manufacturers and/or retailers acting not in compliance with the law must expect those reselling their goods to stop using them as a supplier.

Enforcement is the task of the federal states (Bundesländer). If manufacturers and retailers do not fulfil their obligations, the Central Agency Packaging Register will pass these facts in transparent form on to the enforcement authorities of the federal states.

9. What are the roles of the Central Agency Packaging Register?

The “Central Agency Packaging Register” was set up by legislators for the very purpose of establishing **transparent and fair distribution of disposal costs on the market**. With this purpose in mind, it is responsible for setting up a packaging register. Within a framework tightly controlled by antitrust law, the register for companies and consumers is public with regard to an overview of the registered manufacturers and brand names. By this means, anyone can see who is fulfilling their product responsibility and behaving in accordance with the law.

In addition, the Central Agency has responsibility among other things for monitoring the systems, the industry solutions, the registration of experts and above all also the task of promoting the recyclability of sales packaging materials. As part of this the “Central Agency Packaging Register” has been instructed by law to define a minimum standard which the systems must at least take as a basis for assessing the recycling-compatible design, in order to establish appropriate incentives. Furthermore the Central Agency Packaging Register decides, if requested to do so, which packaging materials are subject to system participation requirements, and is the point of contact for those under obligation when it comes to information or assistance regarding the corresponding obligations in the Packaging Act.

10. Where can I find additional information?

You can access the Central Agency Packaging Register via

www.verpackungsregister.org

From August 2018 there will be telephone support available which is contactable in particular in relation to technical registration issues Monday until Friday from 9 am until 5 pm. Content-related questions concerning the registration obligation and the obligation to system participation (incl. information on the strict conditions of participation in an “industry solution”) can be clarified as follows:

- with the aid of the **FAQ catalogue** on the **website** of the Central Agency which is being further developed,
- with the **additional information documents**, e.g. a guide (“**How-To Guide**”) on the website of the Central Agency,
- through the explanatory films which are currently being developed and
- by e-mail with a written request to the Central Agency via anfrage@verpackungsregister.org.

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