

**648. Regulation of the Ministry for the Environment, Young People and the Family on the prevention and recovery of packaging waste and specific waste products, and for the establishment of collection and recovery systems (Packaging Regulation 1996)**

Based on § 7, paras 1 and 2, 1. 3, 6, 7 and 8, § 7a, § 7c paras 1, 2 and 3, and § 11 para. 3 of the Waste Industry Law, Federal Law Gazette (BGBl.) No. 325/1990, most recently amended through BGBl. No. 434/1996, as well as § 8 paras 1 and 2 of the 1986 Federal Ministries Law, BGBl. No. 76/1986, most recently amended through BGBl. No. 201/1996, the Minister for the Environment, Young People and the Family, in consultation with the Minister for Economic Affairs, has ruled that:

**SECTION I**

**Scope and principles**

**§ 1.** (1) This regulation forms the basis for those within Federal territory who

1. manufacture packaging or products from which packaging can be produced (manufacturers),
2. import packaging or products from which packaging is immediately produced, or who import packaged goods (importers),
3. Fill, package or bring goods or products into contact with packaging for the purposes of storage or delivery (packagers),
4. Market packaging or products from which packaging is immediately produced, or goods or products in packaging, irrespective of the level of distribution, also by means of mail-order business (distributors), or
5. Purchase or import packaging, goods or products in packaging for their consumption or use (end-users).

(2) Packaging shall be produced and placed on the market in such a way as to correspond to the fundamental standards set out in Appendix 1.

(3) The placing on the market of packaging in which the concentrations of the following levels of lead, cadmium, mercury and chrome VI are cumulatively exceeded, with the exception of lead crystal, is not permitted:

1. 600 ppm by weight, from 30 June 1998;
2. 250 ppm by weight, from 30 June 1999;
3. 100 ppm by weight, from 30 June 2001.

Should exceptions pursuant to Article 11, para. 3 of Directive 94/62/EC of the European Parliament and the Council of 20 December 1994 on Packaging and Packaging Waste be announced in the Journal of the European Communities, a separate notice with binding effect will be issued in the Federal Law Gazette.

(4) Other legal requirements pursuant to which packaging must receive special treatment remain unaffected by this Regulation.

**Definitions**

**§ 2.** (1) Packaging within the terms of this Regulation covers means of packaging and packaging aids, pallets or products from which means of packaging and packaging aids are immediately manufactured. Means of packaging are products that are intended to enclose or bind products or goods for marketing, storage, transport, despatch or sales purposes. Packaging aids are products which serve for packaging, together with means of packaging, in particular for packaging, sealing, making ready for despatch and for marking of a product or good.

(2) Transport packaging is packaging such as containers, canisters, cases, sacks, pallets, boxes, expanded-polystyrene shells, shrink-wrap films or similar wrappings, as well as parts of transport packaging that serve to protect goods or products from damage or are used for reasons of

transport security *en route* from producer to distributor, or *en route* from the distributor as far as delivery to the end user.

(3) Sales packaging is packaging such as beakers, bags, blister packaging, cans, buckets, barrels, bottles, canisters, sacks, boxes, shells, carrier bags, tubes or similar wrappings as well as component parts of sales packaging, in particular those carrying directions for use or legally prescribed product information, which are used by the end user or a third party acting on his/her behalf up to the point of consumption or use of the products or goods. Should a packaging fulfil the terms both of a sales and a transport packaging, it shall count as a sales packaging.

(4) Grouped packaging – insofar as it does not fall under paras 2 or 3 – is packaging such as blister packaging, films, boxes or similar wrappings which are either fixed additionally to one or several sales packages, or which enclose products or goods, provided that they are not required, for example, for reasons of hygiene or for technical reasons, or for conservation or protection from damage or soiling of the goods in delivery to the end user.

(5) Service packaging is transport or sales packaging such as carrier bags, paper cones, small bags, bottles or similar containers, provided this packaging is manufactured in a technically standardised form and is generally filled at or in the area of the point of provision.

(6) Packaging materials within the terms of this Regulation are the following products from which immediate packaging material or packaging material aids are produced:

1. paper, card cardboard, corrugated cardboard;
2. glass;
3. wood;
4. ceramics
5. metals;
6. textile fibres;
7. plastics;
8. composites;
9. other packaging materials, in particular organically based ones.

(7) Major accumulation points are those enterprises entered as such in the register pursuant to § 9 para. 1.

(8) Re-use shall be understood as meaning a multiple filling or utilisation of packaging for the same purpose. For packaging intended for re-use:

1. the number of circuits shall correspond as closely as possible to that technically possible according to the nature of the packaging and to what is usual according to the product and packing material, and,

2. recovery will take place when the packaging becomes waste.

(9) The recycling of packaging consists of the use of its material characteristics for the original purpose or for other purposes excepting energy production. Handling by a sorting plant does not count as delivery to a recycling plant within the terms of § 10.

(10) Thermal recovery is the use of combustible packaging waste for energy production through direct combustion with or without other forms of waste, in all cases with the recovery of heat.

The following conditions are to be fulfilled in all cases:

- a) adherence to existing emission standards;
- b) adherence to the emission thresholds for dioxin/furan compounds of 0.1 ng TE/Nm<sup>3</sup>;
- c) no worsening of the emission behaviour of the installation;
- d) resource conservation by replacement of conventional fuels;
- e) optimal utilisation of the energy content of all materials employed;
- f) defined quality of all materials employed.

All plant regulations, in particular the Trade Regulation BGBl. No. 194/1994, as amended BGBl. No. 201/1996, Mountains Act, BGBl. No. 259/1975, as amended BGBl. No. 219/1996 and the Clean Air Act for Boiler Systems, BGBl. No. 380/1988, as amended BGBl. No. 185/1993, are not affected by this.

(11) Packaging or products from which packaging is immediately manufactured, as well as packaged products or goods, are deemed to be placed on the market when they are surrendered to other legal persons for the purposes of profit. Simple transportation on direct order of a distributor is not deemed to be placing on the market.

### **Obligations of the manufacturer, importer, packer and distributor of transport and sales packaging**

§ 3. (1) Manufacturers, importers, packers and distributors of transport and sales packaging, irrespective of the additional obligations of the final distributor pursuant to § 4, are obliged to take back transport packaging and sales packaging after use free of charge, provided it is not demonstrably directly delivered to a major accumulation point (§ 2, para. 7). The transport or sales packaging that is taken back or accumulated in the enterprise during one calendar year shall, at the latest by the end of the following calendar year, be returned to a preceding party obliged to accept returns or be re-used within the terms of § 2 para. 8, or recovered according to § 10 in an installation consistent with the latest technological standards. Transport and sales packaging made of untreated wood may also be used in approved fuel plants. Insofar as this is demonstrably delivered to major accumulation points and there is no participation in collection and recovery systems, manufacturers, importers, packers and distributors of transport and sales packaging shall notify the Minister for the Environment, Young People and the Family of this, broken down according to packaging material and quantity for the preceding calendar year, at the latest three months after the end of each calendar year in accordance with appendix 3.

(2) The obligation to take back transport packaging pursuant to para. 1 is limited to the packaging placed on the market by the manufacturer, importer, packer or distributor. On delivery of packaged goods to an end user, the transport packaging is to be taken back free of charge on demand immediately after delivery or on a following delivery without delay. In case of collection of packaged goods, the packaging may be left behind immediately or returned at a later date free of charge.

(3) Manufacturers, importers, packers and distributors are obliged to take back used sales packaging from the end user free of charge in or in the area of the point of delivery. The obligation is limited to packaging of the same type, form and size of products and goods currently distributed.

- (4) 1. Manufacturers and importers of service packaging  
2. Packers with regard to their own packaging which is not service packaging.  
3. Importers with regard to the packaging of their imported products or goods.

have until three months after the end of each calendar year to report the quantity of transport and sales packaging for the preceding calendar year (broken down according to packaging materials) with the Minister for the Environment, Young People and the Family.

(5) To the extent the obligors pursuant to para. 4 demonstrably participate in a collection and recovery system, the obligations pursuant to paras 1 to 4 devolve upon the operator of this system, also for the preceding and subsequent distribution stages.

(6) With regard to packaging for which the obligors referred to in para. 4 do not demonstrably participate in an existing collection and recovery system, either recognised for the purpose or pursuant to § 45 para. 11 of the Waste Management Act (AWG), or that there is an exception from the obligation to accept returned packaging with regard to specified packaging according to § 7, the obligors and all succeeding distribution stages referred to in para. 4 shall demonstrably

1. take measures for accepting back the packaging they have placed on the market,
2. accept back in the calendar year all packaging placed on the market by them that is not demonstrably re-used according to § 2 para. 8, and to recycle it according to the measures of § 10; this acceptance back is also to be complied with if a succeeding obligor recycles this packaging pursuant to the measures of § 10, and this is documented by the obligor referred to in para. 4; the certification of acceptance back is to be conducted annually, beginning in the first calendar year of 1997, structured according to packaging materials (§ 2 para. 6), no later than three months after the end of each calendar year, and shall include the specifications set out in Appendix 3; the certification is to be submitted or provided to the Minister for the Environment, Young People and the Family no later than three months after the end each calendar year for the preceding calendar year, and also at any time upon demand,
3. ensure that the end user is informed of the return as well as corresponding possibilities for return of the packaging, in particular through a notice on the packaging.

(7) As distinct from para. 5, if the obligors referred to in para. 4 do not participate in a collection and recovery system (§ 11), a preceding or subsequent distribution stage may also participate. In this case, the obligors referred to in para. 4 shall provide written evidence of legally operative participation in a collection and recovery system for the packaging placed on the market by them. Such certification concerning the respective packaging may be made in particular on the order documents or delivery papers. The terms of para. 5 apply.

(8) Should a subsequent distribution stage pursuant to para. 7 participate in a collection and recovery system, obligors referred to in para. 4 shall provide the recipient of the products and goods delivered with a breakdown of the packaging delivered according to type and quantity and in the appropriate form.

(9) Insofar as the obligors referred to in para. 4 have not produced the evidence pursuant to para. 6, they shall

1. provided that they have achieved a return of at least 50% of each packaging material – in relation to the quantity of packaging placed on the market by them – with regard to the difference in quantity between the return actually achieved and 90% of the packaging quantity placed on the market, or
2. provided that they have achieved a return of less than 50% of each packaging material – in relation to the quantity of packaging placed on the market by them – with regard to the difference in quantity between the actually achieved return and 100% of the packaging quantity placed on the market

participate retrospectively within three months of the end of each calendar year in a collection and recovery system (§ 11) that is recognised for this purpose or pursuant to § 45 para. 11 of the AWG, which offers collection and recovery services in the vicinity and functional context of the accumulation point. This participation shall be reported to the Minister for the Environment, Young People and the Family once a year, not later than three months after the end of each calendar year.

### **Final distributor**

§4. (1) Whoever delivers transportation or sales packaging (final distributor), also to the end-user, shall either demonstrably participate in a collection and recovery system for this packaging, or take measures as defined in § 3 para. 6, provided that no preceding manufacturer, importer, packer or distributor already participates in a collection and recovery system for the packaging delivered, and certifies this in writing. A final distributor who delivers to a major accumulation point is covered by § 3 para. 1.

(2) The legally binding declaration of the respective preceding manufacturer or distributor who provides for the fulfilment of the obligation to the declared extent serves as certification,

provided that the final distributor can assume that the preceding manufacturer or distributor actually participates in a recognised collection and recovery system. This legally binding declaration may be made in particular on the respective invoice or delivery note. Packaging or packaged products not covered by a collection and recovery system are to be listed according to type and quantity.

### **Smallest deliverer**

§ 5. As distinct from §§ 3 and 4, distributors and packers of transport packaging, grouped packaging and sales packaging, are not subject to the obligations pursuant to § 3 para. 1 final sentence, paras 4, 6 and 9 and § 4, provided that demonstrably

1. a total annual turnover of ATS 10m. is not exceeded, or
2. none of the following quantity thresholds of transport packaging, grouped packaging and sales packaging placed on the market is exceeded in the calendar year:

Packaging material	Quantity threshold
Paper, card, cardboard, corrugated cardboard.....	300 kg
Glass .....	800 kg
Metals.....	100 kg
Plastics.....	100 kg
Wood.....	100 kg
all remaining packaging materials in total .....	50 kg

This does not, however, apply to service packaging placed on the market by manufacturers or importers, to packaging first employed by packers that is not service packaging, and to the packaging of imported goods or products that is placed on the market by the importers. The obligations pursuant to § 3 paras 1 to 3, excepting § 3 para. 1, final sentence, remain valid for the smallest deliverers.

### **Promotion of returnable bindings**

§ 6. As distinct from § 3 para. 1 final sentence, paras 4, 6 and 9 as well as § 4,

1. packaging material and pallets that are currently intended for re-use and demonstrably carrying a deposit (returnable bindings), and
2. seals and labels jointly placed on the market with these packaging materials, provided the mass of these seals and labels does not amount to more than five per cent of the mass of the returnable binding

are not covered by the terms of the obligations here stated.

### **Exception clauses for specified packaging**

§ 7. (1) Manufacturers, importers, packers and distributors of long-lasting sales packaging within the terms of Appendix 2 are not subject to § 3 para. 1 final sentence, paras 4, 6 and 9, and § 4 with regard to this packaging

(2) Manufacturers, importers, packers and distributors of packaging that is soiled with hazardous waste within the terms of the Waste Management Act (AWG) or with adhesive in a way that prevents re-use or recovery or which makes re-use or recovery unreasonably difficult, are not subject to § 3 para. 1, paras 4, 6 and 9 and § 4 with regard to this packaging.

### **Major accumulation points**

§ 8. (1) Owners of enterprises may, under the condition that

1. these do not concern an establishment comparable to a private household, and
2. at least one of the following minimum quantities of packaging used within the framework of and for the purposes of the business are exceeded in the respective calendar year:

Minimum quantity of each packaging material in one calendar year	
Paper, card, cardboard, corrugated cardboard .....	80 t
Glass .....	300 t
Metals .....	100 t
Plastics .....	30 t

on registration of the quantity of packaging expected to be accumulated, which is to be broken down according to packaging materials for the next two calendar half years, apply to be entered in the registry of major accumulation points which is to be maintained by the Minister for the Environment, Young People and the Family (§ 7c para. 3 AWG).

(2) Owners of major accumulation points shall ensure that

1. an in-house registration and re-use or recovery of the accumulated packaging is guaranteed, and
2. the appropriate registrations pursuant to para. 4 take place.

In cases of recovery, the accumulated packaging is to be recycled, provided this is not unreasonable (§ 1 para. 2 AWG).

(3) Owners of major accumulation points have the same obligations and options for the packaging they have placed on the market as the obligors referred to in § 3 para 4.

(4) Owners of major accumulation points shall notify the Minister for the Environment, Young People and the Family of the packaging that has been accumulated and recovered after use or delivered for recovery for the previous calendar year no later than three months after the end of each calendar year, broken down according to packaging material.

### **Keeping of the register of major accumulation points**

§ 9. (1) The Minister for the Environment, Young People and the Family shall, on the basis of the registration pursuant to § 8 para. 1, open a register of major accumulation points and publish it for public examination. The register shall be updated on 1 April and 1 October of each year; the entries, alterations or deletions come into legal effect three months later respectively. The initial publication shall take place on 1 October 1997 and will come into legal effect on 1 January 1998.

(2) Should the Minister for the Environment, Young People and the Family ascertain, in particular on the basis of notifications pursuant to § 8 para. 1 and 4, that the conditions for a major accumulation point are not fulfilled, then this major accumulation point is not to be entered in the registry or is to be deleted from it. Deletion may take place upon application.

### **Recycling**

§ 10. In cases of recovery pursuant to § 3 para 1, manufacturers, importers, packers and distributors are obliged, provided it is not unreasonable (§ 1 para. 2 AWG), to take the returned packaging that has been accumulated in the workplace of the business into a recycling plant consistent with the latest technological standards in at least the following proportional mass related to the total transport and sales packaging (after separation from foreign materials and materials and packaging not subject to this order) demonstrably for each packaging material in total:

1. Paper, card, cardboard, corrugated cardboard .....	90%
2. Glass .....	93%
3. Ceramics .....	95%
4. Metals .....	95%
5. Plastics .....	40%
6. Cardboard composite drinks packaging.....	40%
7. Other composites .....	15%

### **Collection and recovery system**

**§ 11.** (1) A collection and recovery system for transport packaging or sales packaging shall ensure the collection and recovery of those packaging materials for which contracts with the obligors pursuant to §§ 3, 4 and 13 para. 3 have been concluded. Collection and recovery systems are obliged, within the limits of their area of activity laid down in their licence, to conclude contracts with the obligors referred to in § 3, insofar as the obligor so wishes and insofar as this is objectively justified.

(2) In the licence application pursuant to § 7a para. 2 AWG

1. the bases for the calculation of the envisaged tariffs for collection and recovery, as in particular the cost factors for collection, sorting, recovery and administration,
2. general particulars concerning the legal entity and all bearers of liability
3. the ownership structure, including a description of the business structure (in particular the ownership relations and the internal organisation) and
4. insofar as available, general terms of business

are in all cases to be provided.

(3) the collection of charges is to be carried out on the following principles:

1. Generally applicable charges related to packaging material or insofar as objectively justified, means of packaging or means of packaging groups, are to be calculated; in this way, all contracting parties are to be treated according to the same principles;
2. the charges are to be broken down on a transparent cost calculation in such a way that the costs of collection and recovery of specified packaging material or means of packaging or means of packaging groups are related to the total quantity of the corresponding packaging material, means packaging or means of packaging groups placed on the market, with regard to which participation in the system takes place.
3. Collection and recovery systems shall contractually ensure due participation of the contractors with regard to the control of collection of charges (complete registration of quantities and categorisation according to charges);
4. Systems for which a near-monopoly position has been established pursuant to § 7a AWG shall endeavour to ensure the highest possible participation quota.

(4) Insofar as collections are not made directly at the points of accumulation, collection points with sufficient intake capacity are to be established within reasonable distance of the respective accumulation points. The distance to the collection points shall not be greater than the respective regional average distance to supply outlets for goods of the type with which the packaging is associated.

(5) The collection and recovery system shall keep a registry of those business accumulation points from which packaging waste is taken in. Insofar as possible, a running record is to be kept of the quantities of packaging taken in, broken down according to packaging material. These records are to be held in safekeeping for a minimum of seven years and to be submitted to the authorities on demand.

(6) The use of resources shall take place on the principles of economy, efficiency and effectiveness. The allocation of collection capacities for segregated intake of packaging shall be carried out giving due consideration to

1. the population density or the distribution of accumulation points
2. the amount of packaging waste arising
3. the possibilities of exploitation for energy pursuant to para. 7 l. 1 final sentence, as well as
4. the optimisation with regard to recycling (§ 1 para. 2 l. 2 AWG).

(7) Insofar as collection and recovery systems take on obligations pursuant to § 3 para 5, insofar as the requirements of environmental protection and economic effectiveness are served and are reasonable, as distinct from the obligations pursuant to § 3 para. 1 and § 10, and giving due regard to the Regulation on the Setting of Targets for the Prevention and Recovery of Drinks Packaging and other Packaging, BGBl. No 646/1992, as amended BGBl. No. 649/1996, and to the possibilities and

costs of specific salvage corresponding to the requirements of recycling and to the financial burden on the system

1. the specific mass ratios of packaging materials (transport and sales packaging) salvaged, measured according to the total quantity of this packaging material with regard to which a participation in the system takes place, is to be established in the licence notification. In this case, the mass ratios are to be established so that at least 50% of the quantity of each packaging material with regard to which participation in the system takes place is salvaged, and thereby a corresponding proportion of the target achievement of the aims established in §§ 2 and 3 of the regulation on the establishment of targets for prevention and recovery of drinks packaging and other packaging BGBl. No. 646/1992 as amended BGBl. No. 649/1996, takes place. Packaging counts as salvaged by the system when it is, on the one hand, segregated waste, and, on the other, collected together with unsegregated waste, provided that this leads to the utilisation of the packaging for energy production in an incinerator plant, and that this is required for the attainment of proportional targets and that a corresponding contractual agreement covering costs exists; further, that packaging made of untreated wood for utilisation pursuant to § 3 para. 1 counts as salvaged.
2. the specific mass ratios of transport and sales packaging to be recycled, measured against the total quantity of packaging with regard to which participation in the system takes place, is to be established in the licence notification. The mass ratios are to be established so that (after separation from foreign materials such as materials and packaging not subject to this Regulation) at least 25% of the total quantity and at least 15% of each packaging material has been recycled.

(8) The operator of a collection and recovery system shall, as proof of due and proper business activity, provide the Minister for the Environment, Young People and the Family in all events by 10 April of the following year with:

1. Certification of the quantities collected for each collection group as well as the level of registration of each packaging material and the recovery quota of the total quantity of packaging in relation to that quantity of packaging with regard to which participation in the system takes place, in total as well as broken down according to packaging material as well as any misplaced waste;
2. a list of the quantities of packaging accepted from company accumulation points and from public collections, broken down according to packaging material and transport and sales packaging.
3. a list of the contractors, including name, address, trade, quantity of packaging with regard to which participation in the system took place, and whether and to what extent participation in the terms of § 3 para. 9 has taken place, broken down according to packaging materials, and
4. a progress report.

Further, a business report on the preceding calendar year shall be submitted by 10 September of each year. Notice of any changes in the ownership structure or the general terms of business shall be submitted in the appropriate form. Systems for which a near-monopoly position has been established according to § 7e of the AWG shall provide an audit report by a trustee company, in which the right and proper business management of the company as regards efficiency taking consideration of adherence to legal guidelines is to be scrutinised.

### **Obligations of manufacturers, importers, packers and distributors of grouped packaging**

§ 12. (1) Manufacturers, importers, packers and distributors of grouped packaging are obliged to take back free of charge after use the grouped packaging for which they are not the end users and which they have placed on the market. The grouped packaging that has been taken back or which has accumulated in the operation of the company within a calendar year shall, by the end of the following calendar year at the latest, be returned to any preceding party obliged to accept returns, or re-used under the terms of § 2 para. 8, or recovered according to § 10 in a plant consistent with the latest technical standards (§ 2 paras 9 and 10).

(2) The obligation for re-use or recovery may be fulfilled either by the obligors themselves or by a third party contracted for this purpose.

(3) The obligations pursuant to paras 1 and 2 apply to all levels of distribution from the final distributor to the domestic manufacturer or importer.

(4) On acquisition of the packed goods by the end user, the grouped packaging may be left free of charge at or in the area of the point of delivery.

(5) Should the end user not leave the grouped packaging behind on acquisition, then the regulations on sales packaging apply as appropriate.

### **Obligations of importers for own use**

§ 13. Where no party obliged to accept returns exists, end users who acquire packaging or packaged products or goods for the operation of their business (importers for own use) are obliged either

1.
  - a) to record the accumulated packaging and
  - b) to re-use under the terms of § 2 para. 8, or, for major accumulation points according to § 8 para. 2 or in other cases, to recover according to § 10 in a plant consistent with the latest technical standards, and
  - c) to maintain records for this packaging according to appendix 3, and
  - d) to submit or provide these to the Minister for the Environment, Young People and the Family at any time on demand or annually not later than three months after the end of the calendar year for the preceding two calendar half-years, or
2. provided that the business is not registered as a major accumulation point, to participate in a collection and recovery system with regard to the accumulated packaging.

### **Packaging Commission**

**3 14.** (1) A commission will be established in the Ministry for the Environment, Young People and the Family to advise the Minister for the Environment Young People and the Family on questions arising from the execution of this Regulation, in particular on the implementation of measures for prevention and on the organisation of collection and recovery of packaging waste, as well as serving as an advisory board under the terms of § 7a para. 4 of the AWG.

(2) The following are entitled to one representative member of the Commission respectively:

1. the Ministry for the Environment, Young People and the Family;
2. the Ministry for Economic Affairs;
3. the Ministry for Health and Consumer Protection;
4. the Austrian Association of Local Authorities;
5. the Austrian Association of Cities;
6. the Austrian Chamber of Commerce;
7. the Chamber of Workers and Employees;
8. the Presidential Conference of the Austrian Chamber of Agriculture;
9. the waste-disposal associations;
10. the provinces, and
11. the private waste-disposal companies

(3) The commission may consult further experts or informants according to need.

(4) The chair of the commission shall be held by the representative of the Ministry for the Environment, Young People and the Family. The vice-chair shall be the representative of the Ministry for Economic Affairs.

(5) The appointment and recall of the members and the respective deputy members of the commission is the responsibility of the Minister for the Environment, Young People and the Family. Appointment and recall of the representatives of the Ministry for Economic Affairs and the Ministry for Health and Consumer Protection requires the consent of the minister responsible. The representative of the waste disposal associations shall be appointed or recalled on the recommendation of the provinces, the representative of private waste-disposal companies on the recommendation of the Austrian Chamber of Commerce; the other representatives of the institutions referred to in para. 2 ll. 4 to 8 and 10 shall be appointed or recalled on the recommendation of the authorities they represent.

(6) The commission shall be quorate if all members have been properly invited and at least half are present. Decisions shall be made by simple majority. Tied votes shall be decided by the casting vote of the chair. Minority votes are to be included with the decision of the commission.

(7) The meetings of the commission shall be convened by the chair as the occasion demands. Each of the institutions referred to in para. 2 shall have the right to move the convening of a meeting, in which case the chair shall immediately convene a meeting to take place within two weeks.

(8) The commission may decide that confidentiality is to be maintained on its consultations and their underlying documents. Documents with the note "confidential" shall in any case be classified.

(9) Results of consultations shall be minuted. The keeping of the minutes shall be the responsibility of the Ministry for the Environment, Young People and the Family.

(10) More detailed definition of the running of business shall be regulated by standing orders decided by the commission.

(11) A sub-commission may be established for each province for the purposes of prior consultation. The chair and keeping of minutes shall be the responsibility of the province concerned.

### **Public information**

§ 15. (1) Collection and recovery systems shall inform the public in a suitable manner of the proper way of dealing with packaging waste (segregation and collection), the opportunities for return open to end users, the practicality of the proper returning of packaging waste and the possibilities of recovery.

(2) The Minister for the Environment, Young People and the Family shall inform the public in a suitable manner of the proper way of dealing with packaging waste (segregation and collection), of the obligations of manufacturers, importers, packers and distributors to accept returns, of the practicality of the proper returning of packaging waste and of the waste-management effects of non-returnable and returnable packaging systems.

## **SECTION II**

### **Return obligations for product remains**

§ 16. The regulations for sales packaging apply to disposable crockery and cutlery.

## **SECTION III**

### **Prohibition of mixing**

**§ 17.** (1) The putting of

1. packaging or disposable crockery or cutlery into collections not provided for these under the terms of this Regulation, or
2. packaging that is soiled with hazardous waste into collection and recovery systems in the terms of this Regulation, or
3. other waste that is not packaging, disposable crockery or cutlery into collection and recovery systems in the terms of this Regulation

is not permissible.

(2) As distinct from para. 1 ll. 2 and 3, the putting of this packaging, disposable crockery or cutlery or other waste into collection and recovery systems for packaging and product remains within the terms of this Regulation is permissible if the operator of the respective collection and recovery system expressly assents (§ 15 para. 1).

## SECTION IV

### **Provisional regulations**

**§ 18.** (1) The sales packaging made of plastics and composites that was collected in the calendar years 1993 and 1994 pursuant to the Packaging Regulation, BGBl. No. 645/1992, as amended BGBl. No. 457/1995 is to be recovered by 31 December 1996. The sales packaging made of plastics and composites that was collected in the calendar year 1995 is to be recovered by 30 June 1997.

(2) The certifications pursuant to § 3 para. 6, § 5 para. 7 and § 7 para. 3 of the Packaging Regulation, BGBl. No. 645/1992, as amended BGBl. No. 457/1995 for the period from 1 July 1996 to 30 November 1996 are to be furnished according to the Packaging Regulation, BGBl. No. 645/1992, as amended BGBl. No. 457/1995.

(3) The recovery of returned packaging in 1995 and 1996 pursuant to the Packaging Regulation BGBl. No. 645/1992, as amended BGBl. No. 457/1995 shall take place according to the provisions of and within the period fixed in the Packaging Regulation BGBl. No. 645/1992, as amended BGBl. 457/1995.

(4) As distinct from the provisions pursuant to § 1 paras 3 and 4, the placing on the market of packaging produced before 1 January 1995 is permissible until 1 January 2000.

### **Entry into force**

**§ 19.** (1) This Regulation enters into force on 1 December 1996.

(2) The Packaging Regulation BGBl. No. 645/1992, as amended BGBl. No. 457/1995, as well as the regulation of the Minister for the Environment, Young People and the Family concerning labelling of foodstuff packaging, BGBl. No. 515/1990, are repealed with the entry into force of this Regulation.

---

Bartenstein

Appendix 1

### **Packaging requirements**

In accordance with the standards to be published pursuant to Articles 9 and 10 of Directive 94/62/EC on Packaging and Packaging Waste of 20 December 1994, packaging shall comply with the following requirements. A separate announcement concerning these standards has been published in the Federal Law Gazette, which entails the following obligatory requirements:

## **1. Requirements specific to the manufacturing and composition of packaging**

- Packaging shall be so manufactured that the packaging volume and weight be limited to the minimum adequate amount to maintain the necessary level of safety, hygiene and acceptance for the packed product and for the consumer.
- packaging shall be designed, produced and commercialised in such a way as to permit its re-use or recovery, including recycling, and to minimise its impact on the environment when packaging waste or residues from packaging waste management operations are disposed of.
- Packaging shall be so manufactured that the presence of noxious and other hazardous substances and materials as constituents of the packaging material or of any of the packaging components is minimised with regard to their presence in emissions, ash or leachate when packaging or residues from management operations or packaging waste are incinerated or landfilled.

## **2. Requirements specific to the re-usable nature of packaging**

The following requirements must be simultaneously satisfied:

- the physical properties and characteristics of the packaging shall enable a number of trips or rotations in normally predictable conditions of use;
- possibility of processing the used packaging in order to meet health and safety requirements of the workforce;
- fulfil the requirements specific to recoverable packaging when the packaging is no longer re-used and thus becomes waste.

## **3. Requirements specific to the recoverable nature of packaging**

### **a) Recycling**

Packaging must be manufactured in such a way as to enable a certain percentage by weight of the materials used to be recycled into the manufacture of marketable products, in compliance with current standards in the Community. The establishment of this percentage may vary, depending on the type of material of which the packing is composed.

### **b) Recovery in the form of energy recovery**

Packaging waste processed for the purpose of energy recovery shall have a minimum inferior calorific value to allow optimisation of energy recovery.

### **c) Recovery in the form of composting**

Packaging waste processed for the purpose of composting shall be of such a biodegradable nature that it should not hinder the separate collection and the composting process or activity into which it is introduced.

### **d) Biodegradable packaging**

Biodegradable packaging waste shall be of such a nature that it is capable of undergoing physical, chemical, thermal or biological decomposition such that most of the finished compost ultimately decomposes into carbon dioxide, biomass and water.

**Appendix 2**

**Long-lasting packaging**

Packaging in the terms of this appendix is such as

1. serves demonstrably for the long-term use of a product that has been shown to have an average life of at least five years, and
2. will usually be disposed at the same time as the product after the end of its use.

These are, in particular:

- instrument cases
- CD cases
- camera bags
- leather holders
- audio-cassette cases
- warning-triangle cases
- record sleeves
- jewellery holders
- snow-chain cases
- toy boxes
- first-aid boxes
- video-cassette cases
- map holders
- tool boxes



**Certification of fulfilment of the obligations of the Regulation on Packaging  
(not applicable for licensed packaging)**

Company: ..... ..	Contact:	Branch (in all cases according to NACE code)
Address: ..... ..... ..	Company register No:	System No. (e.g. ARA No.):
Tel: Fax:	Calendar year:	

**Status of notification obligation**  
 Self-executor   
 Major accumulation point   
 Importer for own use   
 Supplier to a major accumulation point

Statements in kg or tonnes giving the respective unit	1 Quantity delivered to major accumulation points	2 Other non-licensed packaging placed on the market	3 Quantities taken back (salvaged)	4 Percentage return ratio	5 Quantity accumulated within the business	6 Quantities and those accepting them (respective quantities transferred to those obliged to accept returns, collectors, sorters, recoverers *)
Paper, card, cardboard, corrugated cardboard						
Glass						
Ceramics						
Metals						
Plastics						
Textile fibres						
Cardboard composite drinks packaging						
Other composites						
Wood						

Other packaging, in particular, organically based						
Total						

It is hereby certified that documentation substantiating these statements is being continuously maintained.

\*) in cases where there are several accepting parties for each packaging material, quantities are to be given on a separate sheet according to the accepting party.

Place, Date  
Company name



## Explanatory notes

The form is to be used by the following types of enterprise:

- suppliers to major accumulation points (breakdown of packaging delivered to major accumulation points pursuant to § 3 para. 1 final sentence)
- self-executors (obligatory notification pursuant to § 3 paras 4, 6 and 9)
- major accumulation points (obligatory notification pursuant to § 8 para. 4)
- importers for own use (obligatory notification pursuant to § 13)

### General information

**Company:** exact name of the business with the necessary address data including telephone number.

**Contact:** an authorised information contact is to be provided for further inquiries.

**Company number:** if the business is entered in the company register, the company number is to be provided.

**System number(s):** in cases of participation in a collection and recovery system, where a participation number or other clear identification number has been conferred by the system, then this number is also to be entered together with the name of the system. (Where several contracts exist with different system numbers, e.g. for service packaging and other packaging, then all appropriate numbers are to be provided.)

**Branches of industry:** statement of branch (e.g. clothing, furniture trade, etc.): the code corresponding to the EEC Regulation 3037/90 concerning the statistical system of branches of industry in the European Community may be provided in all cases. The group to be applied is the field of activity in which the major part of the total annual turnover takes place.

**Calendar year:** the calendar year to be entered is that for which the registration is valid.

**Status of obligatory notification:** the capacity in which the notification is made should be marked; multiple nominations are possible.

**General:** the quantities are to be clearly given according to specific packaging material (per line) and to be recorded by unit weight (kg or t).

**The following columns are in the form to be completed in full by those obliged to provide notification.**

	col. 1	col. 2	col. 3	col. 4	col. 5	col. 6
Supplier to a major accumulation point	X					
Self executor		X	X	X	X	X
Major accumulation point					X	X
Importer for own use					X	X

### To be completed by suppliers to a major accumulation point

Only column 1 to be completed.

Insofar as no participation in a collection in a collection and recovery system takes place, the total quantity of packaging delivered to major accumulation points is to be stated here, broken down according to packaging materials. This obligation also applies to manufacturers of packaging that is not service packaging.

### To be completed by self-executors of the obligations of the Regulation

Column 2:

The quantity of packaging placed on the market (passed on to customers) in the preceding calendar year is to be entered here, broken down according to packaging materials.

Quantities of packaging that have been delivered to major accumulation points are not to be entered.

Column 3:

The quantity of packaging taken back from or left by customers is to be entered (that quantity of packaging originating from suppliers and unpacked by the business itself, which thus accumulates in the company, may not be included). If this packaging is recovered at a later stage in its trading cycle according to § 10 and is documented to the obligor referred to in para. 4, then this also counts as having been salvaged.

Column 4:

The percentage of the return quota arising from the details in columns 2 and 3 is to be stated.

Should there be a difference between the respective packaging quantities of column 2 and the salvaged packaging quantities of column 3, then the following is to be taken into account for complementary quantity licensing:

- a) a return ratio of 90 per cent or over → no complementary quantity licensing is necessary.
- b) a return ratio of 50 to 90 per cent → a complementary quantity licensing is necessary to the extent of the difference up to 90 per cent is necessary.
- c) a return ratio of under 50 per cent → a complementary quantity licensing to the extent of the difference up to 100 per cent is necessary.

For the complementary quantities, participation in a collection and recovery system provided for the purpose must take place within three months of the end of each calendar year. The participating amounts are to be provided to the Minister for the Environment, Young People and the Family annually on an insert, broken down according to packaging materials and stating the system to which they are licensed.

Column 5:

The packaging quantities originating from self-imported products are to be entered. These result from the use or consumption of these products or from packaging components of these products that have been unpacked by the business itself. (Those quantities which become part of a collection and recovery system and which are transferred to a collector or recoverer contracted to a system are not to be here stated.)

Column 6:

The person or persons (exact company name and description, whether a supplier with obligations to accept returns, collector or recoverer) accepting the quantities of packaging (from columns 3 and 5) are to be entered. The supporting documents (the respective packaging quantities broken down according to packaging material on the specifications of the accepting person; delivery notes, acceptance acknowledgement, invoices etc.) shall be maintained in safekeeping in the business for seven years and submitted or provided to the authorities upon demand.

### **To be completed by major accumulation points**

Column 5:

To be entered in total are:

1. those quantities of packaging originating from self-imported products. These result from the use or consumption of these products or when packaging components of these products are unpacked by the company itself, and

2. those quantities of packaging originating from deliveries of domestic suppliers (regardless of whether licensed or unlicensed) and which are transferred for recovery on the notifying party's own responsibility and account.

Column 6:

The person or persons (exact company name and description, whether a supplier with obligations to accept returns, collector or recoverer) accepting the quantities of packaging (from column 5) are to be entered. The supporting documents (the respective packaging quantities broken down according to packaging material and the accepting person; delivery notes, acceptance acknowledgement, invoices etc.) shall be maintained in safekeeping in the business for seven years and submitted or provided to the authorities upon demand.

To be completed by importers for own use

Column 5:

That quantity of packaging originating from self-imported products and for which no participation in a system takes place are to be entered. These result from the use or consumption of these products or when packaging components of these products are unpacked by the company itself.

The person or persons (exact company name and description, whether a supplier with obligations to accept returns, collector or recoverer) accepting the quantities of packaging (from column 5) are to be entered. The supporting documents (the respective packaging quantities broken down according to packaging material and the accepting person; delivery notes, acceptance acknowledgement, invoices etc.) shall be maintained in safekeeping in the business for seven years and submitted or provided to the authorities upon demand.