

L.N. 98 of 2004

**ENVIRONMENT PROTECTION ACT
(CAP. 435)**

**Waste Management (Packaging and Packaging Waste)
Regulations, 2004**

IN exercise of the powers conferred by articles 9 and 11 of the Environment Protection Act, 2001, hereinafter referred as “the Act”, the Minister for Rural Affairs and the Environment has made the following regulations:-

1. (1) The title of these regulations is the Waste Management (Packaging and Packaging Waste) Regulations, 2004. Citation and commencement.

(2) Unless otherwise provided in the provisions of these regulations, these regulations shall come into force on such date as the Minister responsible for the environment may, by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of these regulations.

2. (1) These regulations provide additional measures, procedures and guidance to those in the Waste Management (Permit and Control) Regulations, 2001, which aim, as a first priority, at preventing the production of packaging waste and, as additional fundamental principles, at reusing packaging, at recycling and other forms of recovering packaging waste and, hence, at reducing the final disposal of such waste. Scope.

(2) These regulations shall apply to all packaging placed on the market in Malta and all packaging waste, whether it is used or released at industrial, commercial, office, shop, service, household or any other level, regardless of the material used, unless such packaging is expressly excluded from the application of these regulations. These regulations shall not apply to packaging not intended for placing on the market in Malta.

(3) These regulations shall, until 31st December, 2007, not apply to packaging of non-alcoholic beverages, as defined in Non-alcoholic Beverages (Control of Containers) Regulations, 1998. Until such date, such packaging shall continue to be regulated by the Non-alcoholic Beverages (Control of Containers) Regulations, 1998.

(4) After the 31st of December, 2007, all packaging, including non-alcoholic beverages, shall be regulated by these regulations which shall, in any case, apply without prejudice to any other existing laws or regulations.

(5) These regulations shall apply without prejudice to existing provisions, in particular with regard to quality requirements for packaging such as those regarding safety, the protection of health and the hygiene of the packed products or to existing transport requirements or to the provisions of the Waste Management (Permit and Control) Regulations, 2001.

Interpretation.

3. (1) In these regulations, unless the context otherwise requires:

“agreement” means the formal agreement concluded between the Competent Authority and the producers concerned, which has to be open to all partners who wish to meet the conditions of the agreement with a view to working towards the objectives of these regulations.

“authorised packaging waste recovery scheme” means a recovery scheme for packaging waste that is operated by a person that has a valid waste management permit under the Waste Management (Permit and Control) Regulations, 2001;

“categories of packaging” means glass, aluminium, steel, paper and fibreboard, plastics, wood and textiles, or such other categories as may be from time to time be specified by the Competent Authority. An item of packaging waste shall be deemed to be comprised of the constituent material which is proportionally largest by weight;

“Competent Authority” means the Malta Environment and Planning Authority and such other body or person as the Minister may by order in the Gazette, prescribe and different bodies or persons may be designated as the competent authority for different provisions and different purposes of these regulations;

“composite” means packaging made of different materials, and which cannot be separated by hand;

“to convert” means to use or modify packaging or packaging material in the production or formulation of packaging;

“energy recovery” means the use of combustible packaging waste as a means to generate energy through direct incineration with or without other waste but with recovery of the heat;

“filler” or “packer” means a person who puts goods into packaging, and “fill” and “pack” shall be construed accordingly;

“incidental presence” means the presence of a metal as an unintended ingredient of a packaging or packaging component;

“intentional introduction” means the act of deliberately utilising a substance in the formulation of a packaging or a packaging component where its continued presence is desired in the final packaging or packaging component to provide a specific characteristic, appearance or quality and “intentionally introduced” shall be construed accordingly. The use of recycled materials as feedstock for the manufacture of new packaging materials, where some portion of the recycled materials may contain amounts of regulated metals, is not considered intentional introduction;

“Minister” means the Minister responsible for the environment;

“organic recycling” means the aerobic (composting) or anaerobic (biomethanization) treatment, under controlled conditions and using microorganisms, of the biodegradable parts of packaging waste, which produces stabilized organic residues or methane. Landfill shall not be considered a form of organic recycling;

“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. “Non-returnable” items used for the same purposes shall also be considered to constitute packaging;

“packaging” consists only of –

(a) sales packaging or primary packaging, which is 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, which is 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; it can be removed from the product without affecting its characteristics;

(c) transport packaging or tertiary packaging, which is 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. Transport packaging does not include road, rail, ship and air containers;

“packaging waste” means any packaging or packaging material covered by the definition of waste in the Waste Management (Permit and Control) Regulations, 2001, excluding production residues;

“prevention” means the reduction of the quantity and of the harmfulness for the environment of:

- materials and substances contained in packaging and packaging waste,

- packaging and packaging waste at production process level and at the marketing, distribution, utilization and elimination stages,

in particular by developing “clean” products and technology;

“producer” means a person who for the purpose of trade or otherwise in the course of business, imports, manufactures, converts, distributes, fills, packs, sells or otherwise supplies to other persons or otherwise puts on the Maltese market packaging material or packaging, or packaged products; and “produce” shall be construed accordingly;

“product loops which are in a closed and controlled chain” means product loops in which products circulate with a controlled reuse and distribution system and in which the recycled material originates only from these entities in the chain so that the introduction of external material is just the minimum technically feasible and from which these entities may only be removed in a specially authorised procedure so that return rates are maximised;

“recycling” means the reprocessing in a production process of the waste materials for the original purpose or for other purposes including organic recycling but excluding energy recovery;

“reuse” means any operation whereby packaging, which has been conceived and designed to accomplish within its life cycle a minimum number of trips or rotations, is refilled or used for the same purpose for which it was conceived, with or without the support of auxiliary products present on the market enabling the packaging to be refilled; such reused packaging will become packaging waste when no longer subject to reuse;

“seller” means a person who supplies packaging to a user or a consumer of that packaging, whether or not the filling of the package has taken place at the time of the supply, and “sell” shall be construed accordingly.

(2) All other terms shall have the same meaning as that assigned to them in regulation 2 of the Waste Management (Permit and Control) Regulations, 2001.

4. (1) Producers shall import, manufacture, supply or use packaging material and packaging only if it complies with all essential requirements defined by these regulations .

Essential requirements of packaging.

(2) Packaging shall be deemed to comply with the essential requirements of Schedule 1 to these regulations if it complies with Maltese standard MSA EN 13428::2000 or MSA EN 13432::2000. Users of Maltese standard MSA EN 13428::2000 shall note that this standard does not cover the essential requirements of the said Schedule, as specified in the first and third indents of the said Schedule.

(3) Sub-regulation (1) hereat does not apply to packaging that was used for a given product prior to the 31st December, 1999.

5. (1) Producers shall not import, manufacture, supply or use packaging material and packaging if the aggregate concentrations of lead, cadmium, mercury and hexavalent chromium present in each packaging material or packaging exceeds 100 parts per million (ppm) by weight.

Concentration levels of regulated metals in packaging.

(2) The concentration levels referred to in sub-regulation (1) hereat shall not apply to packaging entirely made of lead crystal glass as defined in the relevant regulations.

6. (1) Without prejudice to regulation 5 of these regulations, plastic crates and plastic pallets shall, until the 8th February, 2009, be allowed to exceed the limits of 100 ppm by weight of the sum of the concentration levels of lead, cadmium, mercury and hexavalent chromium. This provision applies exclusively to plastic crates and plastic pallets used in product loops which are in a closed and controlled chain.

(2) Plastic crates and plastic pallets referred to in sub-regulation (1) hereat shall have been:

(a) manufactured in a controlled recycling process, in which the recycled material originates only from other plastic crates or plastic pallets and in which the introduction of external material is just the minimum technically feasible, up to a maximum of 20% by weight. Returned entities that are no longer reusable shall be treated in accordance with paragraph (b) hereof:

Provided that no lead, cadmium, mercury or hexavalent chromium shall be intentionally introduced as an element during the manufacture or distribution as opposed to the incidental presence of any of these elements:

Provided further that the plastic crate or plastic pallet to which this derogation applies may only exceed the concentration limits as a result of the addition of recycled materials;

(b) introduced in a controlled distribution and reuse system complying with the following conditions:

(i) new plastic crates or pallets containing the regulated metals shall be identified in a permanent and visible way,

(ii) the producer establishes to the satisfaction of the Competent Authority a system of inventory and record keeping, including a method of regulatory and financial accountability, to document the compliance with this derogation including the return rates, that is the percentage of returnable entities which are not discarded after use but are returned to the manufacturer or packer and, or filler or an authorised representative. Such return rate shall be as high as possible and shall in no case be lower than 90% over the life cycle of the plastic crates or plastic pallets. The system shall account for all the reusable entities put into, and removed from service,

(iii) all returned entities that are no longer reusable shall be either disposed of by a procedure specifically authorised by the Competent Authority or be recycled in a recycling process, in which the recycled material is made up of plastic crates or plastic pallets in the circuit, and the introduction of external material is the minimum technically feasible, up to a maximum of 20% by weight,

(iv) the person who places the product on the market shall draw up and submit to the Competent Authority on an annual basis a written declaration of conformity, including an annual report demonstrating how the conditions of this derogation have been complied with. Possible changes to the system and to authorised representatives shall be contained therein,

(v) the person who places the product on the market shall make this documentation at the disposal of the Competent Authority for inspection purposes for at least four years.

7. Without prejudice to regulation 5 hereat, glass packaging shall, until the 30th June, 2006, be allowed to exceed the limit of 100 ppm by weight of the sum of the concentration levels of lead, cadmium, mercury and hexavalent chromium. Derogation for glass packaging.

Provided that:

(a) no lead, cadmium, mercury or hexavalent chromium shall be intentionally introduced during the manufacturing process. The packaging material may only exceed the concentration limits because of the addition of recycled materials;

(b) where the average heavy metals concentrations levels on any twelve consecutive monthly controls made from the production of each individual glass furnace, representative of normal and regular production activity, exceeds the 200 ppm limit, the manufacturer or this authorised representative who places the product on the Market shall submit a report to the competent authority;

(c) such report as is mentioned in paragraph (b) of this proviso shall provide information as to:-

- measure values,

- description of measurement methods employed,
- suspected sources for the presence of heavy metals concentration levels,
- detailed description of the measures taken to reduce the heavy metals concentration levels;

(d) measurement results from production sites and measurement methods employed shall be made available at any time to the Competent Authority if requested.

Recovery and
Recycling targets.

8. The Competent Authority shall, in consultation with producers and industry organisations and as the Minister may prescribe, take such measures, it may deem appropriate for the following targets to be attained: :

(a) by the 1st May, 2004:

(i) 20% as a minimum and 65% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recovered; and

(ii) 18% as a minimum and 45% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recycled with a minimum of 25% by weight for glass contained in packaging waste, 27% by weight for metals contained in packaging waste, 5% by weight for plastics contained in packaging waste, 25% by weight for paper and board contained in packaging waste.

(b) by the 31st December, 2004:

(i) 27% as a minimum and 65% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recovered; and

(ii) 21% as a minimum and 45% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recycled with a minimum of 30% by weight for glass contained in packaging waste, 31% by weight for metals contained in packaging waste, 5% by weight for plastics contained in packaging waste, 30% by weight for paper and board contained in packaging waste;

(c) by the 31st December, 2005:

(i) 28% as a minimum and 65% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recovered; and

(ii) 25% as a minimum and 45% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recycled with a minimum of 35% by weight for glass contained in packaging waste, 34% by weight for metals contained in packaging waste, 5% by weight for plastics contained in packaging waste, 35% by weight for paper and board contained in packaging waste.

(d) by the 31st December, 2006:

(i) 34% as a minimum and 65% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recovered; and

(ii) 29% as a minimum and 45% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recycled with a minimum of 43% by weight for glass contained in packaging waste, 38% by weight for metals contained in packaging waste, 7% by weight for plastics contained in packaging waste, 42% by weight for paper and board contained in packaging waste;

(e) by the 31st December 2007:

(i) 41% as a minimum and 65% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recovered; and

(ii) 35% as a minimum and 45% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recycled with a minimum of 50% by weight for glass contained in packaging waste, 41% by weight for metals contained in packaging waste, 10% by weight for plastics contained in packaging waste, 50% by weight for paper and board contained in packaging waste;

(f) by the 31st December, 2008:

(i) 47% as a minimum and 65% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recovered; and

(ii) 41% as a minimum and 45% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recycled with a minimum of 55% by weight for glass contained in packaging waste, 46% by weight for metals contained in packaging waste, 13% by weight for plastics contained in packaging waste, 60% by weight for paper and board contained in packaging waste;

(g) by the 31st December, 2009:

(i) 51% as a minimum and 65% as a maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recovered; and

(ii) 45% as a minimum and maximum by weight of all packaging waste resulting from packaging and packaging material put on the market be recycled with a minimum of 60% by weight for glass contained in packaging waste, 50% by weight for metals contained in packaging waste, 15% by weight for plastics contained in packaging waste, 65% by weight for paper and board contained in packaging waste.

Database for packaging.

9. The Competent Authority shall maintain a database containing annual records about packaging and packaging waste according to the format specified in Schedule 2 to these regulations.

Powers of the Competent Authority.

10. The Competent Authority, in consultation with producers and industry organisations and as the Minister may prescribe, may take such measures it may deem appropriate in order to: -

(i) implement systems intended for the recovery, re-use or recycling of packaging and packaging waste;

(ii) implement programmes to reduce the formation of packaging waste;

(iii) implement reuse systems of packaging, which can be reused in an environmentally sound manner in accordance with these and other relevant regulations;

(iv) implement systems intended for the use of materials obtained from recycled packaging waste for the manufacturing of packaging and other products;

(v) conduct information campaigns for users or consumers and producers of packaging on :

(a) the measures and targets referred to in these regulations,

(b) the return, collection and recovery systems available to them,

(c) their role in contributing to reuse, recovery and recycling of packaging and packaging waste,

(d) the meaning of markings on packaging existing on the market,

(e) the appropriate elements of the management plans for packaging and packaging waste as referred to in these regulations.

11. Without prejudice to other existing laws and regulations, the Competent Authority shall not impede the placing on the market of packaging that satisfies the provisions of these regulations.

Freedom to place on the market.

12. The Competent Authority may charge producers such fees as necessary to cover the costs of the administration of these regulations.

Charging of fees by the Competent Authority.

13. (1) The Competent Authority may, with respect to packaging waste arising from their activities, require any producer to:

Producers of packaging.

(i) provide adequate facilities at their premises or at other designated areas or premises for the deposition of packaging by customers at no net cost to the latter, and for the reception, segregation and storage of packaging waste;

(ii) display a notice on such areas or premises indicating that packaging waste of the type placed on the market by the producer will be accepted, free of charge;

(iii) accept from any person, packaging waste of the type of packaging or packaged product supplied by that producer;

(iv) arrange for the collection of packaging waste from any other producer to whom packaging or packaged products are supplied by the producer;

(v) arrange for the waste packaging so accepted and/or collected to be:

(a) taken back by a supplier of such packaging, or

(b) recovered by the producer or by an operator of an authorised packaging waste recovery scheme,

or

(c) made available for recycling or recovery, namely that it is segregated, offered to recyclers or recoverers and stored pending collection by a recycler or recoverer.

(2) No producer shall dispose of such packaging waste without first making it available for reuse or recovery.

Records.

14. The Competent Authority may require any producers to keep three-year records in relation to packaging produced and packaging waste reused or recovered at each premises, by weight for each category of material specified.

Packaging declaration.

15. (1) Notwithstanding the provisions of regulation 13, the Competent Authority may request a producer to provide it with a packaging declaration for the previous six months, which shall include the following information:

(i) names and addresses of producers who took back packaging material;

(ii) weights of packaging in each category put on the market;

(iii) weights of packaging waste in each category taken back at each premises;

(iv) a description of the system provided for the acceptance, at no net cost to the consumer, segregation, storage and transportation of the packaging waste;

(v) details of any deposit-refund scheme or other scheme adopted in order to ensure the return of packaging by consumers;

(vi) how the packaging waste in each category was reused, recovered and, or recycled, and how the balance was disposed of;

(vii) how the consumers were informed of his packaging waste collection service;

(viii) information about concentration levels of lead, cadmium, mercury and hexavalent chromium present in packaging, and the presence of noxious and other hazardous substances and materials as defined in any existing laws and regulations;

(ix) information about packaging waste considered as hazardous due to contamination by product contents, in particular if it is not suitable for recovery;

(x) a description of how the above data has been compiled, indicating any estimations used in the calculation of the quantities and rates of packaging waste recovered and recycled and of the rates of reuse;

(xi) any other additional relevant information as required by the Competent Authority.

(2) The Competent Authority may specify the format in which such information is to be made available.

(3) The Competent Authority shall make these reports available in accordance with the Freedom of Access to Information on the Environment Regulations, 2001.

L.N. 217 of 2001.

16. The Competent Authority may exempt a producer from all or part of these regulations provided the producer provides evidence to the Competent Authority of participating in an authorised packaging waste recovery scheme.

Participation in a packaging waste recovery scheme.

17. (1) If a producer chooses to make use of an existing authorised waste recovery scheme, he shall be required to submit to the Competent Authority a signed agreement with the operator of the authorised waste recovery scheme to prove that the scheme complies with the provisions of these regulations.

Signed agreement with operator of a packaging waste recovery scheme.

(2) The operator of the packaging waste recovery scheme referred to in sub-regulation (1) of this regulation shall :

(i) bind himself to carry out the activities agreed to and on behalf of the producer in accordance with any existing laws and regulations,

(ii) provide the Competent Authority every six months with the information referred to in sub-regulation (1) of regulation 15 as it applies mutatis mutandis to the producer, and

(3) The Competent Authority may specify the format in which such information is to be made available.

(4) The Competent Authority shall make this information available in accordance with the Freedom of Access to Information on the Environment Regulations, 2001.

L.N. 217 of 2001.

Marking and identification system.

18. (1) Producers shall ensure that the nature of any packaging material used is indicated on the packaging for the purposes of its identification and classification in order to facilitate the collection, reuse and recovery including recycling of packaging waste.

(2) Producers shall ensure that packaging bears the appropriate marking either on the packaging itself or on the label according to any existing laws and regulations. Such marking shall be clearly visible and easily legible, appropriately durable and lasting, even when the packaging is opened.

Duty of users and consumers of packaging.

19. The users and consumers of packaging and the holders of packaging waste shall cooperate with, and participate in any system set up for the reuse, recovery and recycling of packaging waste. Accordingly, they shall segregate, deposit and return packaging as required by the system.

Permit required by operators of packaging waste recovery schemes.

20. (1) Persons who intend to operate a packaging waste recovery scheme as required under these regulations, including the collection, sorting, storage, export, recovery and recycling of packaging waste on behalf of producers shall require and obtain a valid permit from the Competent Authority in terms of the Waste Management (Permit and Control) Regulations, 2001.

Application for permit to operate a packaging waste recovery scheme.

(2) Without prejudice to the Waste Management (Permit and Control) Regulations, 2001, in applying for such a permit, any such person shall provide the Competent Authority with the following information as applicable:

(a) a copy of the memorandum and articles of association;

(b) a copy of a valid development permit issued under the Development Planning Act;

(c) a description of the proposed system which will provide for the acceptance, at no net cost to the consumer, segregation, storage and transportation of the packaging waste;

(d) details of any deposit-refund scheme or other scheme adopted in order to ensure the return of packaging by consumers;

(e) a financial plan in relation to the proposed scheme;

(f) annual weights of packaging waste in each category to be reused, recovered and recycled;

(g) annual packaging waste recovery targets to be achieved under the proposed scheme;

(h) proposals for determining and verifying the level of recovery of packaging waste under the proposed scheme, including estimations and assumptions to be made in this process;

(i) proposals for the certification of producers who will make use of this scheme;

(j) proposals of how the information in regulation 15 hereof will be compiled and made available to the Competent Authority;

(k) any other relevant information requested by the Competent Authority.

(3) The Competent Authority may specify the format in which such information is to be made available.

(4) The Competent Authority shall make this information available in accordance with the Freedom of Access to Information on the Environment Regulations, 2001.

L.N. 217 of 2001.

21. The services offered by operators of packaging waste recovery schemes shall:

Services offered by scheme operators.

(a) be available to producers of the sectors concerned and open to the participation of the competent authority under non-discriminatory conditions and shall be designed so as to

avoid any barriers to trade or distortions of competition in conformity with the relevant regulations; and

(b) take into account, in particular, requirements regarding the protection of environmental and consumer health, safety and hygiene, the protection of the quality, the authenticity and the technical characteristics of the packed goods and materials used; and the protection of industrial and commercial property rights.

Agreements.

22. (1) For the purposes of achieving the objectives, and satisfying the provisions of these regulations, economic operators may be parties to agreements with the Competent Authority. Such agreements shall specify the detailed rules of implementation of these regulations.

(2) Moreover:

(a) these agreements shall be enforceable at law;

(b) they shall specify the objectives with the corresponding deadlines;

(c) they shall be published in the Gazette;

(d) the results achieved under an agreement shall be monitored regularly, reported to the competent authorities and made available to the public under the conditions set out in the agreement;

(e) the competent authorities shall make provisions to examine the progress reached under an agreement.

Offences under these regulations.

23. Any person shall be guilty of an offence under these regulations if:

(a) he fails to comply with any provision of these regulations or fails to comply with permit conditions or with any order lawfully given in terms of any provision of these regulations; or

(b) he contravenes any restriction, prohibition or requirement imposed by or under these regulations; or

(c) he acts in contravention of any of the provisions of these regulations; or

(d) he conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or to fail to comply with any such provisions (including any order lawfully given in terms of any of the provision of these regulations) or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

24. Any person who commits an offence against these regulations shall, on conviction, be liable: Penalties.

(a) on a first conviction, to a fine (multa) of not less than five hundred Maltese liri (Lm500), but not exceeding one thousand Maltese liri (Lm1,000);

(b) on a second conviction or subsequent convictions, to a fine (multa) of not less than one thousand Maltese liri (Lm1,000), but not exceeding two thousand Maltese liri (Lm2,000), or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Provided that whenever any person is found guilty of committing an offence under these regulations by means of a vehicle, the owner of the said vehicle, where applicable, is held liable in the same manner and degree:

Provided further that the court may order any person who has been found guilty of committing an offence against these regulations to pay for the expenses incurred by the Competent Authority mentioned in these regulations as a result of the said offence, the revocation of the permit issued by the Competent Authority and the confiscation of the corpus delicti, including the vehicle, if applicable.

25. (1) The provisions of articles 23 and 30 of the Criminal Code shall, mutatis mutandis, apply to proceedings in respect of offences against these regulations, so however that the disqualification from holding or obtaining a licence, permit or authority shall in no case be for less than one year. Applicability of Cap. 9.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be held before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

B 1016

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations.

SCHEDULE 1

ESSENTIAL REQUIREMENTS ON THE COMPOSITION AND THE REUSABLE AND RECOVERABLE, INCLUDING RECYCLABLE, NATURE OF PACKAGING

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 commercialized in such a way as to permit its reuse or recovery, including recycling, and to minimize 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 minimized 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 reusable 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 for the workforce,

- fulfil the requirements specific to recoverable packaging when the packaging is no longer reused and thus becomes waste.

3. Requirements specific to the recoverable nature of packaging:

(a) Packaging recoverable in the form of material recycling

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

(b) Packaging recoverable in the form of energy recovery

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

B 1018

(c) Packaging recoverable 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.

SCHEDULE 2**DATA TO BE INCLUDED BY THE COMPETENT AUTHORITY IN ITS
DATABASE ON PACKAGING AND PACKAGING WASTE****(IN ACCORDANCE WITH TABLES 1 TO 5)****Table 1: Quantity of packaging placed on the market within Malta, tonnes**

Material		Production of empty packaging	Imports (empty packaging plus filled packaging)	Exports (empty packaging plus filled packaging)	Quantity placed on the market
(1)		(2)	(3)	(4)	(5)
GLASS					
PLASTIC	PET				
	PE				
	PVC				
	PP				
	PS				
	Other				
	Total				
PAPER & FIBREBOARD					
METALS	Steel				
	Aluminium				
	Total				
COMPOSITES					
WOOD					
OTHER					
TOTAL					

NOTE: Shaded boxes are to be completed on a voluntary basis.

- Columns 2, 3 and 4 are to be completed in case the methodology used to complete column 5 refers to production and to imports and exports statistics
- Columns 3 and 4 may be split into empty and filled packaging
- The data referring to the split into different plastic categories, to the split of metals into steel and aluminium, to the item on composites and to the item on wood are to be compiled on a voluntary basis
- Data on composites may be either included according to the predominant material by total weight or separately specified.

SCHEDULE 2 (continued)

Table 2: Reusable packaging

Material	Type of packaging	Product	Quantity of product in reusable packaging	Total quantity of product in reusable and in same type one way packaging	Units of reusable in circulation	Mean annual trip figure	Life time	Units of same type packaging put on the market	
GLASS	bottles	drinks							
		other							
	containers								
PLASTICS	Drums – barrels >20L <250L	Food							
		Non-food							
	Barrels >250 L	Food							
		Non-food							
	Big bags								
	Bottles	Drinks							
		Other							
	Boxes								
	Containers								
	Crates								
Pallets									
FIBREBOARD	Bottles								
	Barrels								
	Containers								
	Pallets								
METALS	aluminium	Containers drums <50 L	Food						
			Non-food						
		Containers drums >50 L - <300L	Food						
			Non-food						
	steel	Containers drums <50 L	Food						
			Non-food						
		Containers drums >50 L - <300L	Food						
			Non-food						
WOOD	Boxes								
	Crates								
	Drums								
	Pallets-boxes								

NOTE: Black boxes are considered not relevant in all cases. Shaded boxes are to be completed on a voluntary basis.

The table is intended only for those product and/or packaging categories which are considered by the Competent Authority relevant in the context of the reuse of packaging.

Accordingly, the columns on packaging types and products intended to encompass the potentially relevant ones in the reuse area, but only those items pertinent in the context of the national reuse systems are to be filled. If necessary the headings may be adapted to the actual systems.

If the data is available the general items drinks/food/non-food may be split into generic elements such as mineral water, soft drinks, milk, alcoholic beverages, meat, fish, detergent powder, etc.

The data to be provided and their accuracy should be in line with their availability and the costs involved and may be adapted to local situations.

'Units in circulation': means the number of units circulating in the return scheme

'Annual trip figure': means the average annual number of rotations the units accomplish

Quantities relating to drinks/liquids will be given in Litres, and in Kilograms in all cases.

SCHEDULE 2 (continued)

Table 3: Quantities of packaging waste (in tonnes) arising and managed in Malta

Material		Total	Sorted for recycling	Recovered by						Disposed by	
				Organic recycling	Other forms of recycling	Total recycling	Energy recovery	Other forms of recovery	Total recovery	Incineration	Landfill
GLASS											
PLASTIC	PE I										
	PE										
	PVC										
	PP										
	PS										
	Other										
	Total										
PAPER & FIBREBOARD											
METALS	Aluminium										
	Steel										
	Total										
COMPOSITES											
WOOD											
OTHER											
TOTAL											

NOTE: Black boxes are considered not relevant in all cases. Shaded boxes are to be completed on a voluntary basis.

The data to be included concerning the weight of packaging waste recycled or recovered refer to the inputs of packaging waste to an effective recycling or recovery process.

Only waste originating from packaging placed on the market may be considered for the calculation of these inputs, excluding any kind of production residues from the production of packaging or of packaging materials or from any other production process.

The split of data on organic recycling, other forms of recycling, energy recovery and other forms of recovery, incineration and landfill, as well as the data required under the column heading “sorted for recycling”, shall be made on a voluntary basis.

The provision of data required in the columns headed “total”, “total recycling” and “total recovery” shall be obligatory. The packaging materials for which the provision of data is obligatory shall be glass, plastics, paper and fibreboard and metals.

SCHEDULE 2 (continued)

Table 4: Monitored quantities of packaging waste (in tonnes) arising within Malta and recovered outside Malta

Material		Recovered by					Total recovery
		Organic recycling	Other forms of recycling	Total recycling	Energy recovery	Other forms of recovery	
GLASS							
PLASTIC	PET						
	PE						
	PVC						
	PP						
	PS						
	Other						
Total							
PAPER & FIBREBOARD							
METALS	Aluminium						
	Steel						
	Total						
COMPOSITES							
WOOD							
OTHER							
TOTAL							

NOTE: Black boxes are considered not relevant in all cases. Shaded boxes are to be completed on a voluntary basis.

The data to be included concerning the weight of packaging waste recycled or recovered refer to the inputs of packaging waste to an effective recycling or recovery process.

Only waste originating from packaging placed on the market may be considered for the calculation of these inputs, excluding any kind of production residues from the production of packaging or of packaging materials or from any other production process.

The split of data on organic recycling, other forms of recycling, energy recovery and other forms of recovery, incineration and landfill, as well as the data required under the column heading “sorted for recycling”, shall be made on a voluntary basis.

The provision of data required in the columns headed “total”, “total recycling” and “total recovery” shall be obligatory. The packaging materials for which the provision of data is obligatory shall be glass, plastics, paper and fibreboard and metals.

SCHEDULE 2 (continued)**Table 5: Monitored quantities of packaging waste (in tonnes) arising outside Malta and recovered in Malta**

Material		Recovered by					
		Organic recycling	Other forms of recycling	Total recycling	Energy recovery	Other forms of recovery	Total recovery
GLASS							
PLASTIC	PET						
	PE						
	PVC						
	PP						
	PS						
	Other						
	Total						
PAPER & FIBREBOARD							
METALS	Aluminium						
	Steel						
	Total						
COMPOSITES							
WOOD							
OTHER							
TOTAL							

NOTE: Black boxes are considered not relevant in all cases. Shaded boxes are to be completed on a voluntary basis.

The data to be included concerning the weight of packaging waste recycled or recovered refer to the inputs of packaging waste to an effective recycling or recovery process.

Only waste originating from packaging placed on the market may be considered for the calculation of these inputs, excluding any kind of production residues from the production of packaging or of packaging materials or from any other production process.

The split of data on organic recycling, other forms of recycling, energy recovery and other forms of recovery, incineration and landfill, as well as the data required under the column heading "sorted for recycling", shall be made on a voluntary basis.

The provision of data required in the columns headed "total", "total recycling" and "total recovery" shall be obligatory. The packaging materials for which the provision of data is obligatory shall be glass, plastics, paper and fibreboard and metals.