

---

STATUTORY INSTRUMENTS

---

**2004 No. 1188**

**The Packaging (Essential Requirements)  
(Amendment) Regulations 2004**

**Amendments to the Packaging (Essential Requirements) Regulations 2003**

2.—(1) In regulation 2(2), for the definition of “packaging” there shall be substituted the following definition:

““packaging” means all products made of any materials of any nature to be used for the containment, protection, handling, delivery and presentation of goods, from raw materials to processed goods, from the producer to the user or the consumer, including non-returnable items used for the same purposes, but only where the products are—

- (a) sales packaging or primary packaging, that is to say packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase;
- (b) grouped packaging or secondary packaging, that is to say packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units whether the latter is sold as such to the final user or consumer or whether it serves only as a means to replenish the shelves at the point of sale, and which can be removed from the product without affecting its characteristics; or
- (c) transport packaging or tertiary packaging, that is to say packaging conceived so as to facilitate handling and transport of a number of sales units or grouped packagings in order to prevent physical handling and transport damage; for the purposes of these Regulations transport packaging does not include road, rail, ship and air containers;

Provided that—

- (i) items shall be considered to be packaging if they fulfil the above definition without prejudice to other functions which the packaging might also perform, unless the item is an integral part of a product and it is necessary to contain, support or preserve that product throughout its lifetime and all elements are intended to be used, consumed and disposed of together;
- (ii) items designed and intended to be filled at the point of sale and disposable items sold, filled or designed and intended to be filled at the point of sale shall be considered to be packaging provided they fulfil a packaging function;
- (iii) packaging components and ancillary elements integrated into packaging shall be considered to be part of the packaging into which they are integrated. Ancillary elements hung directly on, or attached to, a product and which perform a packaging function shall be considered to be packaging unless they are an integral part of that product and all elements are intended to be consumed or disposed of together.

Schedule V lists illustrative examples of packaging stated in the Annex of Directive [2004/12/EC](#) of the European Parliament and of the Council amending Directive [94/62/EC](#) on packaging and packaging waste (1);”.

(2) In Schedule II, sub-paragraph 1(c), for “regulation 7” there shall be substituted “regulation 6.”.

(3) In Schedule III, sub-paragraph 1(b), for “regulation 7” there shall be substituted “regulation 6”.

(4) After Schedule IV there shall be inserted Schedule V as follows:

“SCHEDULE V

(Regulation 2(1) and (4))

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

Illustrative examples for criterion (i)

**Packaging**

Sweet boxes

Film overwrap around a CD case

**Non-packaging**

Flower pots intended to stay with the plant throughout its life

Tool boxes

Tea bags

Wax layers around cheese

Sausage skins

Illustrative examples for criterion (ii)

**Packaging, if designed and intended to be filled at the point of sale**

Paper or plastic carrier bags

Disposable plates and cups

Cling film

Sandwich bags

Aluminium foil

**Non-packaging**

Stirrer

Disposable cutlery

Illustrative examples for criterion (iii)

**Packaging**

Labels hung directly on or attached to a product

**Part of packaging**

Mascara brush which forms part of the container closure

Sticky labels attached to another packaging item

Staples

Plastic sleeves

Device for measuring dosage which forms part of the container closure for detergents.”

