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DRAFT STATUTORY INSTRUMENTS

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**2023 No.**

**The Packaging Waste (Data Reporting)  
(England) Regulations 2023**

**PART 1**

**General**

**Packaging and packaging categories**

**6.—**(1) “Packaging”, for the purposes of these Regulations, 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) 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) 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 supplied 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 the product’s characteristics;
- (c) tertiary packaging, which is packaging conceived so as to facilitate handling and transport of a number of sales units or secondary packagings in order to prevent damage from physical handling and transport damage, and for the purposes of these Regulations, tertiary packaging does not include road, rail, ship and air containers;
- (d) shipment packaging, which is packaging, added in addition to primary packaging, on items which are sold online or by mail order which are either delivered direct to the purchaser or collected by the purchaser from a shop or other collection point after they have been purchased.

(2) The following items are also to be treated as packaging on the basis of the criteria set out below—

- (a) items that fulfil the definition in paragraph (1), without prejudice to other functions which the item may 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 or disposed of together;
- (b) items designed and intended to be filled at the point of sale and disposable items supplied, filled, or designed and intended to be filled, at the point of sale, provided they fulfil a packaging function described in paragraph (1);
- (c) packaging components and ancillary elements integrated into packaging are considered to be part of the packaging into which they are integrated, and ancillary elements hung directly on, or attached to, a product which performs a packaging function are considered

to be packaging unless they are an integral part of the product and all elements are intended to be used, consumed or disposed of together.

(3) Schedule 5 to the Packaging (Essential Requirements) Regulations 2015<sup>(1)</sup> contains illustrative examples of the rules set out in paragraph (2).

(4) For the purpose of these Regulations, packaging and packaging waste is to be treated, subject to paragraphs (5) and (6), as falling into one of the following packaging categories, depending on the material from which the packaging is made—

- (a) aluminium;
- (b) fibre-based composite materials;
- (c) glass;
- (d) paper or board;
- (e) plastic;
- (f) steel;
- (g) wood; or
- (h) other materials.

(5) Packaging materials composed of a combination of the materials referred to in paragraph (4) (“paragraph (4) materials”) are to be treated as made of the material which is predominant by weight, unless paragraph (6) applies.

(6) Where packaging materials are composed of a combination of different paragraph (4) materials in equal proportions, each material of which the packaging materials are comprised is to be treated separately for the purpose of these Regulations.

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(1) S.I. 2015/1640, amended by S.I. 2018/942; 2019/188; 2020/904; 1540; 1647.