

Second consultation on Extended Producer Responsibility for packaging

Highlight summary for producers
– what you need to know

30 March 2021



The purpose of this document is to summarise the key points outlined in the industry consultation released by UK governments on 24 March 2021. This is not an exhaustive review of all the detail covered by the consultation, rather it is a review of the pertinent points that will impact producers.

References in this summary link directly to the original source material when clicked, to enable in-depth reading as desired.

Introduction

On 24 March 2021 the government released the second round of consultations for two inter-connected packaging policy reforms.

1. **Extended Producer Responsibility (EPR) for Packaging** (summary contained herein)
2. Introducing a Deposit Return Scheme (DRS) in England, Wales and Northern Ireland

The results of these consultations will have a huge impact on packaging producer responsibility beyond 2023 as the proposals represent radical reform to the way in which producers are held accountable for the packaging they create/sell.

The first suite of packaging reform consultations were released in 2019. At this time, in addition to consultations on EPR and a DRS, separate consultations surrounding the plastic packaging tax and consistent household collections were also published.

A second consultation for consistency in household recycling collections is expected to be released shortly after the EPR and DRS consultations, and the plastic packaging tax has undergone all major decision-making, coming into effect in 2022.

Key information

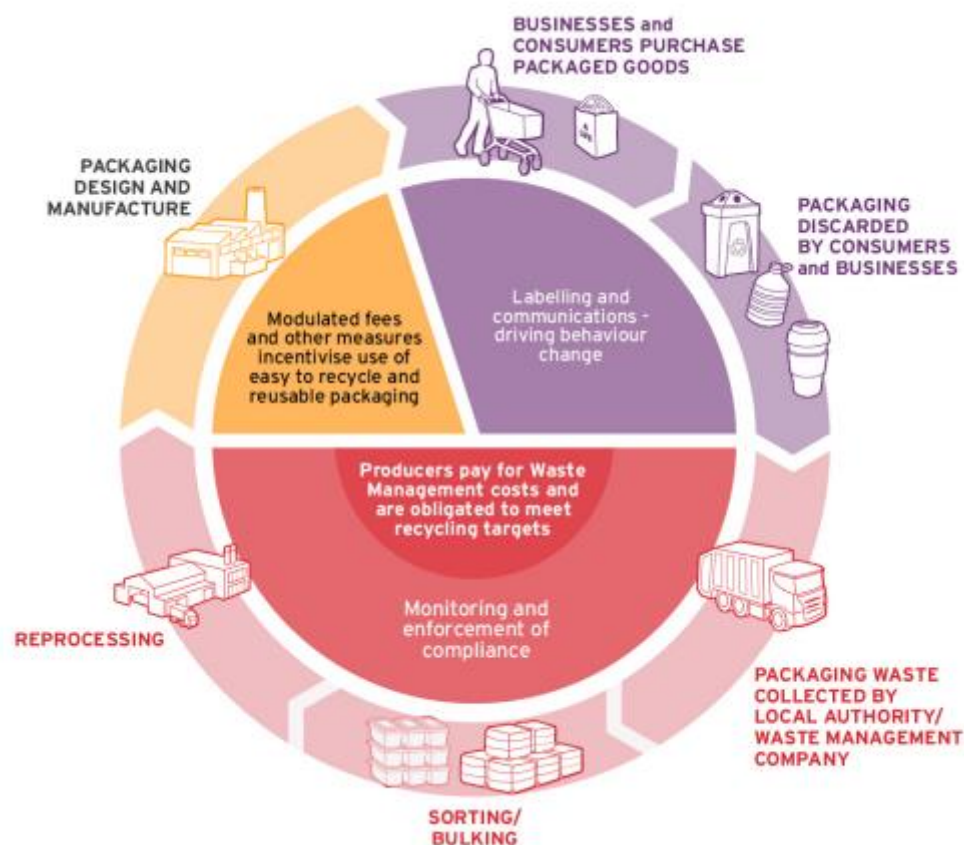
- The EPR for packaging consultation impacts all UK administrations - England, Wales, Scotland and Northern Ireland.
- The deadline for consultation responses is 4 June 2021.
- The number of direct responses received are likely to play a vital part in defining the final system. Therefore, it is important that all stakeholders reply directly, not via a group response submitted by a compliance scheme or a trade association.

[Consultation responses can be submitted directly to Defra online using this link](#)

Primary outcomes of future reform sought by UK governments

- For more packaging to be designed to be recyclable
- For unnecessary packaging, that is packaging items that can be removed altogether or where less packaging could be used, to be reduced
- For packaging materials that are difficult to recycle to be reduced or no longer used (such as black plastic, PVC and Polystyrene (PS))
- For more packaging to be recycled – this means that by 2030 70% of all packaging placed on the UK market will be recycled
- In conjunction with a potential DRS, for less packaging to be littered
- That there is sufficient high-quality reprocessing capacity in the UK to handle the increasing quantities of packaging waste for recycling (for example, as measured by growth in UK reprocessing capacity, tonnage of packaging waste reprocessed in the UK)
- That the efficiency of the system for managing packaging waste increases (for example, as measured by the average cost of managing a tonne of packaging waste)
- That people's knowledge of the packaging they can and can't recycle (and compost) increases (for example, as measured by people's understanding of what they can and can't recycle or by quantity of materials rejected for recycling)

[Read the section on principles, outcomes and targets in the consultation document](#)



Summary of key points in consultation

Targets

- Targets will be set on producers obligated under EPR, and the DRS. Government estimates that under these two frameworks the recycling rate for 2030 will be around 78%.
- Initial annual recycling targets for six materials (plastic, card, steel, aluminium, glass, wood) will be set. Additional targets for materials such as fibre-based composite packaging may be implemented where government sees fit.

Proposed recycling targets by material

| EPR Packaging Materials | 2024 | 2030 |
|--|------------|------------|
| Plastic | 41% | 56% |
| Wood | 38% | 39% |
| Aluminium | 30% | 30% |
| Steel | 85% | 92% |
| Paper/Card | 76% | 85% |
| Glass | 71% | 81% |
| Recycling rate delivered by targets | 63% | 73% |

- ‘Closed-loop’ recycling targets will be introduced where required. Re-fill and re-use targets will be considered and implemented after 2025.
[Read the section on targets in the consultation document](#)

Producer obligations - full net cost recovery and reporting

- There will be a single point of compliance, unlike the current shared system. Some producers may not be obligated for payments but will be for reporting requirements. The consultation proposes a system of six producer categories:
 1. **Brand-owners.** Responsible for waste management costs.
 2. **Importers.** Responsible for waste management costs and placed on market reporting for packaging discarded before it is sold on.
 3. **Distributors.** Responsible for waste management costs and placed on market reporting.

4. **Online marketplaces.** Responsible for waste management costs and placed on market reporting.
5. **Sellers.** Responsible for placed on market reporting.
6. **Service providers.** Responsible for waste management costs and placed on market reporting.

In the case where a business falls into more than one category, they will take on multiple obligations. If packaging is exported it will be exempted. Similarly, if the waste packaging has been separately managed, the equivalent tonnage will be removed from a producer's obligation.

It is proposed that reporting will be annual and will necessarily be much more granular than is currently the case. In some instances, separate reporting will be required for each devolved nation.

- Governments are keen to capture more packaging in the system than currently, but are conscious of the risk of over-burdening small producers. There are three options proposed in which to do this:
 1. Lowering the de-minimis threshold to £1m and 25 tonnes
 2. Obligating distributors for unfilled packaging sold to businesses below the existing or a reduced de minimis threshold.
 3. Obligating manufacturers and importers of unfilled packaging sold to businesses below the existing or a reduced de minimis threshold.
- The consultation suggests that producer payments will reflect the total costs of:
 - Collecting, transporting, sorting, and treating household (HH) and HH-like (business) packaging waste for recycling. The income from the sales of recyclable material will be netted off.
 - Treatment and disposal of any packaging waste within the residual stream.
 - Litter and fly-tipping clean up costs and communication campaigns.
 - The collection and reporting of packaging data.
 - Regulator charges, scheme administrator costs.

Government have proposed that the definition of 'full net cost recovery' includes HH-like, commercial and industrial packaging waste, unless it can be evidenced there is an alternative collection route.

[Read the section on full net cost recovery and reporting in the consultation document](#)

Producer disposable cups takeback obligation

- Government is considering introducing a disposable cups charge and mandatory takeback obligation for those selling filled disposable cups, to incentivise re-use. This will not formally sit

under EPR but will contribute toward the fibre-based packaging recycling target, if implemented. They are suggesting the obligation be operational by 2023.

[Read the section on disposable cups takeback obligation in the consultation document](#)

Modulated fees

- A modulated fee system will be used to incentivise more sustainable and recyclable packaging material use. Producers will be obligated to pay higher fees for unrecyclable materials such as polystyrene and black plastic.
- The modulation criteria will be adaptable and set by the appointed scheme administrator. The modulation system has not yet been established, but there is a strategic framework in place to do so. In short:
 - **Decreased fees** will be applied to packaging that positively contributes toward the scheme's objectives. **Increased fees** will be applied to material that does not, providing an incentive to alter packaging formats.
 - The scheme administrator will ensure financial incentives are in place to encourage re-use and re-fill activities.
 - The modulation of fees should aim to raise no more, or less, than what has been deemed the necessary costs (as detailed above).
 - Targeted additional funding may be made available for specific material streams to fund improvements and recycling infrastructure.

This will necessarily involve more granular reporting requirements for producers. The consultation states that, at first, modulation will be based on a prescribed assessment methodology of recyclability. In time, re-use and re-fill activity can be built into the system.

[Read the section on modulated fees in the consultation document](#)

Labelling requirements (“recycle”/ “do not recycle”)

- The consultation proposes that any “company or person offering packaged products for sale in the UK will be obligated to comply with the mandatory labelling requirements”. In the case of small businesses who use ‘off the shelf’ packaging, the obligation will be on those who are selling it to them.
- It is suggested that mandatory labelling will apply to:
 - All primary packaging.
 - Primary packaging that comprises of multiple components.
 - All shipment packaging (associated with online, catalogue or telephone purchases).

All tertiary packaging, and packaging that is liable under the DRS in all four devolved nations, will not be liable.

Proposed labelling system timeline

| 2024/2025 | 2026/2027* |
|---|--------------------|
| Glass containers | Plastic films |
| Paper and card packaging | Flexible packaging |
| Plastic bottles/ containers | |
| Plastic pots, tubs and trays | |
| Steel and aluminium cans | |
| 'Other' metal packaging such as foil trays and aerosols | |
| Food and drink cartons | |

*consistent with proposed rollout of below collection

- The consultation proposes either the use of an 'approved' suite of labels, or a single unified labelling scheme. Governments have indicated they prefer the former, so producers using existing labelling schemes do not have to change their packaging formats. Importers of filled packaging in the UK will be expected to comply with labelling requirements.

[Read the section on labelling requirements in the consultation document](#)

Payment mechanisms for packaging waste collected from businesses

- Government have outlined three potential options for this area:
 - A scheme administrator led, producer funded, business packaging waste management cost rebate system.
 - A compliance scheme led, producer funded, business packaging waste management cost rebate system.
 - A compliance scheme led, producer funded, 'free bin' approach.

[Read the section on payment mechanisms for business packaging waste in the consultation document](#)

Litter payments

- The consultation confirms that the costs associated with littering will be in-scope for 'full net cost recovery' payments from producers. It proposes that associated costs will fall into three broad categories:
 - Prevention activity.
 - Provision and management of receptacles for refuse or litter (i.e. rubbish bins).
 - Clearance of refuse or litter from the ground.

By making producers responsible for litter government hopes for a reduction of single-use packaging, intelligent messaging and packaging design, outreach and communications, and an increase in bin provision.

- Government recognise that producer differentiation may be required, so as not to unfairly burden producers whose products are not commonly littered. The consultation seeks views on three options surrounding this:
 1. Share the costs between all producers, regardless of product type.
 2. Allocate litter costs proportionately, using regular waste composition analysis.
 3. As above, but with consideration of brand too.
- The scope of payment recipients is also under consideration and stakeholder views are sought as to funding allocation to relevant bodies – e.g. local authorities, volunteer groups, private land-owners, and so on.

[Read the section on litter in the consultation document](#)

Scheme administration and governance

- Government is considering two approaches for EPR administration and governance:

1. A single management organisation / scheme administrator

The scheme administrator would be responsible for the management and administration of the system on behalf of the producers. The scheme administrator would have powers to employ key levers under EPR regulation. These include calculating costs, setting the fee modulation, and making payments to local authorities.

Producers could still employ compliance schemes (PCS) for data management services, but compliance schemes would no longer be a legal necessity.

2. A scheme administrator and compliance schemes

In this system both bodies would share the responsibilities for EPR governance. PCS would be obliged to meet minimum standards and be subsequently approved by UK government.

It is suggested that the scheme administrator would be responsible for EPR activities best managed on a country-wide level – such as managing costs, fee modulations and local authority payments, as above.

PCS however would be responsible for activities best placed within the competitive arena. For instance - managing obligation costs, target attainment, and scheme administrator payments for producers. Obligated producers would join a PCS that offers them the best service.

[Read the section on scheme administration and governance in the consultation document](#)

Compliance and enforcement

- The consultation proposes more stringent enforcement measures than is currently the case, with more power given to the regulatory bodies (EA, SEPA, NRW, NIEA). Also under consideration is the enforcement bodies responsible for a potential mandatory cup take-back scheme, and future labelling requirements.
- The enforcement framework will need to cover three discreet areas:
 - Regulation of the scheme administrator.
 - Regulation of all sectors along the value chain (by devolved administration).
 - Other organisations that cross boundaries.

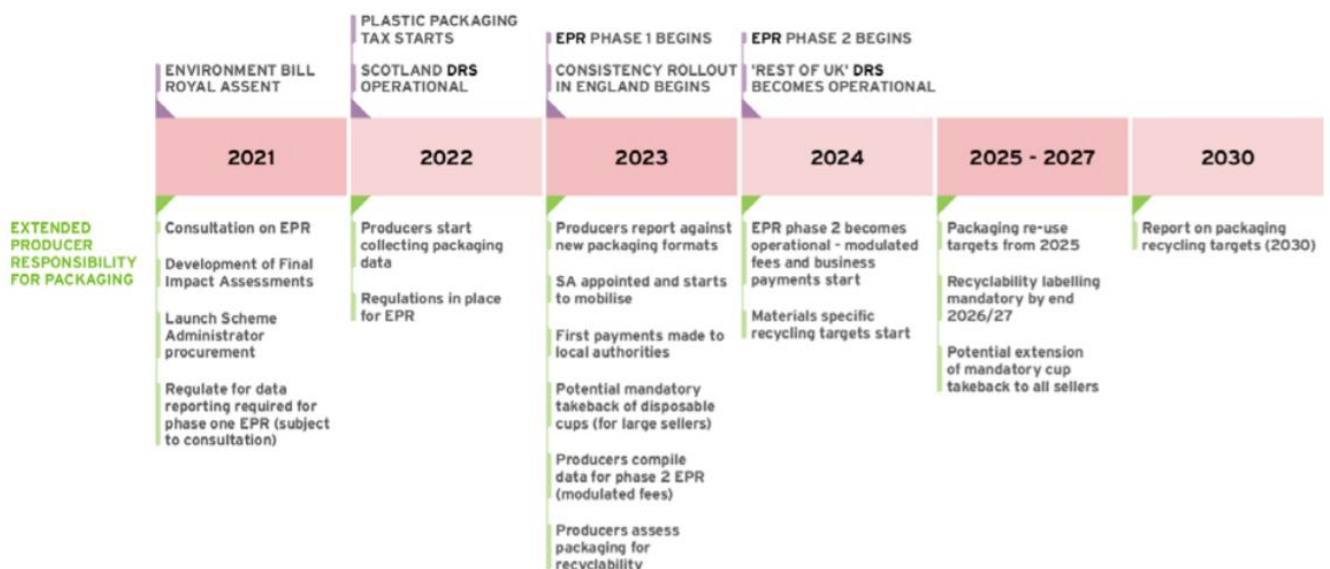
They propose to do this via compliance and enforcement powers provided under the Environment Bill, which will be transposed into future EPR regulation. This may include supervision of those obligated under the new system, engagement and sharing of data, and appropriate market surveillance.

Regulator fees and charges will be paid by the producer under the terms of full net cost recovery. Like in the current system, non-compliance will result in penalties such as civil sanctions, formal cautions, and potential prosecution.

[Read the section on compliance and enforcement in the consultation document](#)

Implementation

The planned implementation of EPR for packaging is intended to be phased, as detailed in the timeline below:



[Read the section on implementation in the consultation document](#)

Conclusion

With such fundamental reform to the packaging producer responsibility system taking place, it is important that all those affected are fairly represented during decision-making. As such, we recommend all stakeholders, including all packaging producers, to submit their own individual response to the consultations.

There are no unexpected proposals contained within this consultation. Therefore, Ecosurety are well-prepared for the discussions and negotiations that will now take place across the sector. We will continue to broadly support the government's aims/objectives and will now liaise with the sector to ensure they are efficiently delivered.

We can help you respond to the consultation

We are presenting a free, in-depth training webinar on the EPR for packaging consultation on 22 April, bookable from the [training page on our website](#). After this live event takes place a video recording will be available for Ecosurety members on our [Members' Area website training page](#).

We can also provide you with guidance and assistance throughout the whole process if you plan to directly feedback to the consultations. [Please click here to contact us and find out more.](#)