TIMBER DEVELOPMENT UK

The Current and Prospective Packaging Waste Regulations

As they apply to the timber trade

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Valpak

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Introduction

The timber trade is a £10 billion industry in the UK with the members of Timber Development UK accounting for 85% of that industry, encompassing timber importers, merchants, agents and manufacturers. With such a wide array of member interests, every facet of the packaging waste regulations are bound to be encountered in some form or other.

This document aims to first summarise the current packaging waste regulations and how they affect the members of Timber Development UK regarding specific products we know are handled, before turning to the prospective changes to the packaging waste regulations. These upcoming changes, which are still prospective at the moment, otherwise known as 'Extended Producer Responsibility', encompass a marked change in the regulations.

We shall cover some of the ways that members of Timber Development UK might be able to mitigate the impact of the change in regulations on their businesses, and also comply with these regulations on a better footing, as well as the timeline for change.

Finally, we shall cover the Plastic Packaging Tax, which came into force in the UK in April 2022, and explore some its most likely impacts on the Timber Development UK membership.

Key insights

- **Under the proposed Extended Producer Responsibility Regulations, more businesses will be captured and they will face greater cost, as compared with the current regime.**
- Businesses with a turnover equal to, or greater than, £1million, and handling packaging of 25 tonnes or more, are now required to submit an annual report.
- The government predicts that under this new regime the overall financial costs for producers will rise from £230 million to £1.7 billion, as it seeks to recover 100% of recycling packaging costs (up from 7%).
- **The Plastic Packaging Tax, which came into force on 1 April 2022, means producers or importers of plastic packaging that contains less than 30% recycled plastic will be taxed an additional £200 per tonne.**
- This tax applies to all business importing or manufacturing 10 tonnes or more of finished plastic packaging components within a 12-month period.
- Businesses that import or manufacture less than 10 of taxable packaging over a 12-month period must keep detailed records to prove to HMRC they do not quality for the tax.
- **Businesses can mitigate costs from these changes by making use of easily recycled packaging, recovering packaging waste themselves, of through reusable packaging.**

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Set-up in 1997 to help businesses comply with the new regulations, Valpak was the first, and is now the UK's largest, compliance scheme for the packaging waste regulations, helping more than 3,000 businesses meet their obligations each year. Since being founded, Valpak's services have grown. Now Valpak help businesses comply with their waste electronic, and batteries obligations in the UK, as well providing compliance services for businesses operating internationally. Beyond compliance Valpak also provide data insights, recycling, energy, and carbon management services, as well being an industry leader in research and thought. Valpak is a member of the Reconomy Group.

Henry Smith is a member of Valpak's Policy department, responsible for understanding the current and forthcoming legislation that affects Valpak and its members, and for producing reports to benefit staff, members, and industry.

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The Packaging Waste Regulations

The Producer Responsibility (Packaging Waste) Regulations 2007

The UK's producer responsibility system for waste packaging was introduced in 1997 through the inception of the Packaging Waste Regulations, themselves being designed according to the principles laid down within the European Union's Packaging and Packaging Waste Directive 1994.

In the UK today, the Producer Responsibility (Packaging Waste) Regulations 2007, the Producer Responsibility (Packaging Waste) Regulations (Northern Ireland) 2007 and the Packaging (Essential Requirements) Regulations 2015 dictate the obligations those placing packaging onto the UK market must meet.

The first two of this set of regulations outline the differing extents to which those who handle packaging throughout the supply chain, up to the end user, are obligated to pay towards the recycling and recovery of an equivalent amount of waste. The latter regulation covers technical guidelines against excessive packaging use and toxicity of materials used in packaging.

The regulations define anyone who handles packaging (who is not the end user) as a 'producer'. These producers are in turn categorised based on the various actions which they perform on that packaging. These are:

Manufacturer | Those who manufacture raw material for packaging e.g., someone who manufactures plastic.

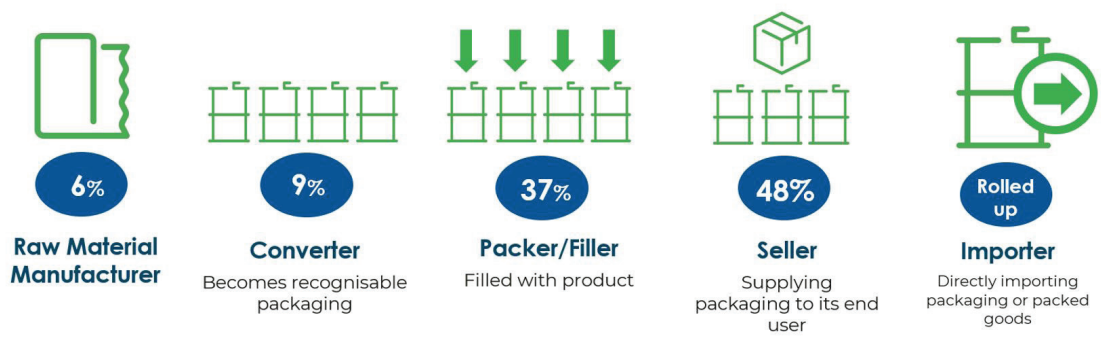
Convertor | Those who convert the raw material into packaging e.g., someone who converts plastic into plastic wrap.

Packer/filler | Those who put the product to be sold to an end user into the converted packaging e.g., someone who wraps sawn timber in plastic wrap

Seller | Those who sell the packaged product to the consumer who will remove all of that packaging and use the product within e.g., someone who sells plastic wrapped timber to a construction company.

Importer | Those who import packaging, or packaging materials, or packaged goods into the United Kingdom e.g., someone who imports packs of timber in plastic wrap. They take on the combined obligations of any of the actions not performed in the UK.
For example, if the packaging material was manufactured and converted overseas and then imported, they take on the obligation as if they had manufactured and then converted the packaging.

Table 1: Shared producer responsibility to contribute to packaging waste recycling



Note: Service Providers have a rolled up 85% obligation

Service Provider | Someone who hires or lends out their reusable packaging for others to use e.g., a provider of reusable wooden pallets who leases these to a timber merchant.

All of these packaging producers are obligated by law to pay for the recovery of a proportion of an equivalent amount of waste to the packaging they handle (in tonnes) provided they meet the minimum threshold requirements.

These minimum threshold requirements are:

1. **having a turnover of, or greater than, £2million for the year in question, and**
2. **they handled packaging of 50 tonnes or more.**

If these conditions are met then the business in question must make an annual submission to the relevant environment agency depending on which of the devolved nations they operate in. In England this is the Environment Agency, for Wales this is Natural Resources Wales, for Scotland this is the Scottish Environment Protection Agency and for Northern Ireland it is the Northern Ireland Environment Agency).

If one or both of these conditions is not met, then a business is not obligated under the regulations.

If both conditions are met but the business has a turnover of less than £5million then they can make a simplified submission to the relevant environment agency as they would be classed as a 'small business'.
A business making a standard submission (i.e., a business making a non-simplified submission) can do so themselves or can use a registered compliance scheme such as Valpak.

Each type of packaging producer activity carries a different percentage obligation (or different share of the obligation, hence shared producer responsibility or 'SPR') for the cost of recovering an equivalent amount to the total packaging they handle (see Table 1 above). For example, the manufacturer of the plastic pellets (the raw material) used for packaging carries a percentage obligation different to the converter of those plastic pellets into plastic wrap, which is also different to the packer/filler of that wrap.

All the percentage obligations combined mean that 100% of the packaging handled is accounted for. A service provider (someone who leases out reusable packaging) has an 85% obligation.

If a packaging producer performs more than one of these actions, then they are obligated for all of the actions they perform (although they will officially be registered with the relevant environment agency as the type of producer they predominantly are).

The government does not expect that all of the packaging waste produced will be recovered so it sets minimum recovery targets which feed into the obligation calculation. These recovery targets differ depending on the material used (or predominantly by weight) for the packaging. Government changes these targets year on year, but the overall trend is towards greater amounts of packaging waste being recycled each year.

Table 3: Government targets year on year for the percentage of each packaging material, the cost for recovery of which must be met

Material	Paper	Glass	Aluminium	Steel	Plastic	Wood
2019	73	79	61	828	55	43
2020	75	80	64	85	57	48
2021	79	81	66	86	59	35
2022	83	82	69	87	61	35
2023	83	82	69	87	61	35

Table 3: Details of the calculation for a packaging producers' annual obligation

In determining a business's packaging waste obligation, the type of producer that business is must be determined, as well as the material the packaging they handled is made from, and the total tonnage of packaging they handled. All the packaging handled by that business must be accounted for as accurately as reasonably possible.

Applied to Timber Development UK

Example 1

If 100 tonnes of plastic wrap (manufactured and converted by someone else based in the UK) was used to individually wrap a finished product by a member of Timber Development UK in 2022 then the calculation for their 2023 recycling obligation would be as follows:

(100 tonnes × 37% Packer/Filler Obligation) × 61% Recycling Target = 22.57 tonnes

That business would be responsible for paying the cost of recycling 22.57 tonnes of plastic packaging waste in addition to any other types of packaging waste they are similarly obligated for the recycling of.

Example 2

If a member of Timber Development UK imported sawn timber in 100 tonnes of plastic wrap, which they went on to sell in that wrap in 2022, then their 2023 recycling obligation is as follows:

(100 tonnes × (6% Raw Material + 9% Converter + 37% Packer/Filler + 48% Seller)) × 61% Recycling Target = 61 tonnes

That business would be responsible for paying the cost of recycling 61 tonnes of plastic packaging because they take on the rolled-up obligations of all activities performed prior to that packaging reaching the UK and the sellers obligation they perform in the UK.

Example 3

If a member of Timber Development UK imported plywood from overseas in 200 tonnes of thin plywood in 2022, which they then wrapped in 100 tonnes of plastic wrap, then the calculation for their 2023 recycling obligation is as follows:

(200 tonnes × (6% Raw Material + 9% Converter + 37% Packer/Filler)) × 35% Recycling Target = 36.40 tonnes

(100 tonnes × 37% Packer/Filler) × 61% Recycling Target = 22.57 tonnes

That business would be responsible for paying the cost of recycling 36.40 tonnes of wooden packaging which they imported (hence they take on the rolled-up obligation for manufacture, conversion and packing of that wooden packaging) and 22.57 tonnes of plastic wrap which they packed the wooden plywood into.

Example 4

If a member of Timber Development UK packs timber products onto 100 tonnes of wooden pallets and these pallets are reused then they are obligated as a packer/filler the first time these pallets are put onto the market. Each year thereafter, those pallets that are reused carry no obligation.

> (100 tonnes × 37% Packer/Filler) × 35% Recycling Target = 12.95 tonnes in the first year, 0 tonnes in following years for pallets that are reused.

Packaging Waste Recovery Notes (PRNs)

In order to meet their obligation, a business does not simply pay money to the relevant environment agency with which they are registered (either themselves or via a compliance scheme).

Instead, they prove that they have met their recycling obligation by purchasing either PRNs and PERNs (Packaging Export Recovery Notes) or both. These are proofs of recycling created by accredited reprocessors (those who deal with packaging waste recycling and recovery) or accredited exporters of that waste to reprocessors abroad. These reprocessors generate PRNs and PERNs for each of the packaging materials.

The recovery notes are then traded on the market for individual obligated businesses and compliance schemes to purchase as and when they need them, or they provide them to businesses and compliance schemes based on private contracts between them.

Owing to the nature of this process, the cost to a company of meeting their obligation can fluctuate year on year depending on the supply and demand in the PRN and PERN market. For example, if there are few accredited reprocessors for wood packaging then the PRNs are likely to be in short supply and so their costs go up.

This will likely mean that a lot of reprocessors decide to gain accreditation for wood the following year and so there may suddenly be a glut of PRNs for wood.

As supply and demand ebbs and flows, the cost to the business for meeting their obligation will fluctuate. Big compliance schemes possessing lots of contracts with accredited reprocessors are able to insulate their members from these kinds of fluctuations.

The PERN market is similarly volatile. In recent years countries such as China which had been a key export market for plastic waste, and so generated PERNs, banned such activity and so caused a relative PERN scarcity.

In making annual submissions to the relevant environment agency, businesses, or compliance schemes acting on their behalf, must submit their data – the calculations and evidence for the amount of packaging waste for which they are obligated, and proof of their PRNs/PERNs to meet that obligation, by 7 April each year.

Approach to Obligation Small & Medium Sized Enterprises (SMEs)

For those businesses who have a turnover exceeding £2million but not exceeding £5million and who handle 50 tonnes or more of packaging in a year, they can make a simplified submission to the relevant environment agency.

Their calculation is far simpler. It is their annual turnover (rounded up to the nearest £10,000) multiplied by the recycling allocation target set by the government for that year.

Extended Producer Responsibility

The government is reforming the Producer Responsibility (Packaging Waste) Regulations to introduce a system of Extended Producer Responsibility (EPR).

These EPR reforms are being phased in across several years, some EPR legal obligations have already been introduced in 2023, whilst other aspects of the reform package are not expected until late 2025 at the earliest.

The reasoning behind this reform is two-fold. First, the government aims to simplify the system. Secondly, the government estimates that the current regulations mean that businesses shoulder only 7% of the overall burden that their packaging waste places on the waste management system in the UK.

With these new measures, the government hopes that businesses will now take on a greater proportion of costs arising from dealing with packaging waste (ranging from kerbside collections, to waste centre running costs and even public service campaigns).

In this section we will explain exactly how the prospective system differs from the current Shared Producer Responsibility system and the timeline envisaged for these changes.

Table 4: Highlights the differences between the current and prospective systems

Shared Producer Responsibility (current system)	Extended Producer Responsibility (reformed system)
Business obligation determined by the activity it performs on packaging	Businesses obligated for packaging waste based on where it arises in the system
All businesses have a moderate proportion of the cost of packaging waste recovery	Some businesses have a higher proportion of the cost for the recovery of packaging waste
Business contributes to some waste management measures	Business contributes to all waste management measures
Obligation paid for via PRNs and PERNs	Recycling obligation paid for via PRNs and PERNs, EPR obligation paid for through payments to Scheme Administrator (further details to be confirmed)
Offsetting within the PRN system	Obligation can be offset by recovery and recycling the business itself performs
No consideration for recyclability of packaging types	Recyclability of packaging type to affect cost of EPR obligations through ‘fee modulation’
Threshold for obligation is >£2million turnover & >50 tonnes of packaging handled	Threshold for obligation is >£2million turnover & >50 tonnes of packaging handled + new reporting threshold set at >£1million turnover & 25 tonnes of packaging handled

Table 4 continued

Shared Producer Responsibility (current system)	Extended Producer Responsibility (reformed system)
Simplified submission for small businesses	New small producer category that has simplified reporting obligations.
Market comprises competing compliance schemes and businesses making their own submissions	Market comprises competing compliance schemes and businesses making their own submissions with new public Scheme Administrator to have oversight of the system (further details to be confirmed)
No regulations concerning packaging recyclability labelling	Mandatory binary packaging recycling labelling
Annual data submissions in April	Bi-annual data submissions in April and October for producers, annual reporting of packaging placed on market by sellers

New Producer Categories

Under EPR, some of the Shared Producer Responsibility categories are being entirely removed, whilst others are being altered:

Brand Owner | Obligated for any packaging carrying their brand, as well as any unbranded packaging forming primary packaging alongside their branded packaging.

Importer | Obligated for any secondary and tertiary packaging imported into the UK, as well as any filled primary packaging, for which there is no UK obligated UK brand owner.

They are also obligated for any packaging they import around goods and discard without supplying onwards. An importer is also obligated for any packaging which they are the first UK owner of, unless there is an obligated brand owner.

Packer/Filler | Obligated for any unbranded packaging they fill.

Distributor | Obligated for any empty packaging they manufacture or import and supply to a small producer for the small producer to make use of.

Online marketplace | Obligated for any packaging supplied via their platform by non-UK businesses to UK end users.

Service Provider | Obligated for any packaging they lease out for others to make use of, the first time that packaging is placed on the market.

Seller | Sellers do not incur financial obligations for their packaging under EPR, so any packaging a producer supplies to an end user will not have an EPR obligation, but the producer must include this packaging when determining if they pass the producer obligation thresholds for EPR.

Full Net Cost Recovery

A business's packaging waste obligation was, under the previous shared producer responsibility system, determined by the actions a business performs on/with packaging. The UK government has announced that they will introduce waste disposal (EPR) fees for some types of packaging under EPR from October 2025, covering obligations accrued on packaging placed on the market in 2024.

These waste disposal fees, often referred to as 'EPR fees' will see producers paying directly to cover the costs of local authority household waste collections, as well as some other services (such as packaging waste in street bins, national recycling campaigns etc.) The EPR system will see the categorisation of producers done away with in determining their obligation. Instead, their obligation will be determined by where the waste resulting from their activity arises.

EPR fees were initially due to be introduced in 2024. This would have meant that packaging placed on the market in 2023 would be subject to these new enhanced fees. The government has decided to delay this initiative by 12 months.

In addition to the delay to EPR fees being introduced, government intends to use the additional 12 months to make further improvements to the EPR system. The information provided in this document is correct at the time of publication, but some aspects may well change as we draw closer to the introduction of EPR fees.

There are now three packaging categories which incur different obligations under EPR:

Household | This is any primary or shipment packaging which is not directly supplied by the producer to the business end user.

Primary packaging is packaging around a single sales unit as it will be sold to the end user. For example, this might be plastic wrap around a single piece of finished timber.

Shipment packaging is packaging which is 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 collection point.

This means that, under the current draft of the regulations, packaging around goods which the obligated producer supplies to a wholesaler, who in turn supplies to their customer, must be reported as household and be subject to the additional full net cost recovery fee - even if they know it will not end up in a household waste stream.

Non-household | This is all secondary and tertiary packaging. Secondary packaging is packaging around multiple single sales units. Tertiary packaging is packaging used for transportation of a number of sales units, such as pallets, pallet wrap and banding.

It is also any primary and shipment packaging supplied directly to a business end user by the obligated producer, where the obligated producer can prove that their direct customer is the end user of that packaging. TDUK is lobbying for all primary packaging around construction materials to be defined as supplied to a business end user, and therefore exempt from the additional full net cost recovery fee.

Street bin packaging | This is any packaging featured on government's list of 'packaging likely to arise in street bins'. The full list of this packaging is available on the Defra guidance page here, under the section title 'Packaging that commonly ends up in street bins'.

There are some other packaging categories that producers have to report on under EPR (such as drinks containers, and reusable packaging) but the three categories above are the only ones which incur different financial obligations under EPR.

All packaging reported under EPR will incur a PRN obligation in the future. These PRN obligations will be based on the principle of single-party responsibility. All non-household packaging will only have a PRN obligation; it will incur no additional financial obligations.

All household packaging will incur EPR full net cost recovery fee obligations, on top of the

PRN obligation. All street bin packaging is likely to incur higher EPR fees than household packaging, on top of the PRN obligation. These EPR fees are due to be introduced in 2025 covering obligation for packaging placed on the market in 2024. This means that for packaging placed on the market in 2023, it will continue to be obligated under the existing shared producer responsibility system across 2024.

New reporting obligations

New EPR data reporting requirements have been in place since March 2023. As such, despite the delay in the introduction of EPR fees, producers will have to report data in line with the new requirements.

Firstly, whilst the de minimis threshold for businesses having to pay towards the costs of managing and recycling packaging waste (at £2million turnover and 50 tonnes or more packaging produced per year) are maintained under the forthcoming system, Defra will introduce a new lower reporting threshold.

Under EPR businesses with £1million or more annual turnover and who produce at least 25 tonnes of packaging will now have to report the amount of packaging they place on the market just like those producers over the payment threshold.

Producers over this £1million and 25 tonne packaging threshold are classed as 'small producers', whilst businesses over the £2million and 50 tonne threshold are classed as large producers.

The costs of managing and recycling the packaging waste resulting from small producers are going to be covered by packaging manufacturers, distributors and importers who supplied that packaging to those smaller businesses.

Secondly, for large producers this reporting will shift from a single annual submission to a twice-yearly submission, one due by October and one due by April.

The October submission will cover the first 6 months of a given year (January to June) and the April submission made in the following year will cover the last 6 months of a given calendar year (July to December).

For small producers, reporting remains on an annual basis with reports due by 1st April covering activities across the previous year. The first EPR data report for large producers is due by 1st October 2023, covering their activities across the first half of this year.

Given the delay in the introduction of EPR fees, this initial EPR data report does not have an EPR fee associated with it. Instead it is intended to familiarise producers with the system, identify any issues in stakeholder preparedness for making/receiving EPR data submissions, and form the basis of further work to prepare for the full implementation of EPR across 2024 and 2025.

It is vital that producers make this first EPR data report, and provide data as accurately as reasonably possible, not least because it is a legal requirement but also because the data reported will directly feed into government estimates of future EPR fees.

Thirdly, producers will also have to report the packaging they placed on the market in relation to the fee modulation criteria (see 'mitigating the expected increases in packaging compliance costs') set out by the Scheme Administrator; this is expected from 2026 onwards with actual fee modulation affecting the fees paid in 2026, for activities conducted in 2025. From 2023 there will also be a new 'fibre-based composites' material category for reporting packaging.

Finally, any sellers, distributors, service providers, online marketplaces, and importers of goods will be required to report all types of packaging placed on the market by UK nation annually. This is currently expected to first have to be reported in December 2024 but will be reported in April every year after that. Estimates of sales figures can be used but only for secondary and tertiary packaging (packaging used in the supply chain/not in direct contact with the goods it contains) until 2027.

Members of Timber Development UK who are both the brand owner of goods and the seller would therefore have to make three separate, detailed reports each year and all members who pass the lower reporting threshold may need to change their systems such that they gather the required information for these reports.

Potential cost impacts

We will explore the impact in real terms by using some of the examples from earlier.

In Example 1, a member of Timber Development UK individually packed finished product into 100 tonnes of plastic wrap (Primary Packaging). Another party then sells these goods bearing the Timber Development UK member's brand.

As the packer/filler of that packaging, the Timber Development UK member bore an obligation for the recovery of 37% of that plastic packaging waste multiplied by the government target for plastic, and the seller bore a 48% obligation multiplied by the government target for plastic.

Under the proposed regulations, the third-party seller will bear no financial obligation for this packaging when it arises as waste, whilst the Timber Development UK member will instead take on all of the costs associated with the recycling of an equivalent amount of packaging waste to their plastic wrap and pay an additional EPR full net cost recovery fee to cover the costs of household recycling services. The exact level of this EPR full net cost fee will be determined by the Scheme Administrator.

Their current obligation calculation is:

(100 tonnes × 37%) × 61% = 22.57 tonnes

Their proposed obligation calculation is:

(100 tonnes × 100%) × the percentage target set by government + an EPR fee to be determined by the Scheme Administrator

The proposed reforms to the regulations therefore have a dramatic increase in the financial burdens faced by some businesses that previously performed only one function in the packaging stream.

There is less of an increase for those businesses which currently perform more actions on packaging. For instance, the member of Timber Development UK in example 2 who imported sawn timber in 100 tonnes of plastic wrap (tertiary packaging), and then sold it in that wrap to a contractor, sees no change arising from the new regulations.

The current obligation calculation of (100 tonnes × (6% + 9% + 37% + 48%)) × the percentage target set by government remains, with no additional EPR fee as they have supplied a business end user.

Whilst we do not have statistics available for the financial burden the timber sector faces under the current regulations, and so cannot project the impact of the proposed EPR regulations on the sector specifically, the government predicts that the overall financial costs for producers will rise from £230 million to £1.7 billion as these proposed regulations come into force.

Mitigating the expected increases in packaging compliance costs

Under the current system businesses meet their obligation by purchasing PRNs and PERNs (either themselves or via their compliance scheme). Whilst these recovery notes are individuated based on the type of packaging material used (e.g., plastic, steel etc.) they do not make any further distinction, such as 'easily recycled' versus 'difficult to recycle'. The proposed EPR full net cost recovery fee, which businesses will have to pay in addition to purchasing PRNs and PERNs, will take account of the recyclability of packaging.

From 2026, the EPR full net cost recovery fee will be 'modulated' with more easily recyclable packaging incurring a smaller fee than more difficult to recycle packaging. Therefore, obligated businesses will be able to reduce their costs under EPR by moving to more easily recyclable packaging. The Scheme Administrator will determine the level and application of fee modulation, and then modulate the costs for business in 2026 based on that business's data for recyclability reported in the preceding year.

As such, businesses can reduce initial cost increases when fee modulation comes into effect by moving to more recyclable packaging prior to this, rather than adopting such packaging when fee modulation comes into

force. This modulation of fees will be adjusted at regular intervals by the Scheme Administrator in the years following EPR regulations being introduced, with the ambition being that obligated businesses will have visibility of modulation criteria for the next 3 – 5 years.

A further measure by which businesses can mitigate the increase in costs under the proposals is to take on the burden of recovering the packaging waste themselves. The proposed measures would allow businesses to offset the financial burden of their obligation against any packaging waste they backhaul, collect, recycle and dispose of, which is household packaging waste that is not commonly collected by local authorities for recycling.

If producers themselves collect and recycle this difficult to recycle household waste, they can reduce their EPR obligation by 1 tonne for every tonne of material recycled in this way.

Reusable packaging will also only have to be accounted for when it is first placed on the market so businesses can also reduce the financial impacts of the forthcoming system by making use of more reusable packaging. Further, end of life reusable packaging can also be recycled by the producer at end of life, with every tonne of material recycled in this way offsetting a tonne of EPR obligation.

Introduction of a Scheme Administrator and mandatory labelling

Defra, in the second public consultation on EPR reforms, began exploring the idea of overhauling the compliance scheme set-up by ending the system of many competing compliance schemes and instead introducing one single body with which all businesses would have to deal directly in order to meet their packaging waste obligations. Instead of pursuing this, Defra have decided to set up a Scheme Administrator which will oversee the day-to-day functions of the packaging waste system, in addition to deciding on important matters such as fee modulation and collecting EPR fees before redistributing them to local authorities, whilst independent compliance schemes such as Valpak will continue to operate to help businesses navigate the regulations and interface with the Scheme Administrator.

A further reform which may affect some Timber Development UK members would be the introduction of mandatory on-pack recycling labelling. Under the current regulations, a variety of types and kinds of recycling labelling is permitted. With the forthcoming EPR reforms, the government will simplify this system, implementing a mandatory 'binary label system' in which products are labelled with instructions to 'recycle' or 'do not recycle', and bearing the 'Recycle Now' mark.

This would affect only consumer packaging - that is primary and shipment packaging likely to be handled by consumers. As such, it might affect some, but not all Timber Development UK members. This requirement will come into force on 31st March 2026, with all plastic films and flexibles required to be labelled a year later. Compostable and biodegradable packaging must have the 'do not recycle' label applied to it.

Provisional timeline for the implementation of Packaging EPR

16 August 2023 - Enrolment on the Government's Report Packaging Data (RPD) portal opens for large producers

1 October 2023 - Deadline for large producers to submit first EPR data submission covering January-June 2023 data

1 January 2024 - Enrolment on RPD opens for small producers

1 April 2024 - Deadline for large producers to submit second EPR data submission covering July-December 2023 data & for small producers to submit first EPR data submisssion covering January-December 2023.

7 April 2024 - Deadline for producers obligated under shared producer responsibility, so submit data covering 2023 activities

The Plastic Packaging Tax

Overview of the UK Plastic Packaging Tax

The United Kingdom's Plastic Packaging Tax, which came into force on the 1st April 2022, aims to improve recycling and reduce plastic pollution by taxing the use of plastic packaging that has little to no recycled content.

The Tax applies at a rate of £200 per tonne to plastic packaging components manufactured in, or imported into, the UK from 1st April 2022 that do not have at least 30% recycled content within the plastic, or which do not qualify for an exemption from the Tax.

The rationale behind the tax is two-fold. Firstly, government hopes that by implementing the tax investment and innovation within the recycled plastics market will be encouraged, as well as use of virgin plastics heavily reduced.

Secondly, government also envisages that liable businesses gaining exemption from the tax on the basis of meeting the 30% recycled content threshold will similarly benefit under the proposed fee modulation system for prospective EPR regulations.

UK-based businesses performing a manufacturing function that creates finished components of plastic packaging, or businesses upon whose behalf finished plastic packaging components are imported, will be liable to pay the Tax.

Businesses that import or manufacture less than 10 tonnes of taxable packaging across a 12-month period are not required to register for and pay the Tax but must still keep detailed records to prove to HMRC that they do not have to register. Businesses manufacturing and importing more than 10 tonnes of finished plastic packaging components have to account for and pay the tax quarterly, but there are some exemptions to the tax which not only do not incur tax, but also do not contribute to the registration threshold for the Tax. Non-UK based businesses liable for the Tax must appoint a UK based tax representative who will account for the Tax on their behalf.

In order for a liable business to not pay the UK Plastic Packaging Tax on any plastic packaging manufactured or imported, they must be able to present the UK Treasury (Her Majesty's Revenue & Customs, or HMRC) on request with valid evidence documentation confirming their components contain more than 30% recycled content or qualify for another exemption.

Types of evidence documentation that could be used include, but are not limited to, production specifications, contracts to supply, certificates of conformity assessment, purchase orders, sales invoices, accreditations or internationally recognised standards, and information from quality assurance audits.

Government guidance on the Plastics Packaging Tax can be accessed at Plastic Packaging Tax: steps to take - GOV.UK (www.gov.uk) and additional resources published by HMRC including webinars can be accessed at Help and support for tax agents and advisers - GOV.UK (www.gov.uk).

Exemptions from the UK Plastic Packaging Tax

There are a number of exemptions to the Plastic Packaging Tax. Exemptions marked with a "*" in addition to not incurring the Tax, do not contribute to the registration threshold for the Plastic Packaging Tax. The following items are exempt from the UK Plastic Packaging Tax:

- **Packaging made from cellulose-based material that has not been chemically modified.**
- **Packaging in direct contact with human medicines licensed to be placed on the UK Market.**

- **Components whose role as packaging of an item at the point of sale is secondary to their ability to provide a long-term storage function to the good*.**
- **Components whose role as packaging is secondary to being integral to the use of the goods it contains*.**
- **Components designated to be re-used for the presentation of other goods to consumers*.**
- **Packaging that has been set aside for a non-packaging function.**
- **Packaging used in air, ship, and rail goods stores*.**
- **Tertiary packaging in use around imported goods*.**

It is this final exemption that seems most pertinent to the Timber Development UK membership so we will discuss that in detail here, however Valpak can provide further information on the other exemptions should that be required.

The Plastic Packaging Tax will apply to all 'primary' and 'secondary' packaging (as defined by the European Union's Directive 94/62/EC) that is imported into the UK, even those components in use, that pass customs checks on or after 1st April 2022.

Only finished packaging components where plastic is the heaviest material by weight will be taxable upon import should they contain less than 30% recycled material within the plastic (or fail to qualify for another exemption).

If the manufacture of the packaging is finished within the UK, the UK-based business performing the last substantial modification will be liable to account for the tax.

Any 'tertiary' plastic packaging - defined by Directive 94/62/EC as 'packaging conceived so as to facilitate the handling and transport of a number of sales units or grouped packagings in order to prevent physical handling and transport damage' - that surrounds goods being imported into the UK will be exempt from the Plastic Packaging Tax. Any packaging that is imported into the UK with the intention of being used as tertiary packaging but is not in use as tertiary packaging at the point of import will be taxable should it not contain 30% recycled content. Tertiary packaging used in the import of a single item does not qualify for an exemption from the Tax.

If a plastic packaging component qualifies for the tertiary packaging around imports exemption, then it does not incur tax even when it continues to be used in the transportation of goods between UK businesses, and/or between businesses and consumers.

For example, if individual pieces of unwrapped timber are collated together into a pack of timber, and this pack is wrapped in plastic and put on pallets and then imported into the UK, then this outer layer of plastic and the pallets will be exempt from the tax, even if the business that imported the timber in this way sells the goods on to another business using the same outer plastic and pallets.

However, if the individual pieces of timber were also wrapped in plastic, even though it was considered tertiary packaging, then the tax would apply to this element of the packaging,

Import arrangements

Businesses on whose behalf plastic packaging components are imported are liable for the Plastic Packaging Tax. HMRC have stated that on whose behalf plastic packaging components have been imported, in instances where a UK based buyer contracts another business to supply them, can be determined in the contracts between suppliers and buyers.

Effectively, the liability for payment of the tax can be transferred from one party to another depending on the agreement between those two parties. This could be done through Incoterms or through any other suitable contractual arrangement.

Timber Development UK members entering into these import arrangements in order to transfer liability for the tax to their suppliers must bear

in mind that HMRC state businesses should keep documentation evidencing which of the parties it has been agreed will account for the Tax, and that suppliers and buyers must carry out suitable due diligence checks to ensure that the Tax is being paid in their supply chain.

Where tax is going unpaid, HMRC reserve the right to find another business in the supply chain liable for payment of that tax unless they can prove that they did not know, and could not have known, that tax was going unpaid.

Exporting liable packaging

Businesses that have taxable plastic packaging imported into the UK on their behalf, or who manufacture such packaging, will not be liable to pay the UK Plastic Packaging Tax where they declare to HMRC that they intend to export the packaging in question out of the UK within 12 months.

The business will be liable to pay any Plastic Packaging Tax due should this 12-month 'deferral period' lapse, or where the business declares to HMRC that the items in question are no longer intended to be exported out of the UK.

Any Tax a liable business pays in relation to plastic packaging, apart from tertiary packaging, that is subsequently exported out of the UK within 2 years of the date of its initial manufacture or import will be able to be claimed back via an application for a tax credit.

Claims to a tax credit must be accompanied by documentation that evidences the export in question having occurred, though full details of this mechanism are still to be announced by HMRC.

A tax credit can also be claimed by a business that has paid tax on finished plastic packaging components imported on its behalf, or that it manufactured, when that component is subsequently substantially modified by another business in the supply chain. Valid documentation proving that a further substantial modification has taken place must be provided to HMRC as part of the claim for a tax credit.

Determining if a component incurs tax

HMRC defines a packaging component as plastic when plastic is the heaviest material by weight in that component.

For example, if a label weighs 10 grams, 1 gram of which is recycled plastic, 5 grams of which are virgin plastic, and 4 grams of which are recycled paper, then the whole component is deemed to be plastic and so contributes to a business's tax liability.

It is only the proportion of recycled plastic content compared to the overall plastic content of the component that determines whether or not a component passes the 30% recycled content threshold.

In our example, the 4 grams of recycled paper are irrelevant in determining whether the label passes the 30% recycled content threshold.

> (1 gram of recycled plastic ÷ 6 grams of total plastic) × 100 = 16.6% recycled content.

This label would therefore be liable for the tax unless it qualified for another exemption.

However, if a component is liable for the Tax, then tax is paid on the whole component, not just the weight of the plastic in the component.

The entirety of the 10-gram component would be taxable. Therefore, if the business manufactures or imports 10 tonnes of these labels and they do not qualify for an exemption, then the business will pay tax on all 10 tonnes.

> 10 tonnes × £200 = £2000

Tax is paid on specific components, with accounting and tracking at a packaging component specific level demanded by HMRC on the part of liable businesses. This is also reflected in the evidence requirements HMRC set; evidence that is packaging component specific must be held by businesses.

Registering for and making tax returns

HMRC have devised two tests which businesses must conduct in order to determine whether or not they need to register for the Plastic Packaging Tax. These are the 'Forward Look' and the 'Backward Look' tests.

The Forward Look test takes primacy so businesses must conduct it first, if they pass the test (i.e., the test does not result in them having to register for the tax) they should then conduct the Backward Look test.

If the business passes both tests, they still have to keep accurate records such that they would be able to prove to HMRC that they do not need to register for and account for the Plastic Packaging Tax, were they audited.

When conducting both tests they must only include the packaging that does not qualify for the * exemptions listed above.

Forward Look Test: If a business will import or manufacture 10 tonnes or more of finished plastic packaging components in the next 30 days then they have failed the Forward Look test and must register for the Plastic Packaging Tax.

They are liable to account for any packaging components manufactured and imported once they have determined they are liable for the tax, not from the point at which they register for the tax. They must register for the tax within 30 days of failing the test.

Backward Look Test: Only a business that passes the Forward Look test should perform the Backward Look test. If a business has imported or manufactured 10 tonnes or more of finished plastic packaging components in the previous 12-month period, then they have failed the Backward Look test and must register for the Plastic Packaging Tax.

They are only liable to account for any packaging components manufactured and imported from the first day of the month following them conducting the test. They must register for the tax within 30 days of determining that they are liable for the Tax.

For the first year of the Tax's implementation the Backward Look test only applies up to 1st April 2022. In other words, a business in May 2022 that has passed the Forward Look test, when conducting the Backward Look test will only include plastic packaging components manufactured by them, or imported on their behalf, as far back as 1st April 2022 when determining whether or not they need to register for the tax.

As far as HMRC are concerned, a manufacturer of plastic packaging components that receives an order for 10 tonnes of plastic packaging to be produced within 30 days' time has passed the Forward Look test the moment they accept that order.

The same applies to anyone importing obligated plastic packaging who makes an order or orders which meet that 10-tonne threshold. Tax is only paid after the components have actually been manufactured and imported, however, so businesses only pay on what they are actually obligated for, not the activities they are forecast to conduct.

Once a business registers for the Plastic Packaging Tax they must submit returns and pay the tax by the end of the month following the quarterly accounting period.

On their returns they must include all packaging components imported or manufactured in the accounting period in Kg (except those packaging components that qualified for an * exemption, and packaging set aside for a non-packaging function) including packaging over the 30% recycled content threshold.

Here they will also have to include any packaging they previously deferred payment for on the basis that it was intended for export, that has since not been exported in the 12-month window, or that is now no longer intended for export.

They will then declare the amount of packaging that qualifies for any of the other exemptions (more than 30% recycled content, and packaging in immediate use around licensed human medicines) as well as any packaging they are intending for export (and so deferring the tax payment).

If they possess any tax credits from HMRC for the Plastic Packaging Tax then they can include these on their tax return also. The tax return form will then calculate the weight of plastic packaging on which the business is paying tax and the total amount of tax they are due to pay in GBP. Valpak are offering a range of services to help liable businesses account for and make returns to HMRC for the Plastic Packaging Tax.

A business ceases to be liable for the Plastic Packaging Tax, and therefore can end its registration with HMRC for accounting for the Tax, when it has not imported or manufactured 10 tonnes or more of liable plastic packaging components in the previous 12 months, and does not expect to import and manufacture 10 tonnes or more of these components in the next 30 days. Businesses must retain evidence for 6 years from the accounting period it pertains to, even after they have de-registered.

Passing on the costs of the Plastic Packaging Tax

Unlike VAT the Plastic Packaging Tax is not passed through the supply chain. This means that liable businesses seeking to recoup the costs of accounting for the Tax from their customers will have to increase the unit price of their goods. VAT (if chargeable) is then charged on that new, higher unit price.

HMRC are encouraging businesses who do this to include the cost of the Plastic Packaging Tax on invoices to help customers and other businesses in the supply chain have visibility on where and when the Plastic Packaging Tax is being paid, but HMRC do not mandate that businesses do this at this point in time.

Summary

The current packaging waste regulations, under the principle of shared producer responsibility, is a complex system with which members of Timber Development UK interact at multiple junctures.

This document has outlined the ways in which the current regulations legally and financially affect Timber Development UK members, namely in their packaging recovery obligations which they must evidence having met annually.

These regulations have already seen a significant change in the responsibilities of producers across 2023, with further changes still to come in 2024 and 2025. Some of the exact details of the reform are not yet certain, but the nature of that reform is. This document has sought to clarify what the changes encompass.

This change comes in three main forms: changes to financial burdens for packaging producers, changes to the compliance system Timber Development UK members interface with, and changes to the kind of data Timber Development UK members will be required to collect.

With these provisional changes explained, this document has also attempted to explain the ways in which Timber Development UK members can mitigate the impact of changes to their business operations and the earliest possible dates by which they will see these changes come into force.

Following on from this discussion, this document has also given a brief overview of the Plastic Packaging Tax which came into force on the 1st April 2022, and some of the implications of this tax for Timber Development UK members. Valpak can provide further guidance on both of these topics, and any related queries.

About this paper

This paper was commissioned by Timber Development UK's Sustainability Group, and first issued in June 2022.

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TIMBER DEVELOPMENT UK

Timber Development UK was formed in 2021 by the merger of the Timber Trade Federation and the Timber Research and Development Association. After combining the membership of these organisations, Timber Development UK has more than 1500 members extend all the way from sawmill to specifier.

By bringing together the entire timber supply chain we aim to provide our members with the highest quality information, technical guidance and training to safely specify and design the timber structures of tomorrow, and create lower-carbon, higher quality, healthier and safer buildings using timber.

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