

# **Report to the Tyne and Wear Trading Standards Joint Committee**

**24 September 2015**

## **Update on the Packaging (Essential Requirements) Regulations 2015**

---

**Paul Dowling, Strategic Director, Communities and Environment, Gateshead Council**

---

### **Purpose of the report**

To notify the committee of the update to the regulations in relation to essential packaging.

1. The existing legislative framework in respect of essential requirements for packaging is to be revised and amended in 2015, as the Packaging (Essential Requirements) Regulations 2015 (the Regulations) come into force on the 1 October 2015.
2. The new Regulations revoke and replace the Packaging (Essential Requirements) Regulations 2003. The 2003 Regulations implemented Articles 9 and 11 of the EC Directive 94/62/EC on packaging and packaging waste.
3. The 2015 Regulations introduce a definition of “plastic” and “plastic carrier bags”. This is in line with the proposed Regulations on the charging for single use carrier bags which will come into force also on the 1 October 2015.
4. Packaging means all products used to contain, protect, handle, deliver and present goods. Packaging designed to stay with the product during its life, such as a case, is not subject to the regulations.

### **Main Legal Requirements**

5. No packaging can be placed on the UK market unless it meets the essential requirements and the heavy metal content is within the limits set.
6. The essential requirements are:
  - The volume and weight of the packaging must be kept to the minimum amount to ensure the necessary levels of safety, hygiene and consumer acceptance for the packed product.
  - Hazardous substances and materials must be kept to a minimum in terms of their emissions when incinerated or landfilled - for example from ash or leachate (the liquid that drains from a landfill site)
7. The packaging must be suitable for one of the following: recycling, energy recovery (meaning that burning it must produce more energy than the incineration process), and organic recovery such as composting.

8. If reuse is claimed, the packaging must be suitable for that purpose as well as at least one of the recovery methods stated above.
9. The total heavy metal limits should not exceed 100 parts per million. These apply to cadmium, mercury, and lead and hexavalent chromium. However these limits do not apply to: plastic crates and pallets that have been made from at least 80% recycled plastic that have not intentionally had any heavy metals added and glass packaging, providing the person responsible can show to the Trading Standards authority that none of the above mentioned substances have been added during the manufacturing process and that the average concentration of them in the furnace does not exceed 200 parts per million.

### **Who is responsible?**

10. The regulations apply throughout the UK to people who:
  - design or manufacture packaging
  - pack or fill the packaging
  - claim to do so by putting their name on the packaging.(own brand products)
  - import the packaging into the UK
11. The Regulations apply regardless of turnover and amount or type of goods packaged.

### **Obligation to Keep Information**

12. Any packaging designed or used as part of any business must conform to these requirements. Businesses are required to keep evidence that packaging conforms to these requirements for four years from the date that the packaging was placed on the market.
13. This evidence must be made available to an enforcement authority within 28 days of their requesting it. The local 'weights and measures authority' has a duty to enforce the legislation.

### **What happens if the packaging doesn't comply or the business doesn't provide evidence?**

14. The cost of non-compliance could be substantial. Non-complying products can be suspended from supply. Businesses could face an unlimited fine, and in extreme cases a jail sentence of up to three months.

### **Guidance on Compliance**

15. The Regulations provide a defence for anyone charged with an offence if they can show they took all reasonable precautions and exercised due diligence to avoid committing an offence. Reasonable precautions means setting up systems to ensure that they comply with the law, due diligence means taking steps to ensure the systems operated by businesses are working properly.
16. What is considered reasonable depends on the size of the business. For example, for a take-away establishment, compliance may be as simple as switching containers from polystyrene to cardboard, whereas for a larger establishment compliance will require more work.

## **Further Information**

17. Further detailed information and assistance can be sourced through:

- [www.incpen.org](http://www.incpen.org) - Code of practice for responsible packers
- [www.gov.uk/managing-your-waste-an-overview](http://www.gov.uk/managing-your-waste-an-overview) - Advice on waste management and, for companies with a turnover of £2 million or above and handling 50 tonnes or more of packaging in a calendar year.

## **Recommendation**

18. The Committee is asked to note the information as contained within the report.

---

Contact: David Ellerington, City of Newcastle upon Tyne Council on 0191 2116119  
or e.mail [david.c.ellerington@newccastle.gov.uk](mailto:david.c.ellerington@newccastle.gov.uk)

---