

Leaflet* on the amendment of § 15 VerpackG

The most important information summarized for you:

1. Basic information on § 15 VerpackG

§ 15 of the Packaging Act regulates the obligations for packaging that does not typically accrue at the private end consumer or is not subject to system participation for other reasons. In detail, this concerns the following types of packaging:

- Transport packaging
- Commercial secondary and sales packaging
- Sales and outer packaging that is not compatible with the system
- Sales packaging of pollutant-containing filling goods
- **NEW:** Reusable packaging

These obligations are not limited to the packaging actually placed on the market by the manufacturer or the distributor following him in the supply chain, but also include used, empty packaging of the same type, shape and size. Only for final distributors is the take-back obligation limited to packaging originating from goods that they themselves carry in their product range.

Manufacturers and distributors of packaging within the meaning of § 15 of the Packaging Act are obliged to take back, free of charge, used packaging that has been emptied of its residues and is of the same type, shape and size as the packaging they put into circulation at the place where it is actually taken over or in the immediate vicinity thereof.

However, it is possible to make deviating agreements on the place of return and the cost regulation. Such agreements were already possible under the Packaging Ordinance and were common practice. In principle, they can also be made with end consumers, but not with private households.

In contrast to the system participation obligation under Section 7 of the Packaging Act, the obligations under Section 15 apply not only to the "initial" distributor (manufacturer), but also to all subsequent distributors in the supply chain.

As one of the largest dual systems and service providers for site disposal, **BellandVision GmbH** will be happy to assist you as a competent contact for questions regarding packaging licensing:

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However, the take-back and recovery obligations can also be fulfilled by returning the packaging to the previous distributor (§ 15 (3) sentence 2 VerpackG).

2. Changes due to the amendment of the packaging law

a) The insertion of reusable packaging in Section 15 (1) Sentence 1 of the Packaging Act has clarified that the distributors also have a take-back obligation with regard to reusable packaging. This obligation previously resulted only indirectly from the legal definition of reusable packaging, according to which return must be made possible for reusable packaging by means of sufficient logistics and suitable incentive systems.

b) New information obligations - § 15 (1) sentence 5 VerpackG (from 03.07.2021)

Final distributors of packaging within the meaning of Section 15 (1) of the Packaging Act must inform subsequent distributors as well as

final consumers by means of suitable measures to an appropriate extent about the return options for packaging and their purpose (Section 15 (2) of the Packaging Act).

However, the law does not contain any specifications as to how exactly the information obligation is to be fulfilled "to a reasonable extent". This is left to the discretion of the obligated party.

Possible options are e.g.:

- Regulation in the general terms and conditions
- Information on delivery documents
- Notices on the website
- Supplementary leaflets

c) New proof and documentation obligations - § 15 Para. 3 S. 3 VerpackG (from 01.01.2022)

Manufacturers and distributors of packaging according to § 15 para. 1 VerpackG, have to provide evidence of compliance with the take-back and recovery requirements. It must be documented annually by May 15 in verifiable form and broken down by material type and mass, how much packaging was placed on the market and taken back and recovered in the previous calendar year.

This obligation previously applied only to manufacturers and downstream distributors in the supply chain of sales packaging containing hazardous filling materials and sales and secondary packaging that is not compatible with the system. Now also affected are:

- Transport packaging
- Sales and secondary packaging that is not typically generated as waste by private end consumers after use ("commercial packaging")
- Reusable packaging

The obligation relates to packaging that has actually been taken back. If a deviating agreement has been made in accordance with § 15 Paragraph 1 Sentence 4 VerpackG and the packaging is therefore not taken back by the manufacturer or distributor, there is no verification/documentation obligation.

Suitable mechanisms for self-monitoring shall be established to evaluate the correctness and completeness of the documentation. The documentation is not to be actively provided, but only to be kept and presented to the competent state authorities upon request.

Manufacturers and subsequent distributors of packaging in the supply chain pursuant to Section 15 (1) sentence 1 of the Packaging Act are obliged to maintain the financial and organisational means to fulfil their obligations pursuant to Section 15 of the Packaging Act (Section 15 (4) of the Packaging Act). They must set up suitable mechanisms for self-monitoring to evaluate their financial management. In view of the numerous possible, different organizational forms of the manufacturers, the regulation leaves it to their own responsibility in which way they - based on the existing requirements of commercial

and company law - ensure the existence of the necessary financial or organizational means.

The documentation and evidence requirements in Section 15 are intended to ensure that the newly envisaged obligation to provide information in the Environmental Statistics Act is complied with and to prevent the obligation to provide information in the Environmental Statistics Act from running dry due to a lack of information being available. According to Section 5 (2) of the Environmental Statistics Act, data on the type, quantity and whereabouts of packaging must be collected annually.

3. Recommendations for action

- Check whether you provide information in a suitable form about the return options for your packaging in accordance with § 15 VerpackG;
- Determine and document in a verifiable form the type of material and quantity of packaging in accordance with § 15 Para. 1 VerpackG, which has been put into circulation and taken back by you from 01 January;
- Check whether agreements on the return and recycling of such

packaging exist or can be concluded with your customers;

- Establish an internal process to ensure compliance with the information, documentation and take-back obligation;
- Keep appropriate financial resources available in your financial planning
- Clarify the form/content of proof/documentation according to § 15 VerpackG with your responsible state authority (usually district administrative authority) in good time;

***The information in this leaflet refers to the 1st amendment of the Packaging Act in 2021. It has been compiled with care. However, we cannot guarantee that the information is up-to-date, complete, and correct. This applies in particular in the event of subsequent changes to legal provisions or case law. This leaflet is for information purposes only. It does not constitute legal advice. In particular, it cannot replace individual legal advice that takes into account the specifics of your individual case.**

**Vepraktngus-
gsetez***

BellandVision
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