

# How-To Guide to the Packaging Act for Manufacturers

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## 1. Whom is this How-To Guide aimed at?

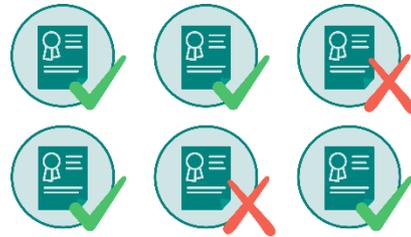
This How-To Guide is aimed at manufacturers – first distributors – of sales packaging materials and repackaging materials in Germany. It is a brief, informative guide to the new and existing obligations regarding product responsibility, and on how to deal with the Central Agency’s register database “LUCID”.

## 2. Why is there a Packaging Act and what does the Central Agency do?

On 1 January 2019 the Packaging Act (VerpackG) replaces the Packaging Ordinance. Both regulations specify the product responsibility for packaging materials. Anyone who markets packaging materials in Germany, be this for the purpose of protecting a product, marketing it better or sending it by post (shipment packaging), must ensure beforehand that these

packaging materials are disposed of correctly. This reflects the principle of manufacturer product responsibility laid down in Germany and in the European Union.

In the past, many **manufacturers** have not fulfilled their product responsibilities. Those who have behaved in conformity with the law have helped pay for the others' recycling. This could not be allowed to continue. Consequently, the legislator has created the Foundation Central Agency Packaging Register (Central Agency) to increase transparency and control in the fulfilment of product responsibility. The Central Agency has been endowed with sovereign tasks and therefore acts as a federal authority. The detailed tasks of the Central Agency are laid down in § 26 Packaging Act (VerpackG).



Consequently, the Central Agency is responsible for the registration of manufacturers, receipt and verification of data reports from manufacturers and systems and therefore, as a result, for monitoring system participation by the manufacturers. At the same time, the Central Agency informs all those who have legal obligations about these obligations and ensures that they can fulfil them with the least possible administrative effort. To this end, the Central Agency has created the Packaging Register “LUCID”. The name LUCID represents transparency.



The public section of LUCID makes it possible, for example, to see which manufacturer has registered for which **brands**. By registering, the manufacturer simultaneously confirms that they have correctly fulfilled their product responsibility. If a manufacturer has not registered correctly, the packaging materials with these brands may not be marketed in Germany at any trade level. They are subject to a “distribution ban”.

### 3. How do I, as a manufacturer, fulfil my product responsibility?

**Sales packaging materials**, including **service packaging** and **shipment packaging** and also **repackaging materials**, which typically reach private households or what are known as **equivalent sources of waste generation** (food service industry, administrative offices etc.) – under the Packaging Act “**private end-users**” – and accumulate there as waste (“**b2c packaging materials**”), must be registered by the **manufacturer** with what is known as a dual system – under the Packaging Act “**System**” –; the term used is “participate”. The system is responsible for ensuring that these b2c packaging materials are separately collected everywhere in Germany and that the recycling conditions of the Packaging Act are being complied with.



For packaging materials that accumulate as waste at the above-named equivalent sources of waste generation, it is also possible for the manufacturer, subject to certain conditions, to – by way of exception to participation in a system – collect these materials separately and recycle them themselves. Notification of this must be given to the responsible authority (Central Agency) before starting such an “**industry solution**”. The

subsequent return and recycling of the packaging materials themselves must be documented, confirmed by a [registered expert](#) and forwarded to the Central Agency for inspection.

Through their **registration in LUCID**, the manufacturer also declares to third parties that they have fulfilled their product responsibility for the b2c packaging materials marketed by them. In addition, the manufacturer must submit regular **data reports to the Central Agency**.

#### 4. What are the specific obligations for manufacturers under the Packaging Act?

**§** The Packaging Act provides that packaging waste should be avoided as a matter of priority. If **sales packaging materials, service packaging, shipment packaging** or **repackaging materials** cannot be avoided, then correct registration after use and recycling are of prime importance. To this end, certain basic obligations apply to the manufacturer of **b2c packaging materials**:

- ◆ Manufacturers must register with the Central Agency before commercially marketing the packaging materials. Further details can be found here: [5. Registration obligation](#), [6. Consequences of system non-participation](#) and [7. Registration process](#).
- ◆ Manufacturers must register their b2c packaging materials with a system before commercially marketing them. Further details can be found here: [3. Product responsibility](#).
- ◆ At least once a year, manufacturers must report the mass (total weight) of the packaging materials marketed by them and the type of material to the system they have chosen, and simultaneously to the Central Agency. Further details can be found here: [3. Product responsibility](#), [6. Consequences of system non-participation](#) and [8. Reporting of quantities of packaging materials](#).
- ◆ Manufacturers must, with their 'declaration of completeness', make the mass of sales packaging they have marketed for each type of material transparent to the Central Agency; there are exceptions to this for what are known as insignificant quantities. Further details can be found here: [9. Declaration of completeness](#).

#### 5. Who is obliged to register under the new Packaging Act and what packaging materials trigger a registration obligation?

The obligation to register with the Central Agency is a new obligation introduced by the Packaging Act from 1 January 2019. It affects those who were also previously obliged under the Packaging Ordinance to make their packaging materials part of an officially approved disposal system, i. e., the manufacturers (**first distributors**) of **b2c packaging materials**.

## Who is a manufacturer (first distributor)?

A first distributor is the first person commercially (also free of charge if applicable) providing b2c packaging filled with goods in Germany to a third party with the aim of distribution, consumption or use.



As a rule, the manufacturer of a product is the first distributor in Germany and therefore obliged to register. If the headquarters of a manufacturer are abroad, however, then the domestic importer may also be deemed the first distributor in Germany and hence considered to be the manufacturer. No matter what, the importer of b2c packaging materials must be sure that the brands of the packaging materials are registered in LUCID.

## Repackaging materials

Repackaging materials of sales packaging are also explicitly covered by the system participation requirement and the registration obligation if they typically end up as waste for the private end consumer.

## Shipment packaging materials

In mail-order/online business, the product is repackaged in order to ship it to the end consumer, i.e. the packaging is filled with goods. The shipper is obliged to carry out registration for this shipment packaging (e.g. cardboard and filling material).

## Service packaging materials

A further special case is what is known as **service packaging**. This is not filled with goods until the point at which it is passed to the **private end consumer**. Typical examples are bags for bread rolls, butcher's paper, trays for chips, takeaway coffee cups or bags for fruit and vegetables. Here – and only here – the person marketing these packaging materials filled with goods for the first time (e. g. the baker, butcher, snack bar, café or retailer), may purchase the packaging with existing system participation. Anyone who does this should ensure that they receive evidence from their upstream distributor that system participation has occurred, e. g. on the invoice or the delivery note or via a contractual agreement. The upstream distributor is obliged, under the Packaging Act, to provide such confirmation. If the distributor of the filled goods has purchased all the service packaging materials that they use “with existing system participation”, they do not have to register. Rather, an upstream distributor of the service packaging material, i.e. an upstream distribution stage, e. g. the producer or wholesaler, is required to register.



## What packaging materials do I have to register with a system?

As a general principle, all b2c packaging materials must be registered with (participate in) a system.

## What is b2c packaging material?

B2c packaging material is sales or repackaging material which typically accumulates as waste for private households or equivalent sources of waste generation to these (private end consumers) and consequently is “subject to system participation requirements”. Information on classification as “subject to system participation requirements” can be found under [4. Obligations under the Packaging Act](#).



These may be **sales packaging materials** (packaging materials which are typically provided to the end consumer as a sales unit of goods and packaging), including packaging materials which are first filled by the last distributor, such as **shipment packaging materials** or **service packaging materials** (regarding these terms, see also under [5. Registration obligation](#)), and also **repackaging materials** (packaging materials which contain a certain number of sales units and are typically provided to the end consumer together with these or are for the purpose of stocking the retail shelves) and also typically accumulate as waste for the private end consumer.

sumer.

Also considered to be packaging are all those packaging components, e. g. seals, the labels and air cushions, found in shipment packaging.

**Private end consumers** are private households and sources of waste generation equivalent to these e.g. restaurants, hotels, canteens, administrative offices, hospitals etc. (further examples are listed in § 3 (11) Packaging Act).

## How do I deal with instances of uncertainty?

If the packaging material “typically” accumulates as waste for private end consumers, it must be registered with a system or – provided that, in the event of accumulation at the above-named equivalent sources of waste generation, this is permitted as an exception by law – returned via a documented industry solution. This requires a prior assessment by the manufacturer, i. e. they must check prior to placing on the market where the packaging material typically accumulates later as waste. If this is predominantly, mainly, usually, normally, typically at the premises of the end consumer, then the criterion of “typically” is regularly satisfied.

Because this prior assessment can sometimes be difficult for the manufacturer, the Central Agency has the authority, if requested, to decide whether a packaging material must be classified as subject to system participation requirements. In order to prepare for the large number of anticipated classification decisions, the Central Agency is publishing, in the form of a catalogue of packaging materials subject to system participation requirements, how it will decide in the event of a request. The catalogue gives the manufacturer information on packaging materials which typically accumulate as waste for the private end consumer.

Exempt from the system participation requirement are: **reusable packaging materials**, disposable drinks packaging materials which are subject to a mandatory deposit by law,

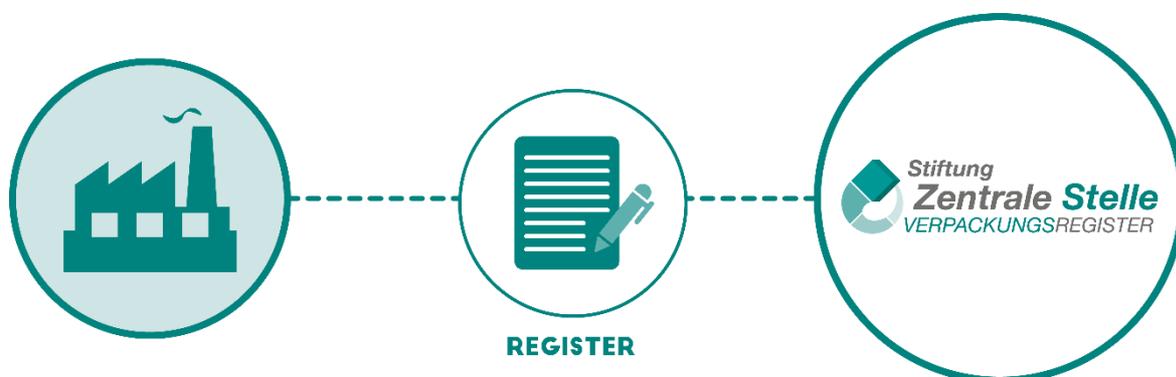
transport packaging materials and packaging materials with filled goods containing hazardous substances (the latter are listed in Annex 2 to the Packaging Act).

### Do I have to register all marketed packaging materials with a system and report them to the Central Agency?

The manufacturer must register (ensure participation of) all packaging materials subject to system participation requirements distributed by them with a system and report them to the Central Agency (regarding this, see also [8. Reporting of quantities of packaging materials](#)), subject to return via an industry solution under strict conditions. Deductions are only permitted if the manufacturer has taken these back (solely) for reasons of damage or unsalability and had them recycled in accordance with the stipulations of the Packaging Act and also documented the return in each individual case in verifiable form. Blanket deductions – without specific evidence in each individual case or via a report – are not permitted.

If such deductions are made in the case of the reports to a system in the context of participation or to the Central Agency (regarding this, see specifically [8. Reporting of the packaging quantities](#)), the manufacturer is infringing their obligation concerning correct participation. This may entail a fine, the Central Agency may withdraw registration and the corresponding packaging materials will be subject to a distribution ban (regarding this, see [6. Consequences of system non-participation.](#))

Packaging materials of products provided free of charge also come under the system participation obligation if this occurs in the context of practising a trade.



## 6. What happens if I do not register and/or do not carry out system participation for my packaging materials?

The registration obligation is intended to increase transparency in relation to the market behaviour of manufacturers, prevent system participation failure (also known as “free rid-

ing”) and thereby ensure fair competition. Through participation in a system with the appropriate financial contributions, separate collection and subsequent recycling in line with the stipulations of the Packaging Act is facilitated by the systems. If the systems have to take back more packaging materials than have been registered with them, then the manufacturers behaving in a legally compliant way effectively have to help bear the costs of this “free riding”.

If a packaging material subject to system participation requirements is not registered with a system (or – if permitted – is not, by way of an alternative, participating in an industry solution), it may not be sold (distribution ban). Registration with the Central Agency and participation in a system are thus stipulated by law. The distribution ban affects both the manufacturer and each subsequent distributor. Since the register is publicly accessible to everyone, both the consumers and the distributors can quickly recognise whether the relevant product is allowed to be sold in Germany.

In addition, in the event of non-registration, or of distribution of goods where the manufacturer has not correctly registered the brands they are distributing, there is a potential fine of up to €100,000 per case. Non-participation in a system may be punished with a fine of up to € 200,000. In addition, it is conceivable that competitors will enforce the distribution ban by civil law.

Conversely: anyone who sells or dispatches packaged products in Germany has nothing to fear if the relevant manufacturer is registered and all b2c packaging materials are correctly participating in a system.



## 7. How does the registration work?

### What information do I have to provide as part of the registration?

Registration is very simple. Legislators have limited the obligations of the manufacturer to the necessary minimum. It is a purely electronic process and can be performed with a computer/tablet or web-enabled mobile phone. A brief description of the registration process can be found below. On the site

[www.verpackungsregister.org](http://www.verpackungsregister.org)

the FAQs contain information concerning individual questions which may arise in the context of registration. This is added to step by step on the basis of enquiries.



For registration, two steps must be completed:

1. Request access data for LUCID
2. Enter registration data

To request access, go to the site:

<https://www.verpackungsregister.org>

where you will find the button for registering on the LUCID register (from the 3<sup>rd</sup> quarter of 2018 onwards). There, you enter the name of the company to be registered, a natural person authorised to represent, an e-mail address and a password. If the company has

several legal representatives (e.g. several managing directors), then it is sufficient to submit one of these legal representatives as a contact person authorised to represent. If the legal representative is not a natural person, then, in turn, one of its legal representatives must be specified. In addition, the name of the specific contact person together with e-mail address must be given so that the login can be issued. With small manufacturers, the legal representative and contact person are often the same person.

Once you have submitted this data, you will receive an activation e-mail containing a link. You now have 24 hours in which to complete registration via the link. If you do not use this link in the subsequent 24 hours, the data will be deleted for data protection reasons and you will have to enter them again for registration purposes.

By clicking the link you have been sent, access to the input template is enabled. Now enter your manufacturer data (for this, please have ready the national identification number of the manufacturer, for example the commercial register number, including the European tax number (VAT ID No.). Should these, in an individual case, not be available – and please only in this case – alternatively enter your national tax number. Now the brand names under which you are marketing products and/or packaging materials must also be entered. For these purposes it is helpful to have at hand a complete article list of the products you are marketing.

If your product does not have a brand name, please enter the legal name of the company or, if a sole trader not entered into the commercial register, your own name, in the field “Brand names” so that the products can be assigned to you as a manufacturer.

As part of the registration you must also confirm that, in relation to the packaging materials you are marketing as a manufacturer, you have participated in one or more systems or one or more industry solutions.

Finally, you have the possibility of reviewing your entries in a summary. To conclude please confirm the completeness and accuracy of the information and end the process by clicking on the field “Conclude registration”.



## Personal registration

Important: The manufacturer must personally complete the registration (and also the reporting of the quantity, regarding this see [8. Reporting of quantities of packaging materials](#)). Engaging a third party, e. g. commissioning a system, agent or a chamber of foreign trade, to perform these duties is not allowed. Each e-mail address may only be used once to apply for access data.

### When will my registration become effective?

You have done everything required to be correctly registered on 01 January .2019. As the law does not come into force until 01 January 2019, you are only “provisionally registered” if you register before this date, but you do not need to do anything else. If your registration was complete, you will receive confirmation of this with a provisional registration number. You can also already pass this to your current or future system with regard to participation of packaging materials.



### When will my registration be published?

You can give your consent before 01 January 2019 to your registration in LUCID being available to the public (name/address of manufacturer, brands). Then your customers will know in good time that you have already fulfilled your registration obligation and that the packaging materials will not be subject to a distribution ban after 01 January 2019.

### When will my registration be completed and when, at the latest, published?

Shortly after 1 January 2019 you will receive from the Central Agency the official communication of successful registration. This communication about registration is an official act (administrative act). Your registration (name/address of manufacturer, brands) will be published on the Internet by that point at the latest.

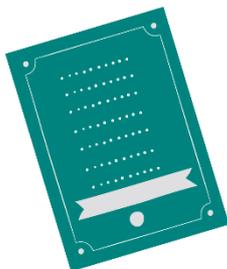
## 8. To whom, how, and when do I, as a manufacturer, have to report my quantities of packaging materials?

### How do I determine the content of the data report?

For the **b2c packaging materials** it must be determined which material they consist of (the Central Agency will provide assistance with this on its website) and how much they weigh. If the manufacturer multiplies the mass of packaging materials of one type of material by the number of packaging material units, this produces the mass for each material type which must participate in a system. This calculation method is the same for

- ◆ Packaging materials that the manufacturer is planning to market in a certain time period (e.g. calendar year) (planned quantities) and
- ◆ Packaging materials that the manufacturer has actually marketed in the previous calendar year (actual quantities).

For the mass of packaging materials which the manufacturer is planning to market, the manufacturer must conclude an agreement with a system (“participate”) and, in accordance with the contractual agreement with the system, report the quantities to the system as a planned quantity (generally based on the calendar year). At the same time, precisely those quantities which the manufacturer has reported to the system must also be given via LUCID to the Central Agency. The manufacturer is legally obliged to do this.



At the latest once the calendar year has elapsed, the manufacturer informs the relevant system how big the mass of sold packaging materials actually was (actual quantity), in order to enable a final account to be generated by the system. These quantities, too, are again passed by the manufacturer to the Central Agency via LUCID. The manufacturer is legally obliged to do this.

Against this backdrop, too, it makes sense to keep the article list of the b2c packaging materials required during registration constantly updated, so that you are always aware when materials or masses change.

For large manufacturers with several packaging materials, it makes sense to also report actual data to their system during the course of the year, so that as precise an account as possible can be generated with the system. Every time data is reported to a system, this must be entered in exactly the same way into the database of the Central Agency, in LUCID. If the manufacturer only makes two data reports to the system in a year, then only two data reports to LUCID are required too. If the manufacturer, in addition to reporting planned and actual quantities, also reports to the system on a quarterly basis, six data reports to LUCID are required. The data reports are therefore always made in duplicate –to the system on the one hand and to LUCID on the other. The content of the relevant report to the system must be identical to the report to LUCID.

### Are there consequences if I do not submit any data reports?

Yes, this can be punished with a fine of up to €10,000 per infringement.

## 9. When and how do I, as a manufacturer, have to submit a declaration of completeness and have it certified?

As was already the case under the Packaging Ordinance, the manufacturers marketing packaging materials subject to system participation requirements are required to submit, by 15 May every year, a 'declaration of completeness' for the previous year, i.e. a report of the mass of the actual sales and repackaging materials (ACTUAL quantities) marketed in the previous calendar year. The information to be provided in the declaration of completeness is listed in § 11 (2) of the Packaging Act. The information must be certified by a registered examiner and filed electronically with the Central Agency in LUCID. You can find registered examiners in the examiners' register of the Central Agency via LUCID.



This obligation only applies if the actual quantity of packaging materials subject to system participation requirements marketed in the previous calendar year exceeds one of the following quantity thresholds ('insignificant quantities'):

- Glass: 80,000 kg
- Paper, Paperboard, Cardboard: 50,000 kg
- Ferrous metals, aluminium, plastics, drinks cartons, other composites: 30,000 kg.

The Central Agency will also remind by e-mail those manufacturers for whom the reports made in the previous calendar year have exceeded one of the threshold values to submit the declaration of completeness. If the declaration of completeness is not filed, not filed correctly or fully or not filed on time, this constitutes an administrative offence which can incur a fine of up to € 100,000.

**We hope that some key questions have been answered in this document. On the Central Agency website you can find further FAQs which will be also be gradually added to. There, several additional specialised questions will be answered.**

## 10. Glossary

"b2c" packaging	The abbreviation "b2c" stands for "Business-to-Consumer" and means a business relationship between an entrepreneur and a private person as a consumer. b2c packaging is a packaging that has been provided commercially by a manufacturer and typically accumulates for private end consumers (private households or sources of waste generation equivalent to these) as waste and is therefore subject to system participation requirements.
Sector-specific solution	This is a free-of-charge return and recycling system via the manufacturer, relating to the packaging materials subject to system participation requirements they are marketing. This is confined to packaging which are delivered to what are known as equivalent sources of waste generation, and it must be indicated in advance and demonstrated annually how the obligations from the German Packaging Act have been fulfilled.
First distributor	The first person commercially (also free of charge if applicable) providing b2c packaging filled with goods in Germany to a third party with the aim of distribution, consumption or use is deemed a first distributor as defined by the German Packaging Act.
Equivalent waste generation sources	Equivalent waste generation sources are, owing to the comparable nature of packaging waste that accumulates there, equivalent in legal terms to private households. These include e.g. restaurants, hotels, canteens, administrative offices, hospitals etc.
Manufacturer	The manufacturer of a product is generally the first distributor in Germany and therefore obliged to register if they are operating commercially. If, however, this manufacturer has their headquarters abroad, then the domestic importer may also be deemed the first distributor in Germany and therefore the manufacturer.
LUCID	LUCID is the platform on which the manufacturers register and on which the Zentrale Stelle Verpackungsregister (Central Agency Packaging Register) receives, stores and examines the master data of the manufacturers. As required by law, the registered manufacturers are published with their brand names in a list in LUCID. In the database, the data reports from the different participants are also incorporated and processed.

Reusable packaging	Reusable packaging is intended to be reused multiple times for the same purpose after use. A further prerequisite is that their actual return and reuse is enabled by adequate logistics and encouraged by suitable incentive schemes. Reusable packaging is frequently subject to a deposit system. This would be an incentive scheme as per the legal definition.
Private end consumer	A private end consumer is someone who no longer commercially markets the goods in the form delivered to them. Alongside private households, private end consumers also include what are known as equivalent waste generation sources (see above).
Registered expert	<p>In accordance with the German Packaging Act the following categories of registered experts exist:</p> <ul style="list-style-type: none"> <li>- Publicly appointed experts</li> <li>- Environmental auditors or organisations</li> <li>- Experts accredited by the national accreditation body</li> <li>- Foreign experts (experts licensed in another member state of the EU or a country in the European Economic Area).</li> </ul> <p>An expert is only deemed registered if he or she is listed in the examiners' register of the Zentrale Stelle Verpackungsregister (Central Agency Packaging Register).</p> <p>These experts check the volume flow records of the systems, the sector-specific solutions and also the evidence in the event that a manufacturer requests the return of system participation fees for packaging on the grounds of damage or unsalability of the same. In a second section of the expert register, auditors, tax consultants and certified accountants are listed; these may additionally check the declarations of completeness.</p>

Service packaging	Service packaging is a packaging which is not filled with goods until it reaches the final distributor, in order to enable or support its transfer to the private end consumer. Typical examples are bags for bread rolls, butcher's paper, trays for chips, takeaway coffee cups or bags for fruit and vegetables. Here – and only here – the person marketing these packaging filled with goods for the first time (e. g. baker, butcher, snack bar, café or retailer) may purchase the packaging with system participation already.
System	System, or also “dual system”, means a company which has received authorisation from the competent regional authority for operating a system for the collection of packaging subject to system participation requirements. For this purpose, different conditions must be fulfilled, among other things evidence of comprehensive collection structures, coordination with waste management organisations regulated by public law, and the availability of the required sorting and recycling capacities.
Transport packaging	Transport packaging is used to mean packaging materials which facilitate the handling and transport of goods in such a way that direct contact with them and damage in transit are avoided, and which typically are not intended to be passed on to the end consumer.
Grouped packaging	Grouped packaging bundle a certain number of sales units and are offered in this form to the end consumer. Alternatively, they are used for stocking of retail shelves. One example that can be named here is the packaging that combines bottles in the form of a “bottle carrier”.
Sales packaging	Sales packaging refer to a product made from any desired materials for housing, protecting, handling, delivering or presenting goods. They are typically offered to the end consumer as a sales unit consisting of goods and packaging. These also include service packaging and shipment packaging and all components of the packaging and packaging aids e.g. labels, aids for hanging, seals.
Shipment packaging	A shipment packaging enables or supports the shipping of goods to the end consumer. The entire packaging material including the filler material, which is marketed as part of the transfer or shipping to the end consumer and accumulates there for disposal, is considered shipment packaging and is subject to system participation requirements.

(Version: September 2018)