

German Packaging Act Amendment: changes relevant for online retail

The first amendment to the Packaging Act, which came into force in 2021, has brought far-reaching changes. Online retail is particularly affected by the adjustments, which have applied since 1 July 2022 after a one-year transition period. The aim of the Federal Ministry for the

Environment (BMU) is to transpose EU law into national law with the amendment and to further develop the Packaging Act (VerpackG) ecologically. Online retailers are affected by the amendment of the Packaging Act in two main aspects:



Duty of control from 1 July 2022 for operators of electronic marketplaces

- Retailers who make use of electronic marketplaces (e.g. Amazon, eBay) to sell their goods to German consumers must ensure that the packaging is **participating** in (i.e. is **licensed with**) a dual system before distributing their packaged goods.
- In addition, packaging must also be **registered with the Central Agency Packaging Register** (LUCID database) beforehand.
- If the retailer fails to comply with these regulations, a **prohibition on the sale of these goods** applies to the retailer and the marketplace operator alike.
- **Specifically:** Operators of online marketplaces may no longer offer the goods themselves or otherwise enable their sale if the retailer in question do not fulfil their obligations under the Packaging Act (participation in a dual system, registration in the packaging register LUCID and data reporting to LUCID).
- Accordingly, this represents a **duty of prior verification** of system compliance and LUCID registration for operators of online marketplaces. Operators may themselves decide on the most appropriate way to verify such participation. Typically, however, manufacturers must provide the marketplace with the LUCID registration number and proof of system participation from their dual system.



Changes in responsibilities for fulfilment service providers + duty of control from 1 July 2022

- Fulfilment service providers are granted a blanket exemption from licensing duties. Instead, the merchant commissioning their services will be obliged to fulfil the requirements of the Packaging Act.
- **Specifically:** Even if the activities performed by a fulfilment service provider include packaging goods into mail-order packaging subject to licensing requirements, the registration and licensing duties as applicable to this shipping packaging are instead assigned to the distributor of the goods on whose behalf the fulfilment service provider is acting.
- In the same way as for operators of electronic marketplaces (see 1 a), fulfilment service providers must also demand prior **proof of system participation and LUCID registration** from merchants commissioning their services and likewise have a **duty to verify this participation**.

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- If no proof is forthcoming, then services such as goods warehousing, packing, addressing and shipping for third-party goods must not be provided by the fulfilment service provider. Here too, this is equivalent to a **ban on sales**.
- Merchants are to receive the data that they require for packaging licensing from their fulfilment service providers.

Note that the provisions of the new Act also apply to foreign merchants who use online platforms or fulfilment to participate in the German market. This approach aims to make it easier to apply the law to foreign merchants and therefore establish a more level playing field.

Extra: This applies to transport packaging

Transport packaging is packaging that stays within the wholesale sector, such as pallets or large cardboard secondary packaging. These have not been subject to dual system requirements to date and this situation will continue – although the new Act does assign their distributors three new duties.

- 1. Duty to provide information, since 3 July 2021:** Final distributors of transport packaging must inform end users about options for returning this packaging and the purpose of these activities.
- 2. Duty to provide proof, from 1 January 2022:** Distributors of transport packaging must maintain complete records of their compliance with applicable take-back and recycling requirements.
- 3. Duty to register, from 1 July 2022:** Distributors of transport packaging must register with the LUCID packaging registry. A failure to register will trigger a sales ban.



Please note: Anyone who puts transport packaging on the market does not have to license it with a dual system, but according to the Packaging Act, they still have to ensure that it is taken back and recycled properly in accordance with the principle of producer responsibility (§15 VerpackG). Alongside the licensing of packaging subject to dual system requirements via Lizenzero, Interzero is also an experienced provider of transport packaging take-back and recycling services

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Please note: This information only represents the current status.
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