

Final text agreed after discussing Senate amendments
Act
of May 11, 2001
on Packages and Package Waste

Chapter 1
General Provisions

Art. 1

1. This Act defines the requirements which packages must meet with regard to environmental protection rules, rules of dealing with packages and packaging waste in a manner that ensures protection of human life and health as well as environment protection and in accord with the principles of balanced development.
2. Matters related to packaging waste, not regulated by this act, are governed by the waste law.
3. The provisions of this act do not infringe on the provisions contained in Section II, chapter I of the Environmental Protection Act dated April 27, 2001 (Journal of Law No ... item...).

Art. 2

Provisions of the act are applicable to packaging introduced into the Polish customs area under the procedure of permission for trade, packages being the subject of economic activity in Poland and any packaging waste generated by this activity.

Art.3

1. The term “package” describes every product made of any material which is used for storing, protecting, transporting, delivering or presenting another product, from raw material packages to ready product packages.
2. Packages include:
 - 1) individual packages used for providing the product to the user at the place of purchase, including non recyclable packages for products that are to be consumed
 - 2) collective packages comprised of a number of individual packages of products, regardless of whether they are handed to the user or whether they are used for supplies to the sale points and which can be removed from the product without changing its qualities
 - 3) transport packages aimed at facilitating transport of products in individual or collective packages as to prevent the occurrence of any damage, with the exclusion of containers for road, railway, water or air transport.
3. Each time this Act mentions the following expressions:
 - 1) package waste – it shall mean all packages, including reusable packages withdrawn from further use, which constitute waste in the meaning subscribed by the regulations on waste, except for the waste generated in the package production process,
 - 2) recovery – it shall mean recovery in the meaning of regulations of the regulations on waste ,
 - 3) recycling – it shall mean recycling in the meaning of regulations of the regulations on waste ,

- 4) re-use – it shall mean every activity in the course of which a package aimed and designed for use in at least two usage cycles is refilled or used for the same purpose as originally designed.

Art. 4

The provisions of this act do not infringe the requirements applied to packages defined in separate regulations.

Chapter 2
Obligations of the package producer, importer and exporter

Art. 5

1. The producer and importer of packaging shall reduce the amount and the harmful environmental impact of substances used for the manufacture of packaging and generated packaging waste in such a way that:
 - 1) the volume and weight of packages are restricted to the necessary minimum required for fulfilling their function, taking into consideration the user's expectations;
 - 2) packages have been designed and produced in a manner enabling their re-use and future recycling, and if this is not possible then at least their recycling and if this is not possible then other forms of recovery,
 - 3) packages contain the lowest possible amount of substances and materials harmful to human life, health or to the environment,
 - 4) maximum aggregate content of lead, cadmium, mercury and hexavalent chromium in a package does not exceed 100 mg/kg, subject to section 3.
2. The Minister competent in environmental matters guided by the need to obtain reliable and repetitive results will determine, by way of an ordinance, the reference methodology for determining the aggregate value of lead, cadmium, mercury and hexavalent chromium content in packages.
3. The Minister competent in environmental matters guided by physical properties and chemical composition of packages, as well as their potential threat to the health and well-being of humans and the environment, shall determine, by way of an ordinance, the types of packages exempted from the requirements specified in section 1 item 4 and the types of packages for which the maximum aggregate content of lead, cadmium, mercury and hexavalent chromium may be higher than that specified in section 1 item 4; the duration and detailed terms of exemption or of allowed higher content.
4. The Minister competent in environmental matters in cooperation with the Minister competent in economic matters, guided by physical properties and chemical composition of the packages and packaging waste and their susceptibility to biological decomposition may determine, by ordinance:
 - 1) package requirements related to the recommended method of recovery,
 - 2) requirements related to reuseable packages.
5. The Minister competent in environmental matters in cooperation with the Minister competent in economic matters, guided by obtainable technical capabilities and environmental protection requirements may, in the form of an ordinance, impose limitations or restrictions on the use of certain substances and materials used in the production of packaging and not fulfilling the requirements described in section. 1.

Art. 6

1. The producer and importer of packages is obliged to mark them, unless the type of packaging does not require this.
2. The marking should specify:
 - 1) type of materials used for producing the packages,
 - 2) reusability (if any),
 - 3) recyclability (if any).
3. The marking shall be placed on the package or on a label affixed to it, and if the size of the package does not permit so, on an information note attached to it.
4. The marking should be clear, visible and readable and should remain durable also after the package has been opened.
5. The relevant Minister for environmental affairs, driven by the need to establish a uniform marking system, shall define, by way of an ordinance:
 - 1) type of packages subject to marking requirements,
 - 2) package marking templates.

Art. 7

1. The producer, importer and exporter of packages shall be obliged to submit to the relevant voivodship marshal an annual report on the weight of packages produced, imported and exported, by the type of material the packages have been made from, detailing the amount of reusable packages and on compliance with the obligation imposed by Article 5, section 1, item 4, by March 31 of the following year for the previous calendar year.
2. The relevant Minister for environmental affairs, driven by the need to unify reports defined in section 1, shall define, by way of an ordinance, the report templates to be used, with consideration given to small and medium sized enterprises.
3. The documents the reports referred to in section 1 are based on should be stored for the period of 5 years.
4. The voivodship marshal the report is submitted to, may, by way of a decision, oblige the producer, importer or exporter of packages to submit the documents described in section 3.
5. The relevant voivodship marshal is the one pertinent to the the registered seat or domicile of the producer, importer or exporter of packages, and if the package producer, importer or exporter does not have a registered seat or domicile in the Republic of Poland, the relevant marshal shall be the Marshal of the Mazowieckie Voivodship.

Chapter 3

Obligations of producers, importers and exporters of packaged products

Art. 8

The provisions of Article 5 section 1 and Article 6 sections 1-4 apply to the producer and importer of packaged products respectively.

Art.9

1. Obligations of the producer and importer of packaged products with regard to achieving levels of recovery and recycling are defined in regulations on entrepreneurs' obligations to manage certain types of waste and the Act on Product Fee and Deposit Fee.
2. Obligations of the producer and importer of packaged products with regard to reporting on quantities and types of packages used are defined in regulations on

entrepreneurs' obligations to manage some types of waste and the Act on Product Fee and Deposit Fee.

3. The exporter of packaged products shall be obliged to submit to the relevant voivodship marshal an annual report on the weight of exported packaging, by the type of materials they have been made of, specifying reusable packages for exported products, by March 31 of the following year for the previous calendar year. The provisions of Article 7 section 5 shall apply accordingly.
4. The relevant Minister for environmental affairs, driven by the need to unify the reports referred to in section 3, shall define by way of an ordinance the report templates to be used, with consideration given to small and medium sized enterprises.
5. The documents the reports referred to in section 3 are based on, should be stored for the period of 5 years. The provision contained in Article 7 section 4 shall apply accordingly.

Art 10

1. The producer and importer of chemical substances which are extremely toxic, toxic, cancerogenic, mutagenic or hazardous to the environment, as defined in separate regulations on chemical preparations and substances, shall be obliged to determine the amount of deposit on the individual packages used for these substances. This deposit may not be lower than 10% and higher than 30% of the price of the chemical substance contained in the package.
2. The producer and importer of chemical substances referred to in section 1 shall be obliged to collect from the seller, at their own expense, reusable packages and package waste related to these substances.
3. If the deposit collected by the seller cannot be returned due to an interruption or discontinuation of activity, the producer or importer of chemical substances referred to in section 1 shall be required to accept reusable packages of chemical substances from users. Upon receiving reusable packages and package wastes related to those substances, the producer or importer shall be obliged to return the collected deposit.
4. The Minister competent for health matters in agreement with the Minister competent for environmental matters shall define, by means of an ordinance, package types for selected chemical substances for which deposits other than those defined in section 1 will be used due to the nature of these packages or substances.

Art. 11

Producers and importers referred to in Article 10 section 1 shall be obliged to hold a licence for activity involving collection, transport, recovery or disposal of packaging waste from very toxic and toxic substances, cancerogenic, mutagenic or hazardous to the environment, referred to in waste regulations.

Chapter 4

Sellers' and users' obligations with regard to packaged products

Art. 12

The seller of packaged products shall be obliged to provide consumers and users of such goods with information about the package and package waste, in particular:

- 1) available methods of return, collection and recovery, including recycling,
- 2) proper handling of packaging waste,
- 3) meaning of marking on packages.

Such information should be available in at least the form of note posted in the place where such products are sold.

Art. 13

1. Retail shops with trading area exceeding 25 sq.m. selling consumable drinks in non-returnable shall be required to carry similar products in reusable packages.
2. The Minister competent for economic matters in agreement with the Minister competent for environmental matters, considering the opportunities to use reusable packages, shall define, by way of an ordinance, types of beverages which are exempted from the obligation referred to in section 1.

Art. 14

Retail shops shall be obliged to accept returned and exchanged packages of products packed in the same packages which they carry.

Art. 15

Retail shops with trading area in excess of 2000 sq.m. shall be obliged to conduct, at their own expense, selective collection of package waste from products packed in packages they carry, by types of waste set forth in the waste regulations.

Art. 16

1. The seller of chemical substances referred to in Article 10 section 1 shall be obliged to charge a deposit fee for individual packages of these substances in the amount determined by the producer or importer.
2. The seller, referred to in section 1, shall be obliged to accept from users the reusable packages and package waste from substances mentioned in Article 10 section 1, in order to pass them on to the producer or importer. Upon acceptance of reusable packages and package wastes related to these substances, the seller shall be obliged to return the charged deposit.
3. The seller, referred to in section 1, shall be obliged to hold a permit for conducting activities related to collection or transport of package waste with regard to extremely toxic, toxic, cancerogenic, mutagenic or environmentally hazardous chemical substances, referred to in waste regulations.

Art. 17

The user of chemical substances referred to Article 10 section 1 shall be obliged to return to the seller reusable packages and package wastes from these substances.

Art. 18

Compliance with Article 10, Articles 12-14, and Article 16 sections 1 and 2 shall be supervised by the Trade Inspectorate operating on the basis of separate regulations.

Chapter 5

Obligations of Public Administration Authorities

Art. 19

1. On the basis of reports referred to in Article 7 section 1 and Article 9 section 3, the voivodship marshal shall prepare a voivodship report containing:

- 1) name and seat or name and address of residence of the producer, importer and exporter of packaging and exporter of packaged products,
- 2) weight of manufactured, imported or exported packages, by type of the material they have been made of, with the specification of reusable packages,
- 3) information on packaging producers' and importers; compliance with obligations set forth in Article 5 section 1 item 4.

2. The report referred to in section 1 shall be submitted by the voivodship marshal to the Minister responsible for the environment by May 15 of the following year for the previous calendar year.

3. The Minister responsible for the environment, driven by the need to create a uniform system for data collection and processing referred to in section 1 shall determine, by way of ordinance, detailed guidelines for submission of voivodship reports as well as a template for such reports.

Art. 20

The Minister competent in environmental protection shall maintain a database on package and packaging waste management based on voivodship reports referred to in Article 19 section 1 and reports and collective information mentioned in regulations on entrepreneurs' obligations to manage some types of waste and the act on product and deposit fees.

Chapter 6 **Penal provisions**

Art. 21

Whoever, manufacturing, importing or introducing packaging or packaged goods into the market:

- 1) exceeds the maximum permissible aggregate value of lead, cadmium, mercury and hexavalent chromium in packages, or
- 2) fails to mark packaging in accord with requirements

shall be fined.

Art. 22

1. Whoever, manufacturing, importing or exporting packaging does not submit to the voivodship marshal a report on packaging or submits a report which is incomplete, untimely submitted or not in keeping with documents shall be fined.
2. An exporter of packaged products shall be subject to the same fine if he fails to file a report on packages exported abroad to the voivodship marshal.

Art. 23

Whoever manufactures or imports extremely toxic, toxic, cancerogenic, mutagenic, or environmentally hazardous chemical substances and:

- 1) does not determine a deposit on packages containing such substances or determines such a fee in breach of regulations in force, or
 - 2) does not collect, at his own expense, packages from these substances
- shall be fined.

Art. 24

Whoever sells extremely toxic, toxic, cancerogenic, mutagenic, or environmentally hazardous chemical substances and:

- 1) does not collect a deposit fee from the user of the substance or collects such fee in an amount in breach of regulations in force, or
- 2) does not refund the user of the substance the deposit or does not accept returned reusable packages and package wastes from such substance

shall be fined.

Art. 25

Whoever, being a user of extremely toxic, toxic, cancerogenic, mutagenic, or environmentally hazardous chemical substances does not return to the seller the reusable package and package waste from such substance shall be fined.

Art. 26

Whoever sells packaged products and fails to post at the point of sale information regarding packaging and spent package wastes and related to the following:

- 1) available systems of return, collection or recovery – including recycling,
- 2) proper handling of spent packaging,
- 3) meaning of markings contained on packages

shall be fined.

Art. 27

Whoever manages a retail sales outlet and does not accept returned and exchanged reusable packaging of products being sold by such an outlet shall be fined.

Art. 28

Whoever manages a retail sales outlet with trading area in excess of 2,000 m² and does not conduct selective collection of packages of products being sold by such outlet shall be fined.

Art. 29

In the cases defined in Articles 21-28 court decisions shall be made in accordance with the procedure for offences.

Chapter 7 Final Provisions

Art. 30

In the Environmental Inspection Act of July 20, 1991 (Journal of Law No. 77, item 335; of 1996: No. 106 item 496; of 1997: No. 121, item 770, No. 133, item 885 and No. 141, item 943; of 1998: No. 106, item 668; of 2000: No. 12, item 136 and No. 109, item 1157; of 2001: No. 38, item 452) in Article 2 section 1 item 10 the period shall be replaced by a comma and item 11 shall be added, worded as follows:

- 1.
- 2.

“11) inspection of compliance with regulations on packages and packaging waste.”

Art. 31

This Act shall become effective on January 1, 2002, except for Article 5 section 1 item 4, which shall become effective on January 1, 2003.