

Annex II

Analysis of the changes in the new Packaging and Packaging Waste Directive, the WEEE Directive and the Batteries Directive



Introduction:

This annex provides an analysis of the revisions in the Packaging and Packaging Waste Directive, the WEEE Directive and the Batteries Directive as a result of the adoption of the Waste Package in 2018.

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Directive 94/62/EC (packaging and packaging waste)

Introduction

Directive 94/62/EC sets the rules for managing packaging and packaging waste. This directive was amended by Directive 2018/852 to prevent the production of packaging waste and to promote reuse, recycling and other forms of recovery of packaging waste. The amendments cover many of the articles of the directive, the major changes relevant to the questionnaire will be discussed in this analysis:

- Article 4 (Prevention)
- Article 5 (Reuse)
- Article 6 (Recovery and recycling)
 - o Article 6a (Calculation targets)
 - o Article 6b (Early warning report)
 - o Annex IV
- Article 7 (return, collection and recovery systems)
- Article 21 and 21a (committee procedure and delegation)

Changes

Prevention

Article 4 deals with prevention of packaging waste. It lays down an obligation for member states to take preventive measures (outside of those measures mentioned in article 9). The article has changed in two ways. Firstly, it encourages member states to consult not only economic operators when considering prevention initiatives, but also consumers and environmental organisations. Secondly, a link is established with the Waste Framework Directive (WFD) by including an obligation for member states to make use of economic instruments and other measures to incentivize the application of the waste hierarchy.

Reuse

Article 5 on reuse has been substantially extended. Whereas before article 5 simply allowed the possibility of encouraging the reuse systems of packaging, it now obligates Member States to take measures, several examples of which are included in paragraph 1, to increase the amount of reusable packaging on the market and support the systems behind it. The link is again made with the WFD: all measures must be in line with the waste hierarchy.

Furthermore, paragraph 2 states that Member States can lower the recycling targets of article 6 (no more than 5%) by factoring in the average market placement of reusable sales packaging and the systems to use repackaging. The calculation of how this is done is further elaborated in paragraph 2, 3 and 4, the last of which obligates the Commission to pass implementing acts for the calculation.

Finally, in paragraph 5, the revised article introduces an obligation for the Commission to examine the data on reusable packaging provided by Member States to evaluate quantitative targets and further measures for reuse of packaging (by 31 December 2024). This could, when appropriate, result in a legislative proposal.

Recycling

In article 6, the targets for the reuse of packaging are set. New and higher targets for recycling (by weight) are set in sections 1(f) to 1(i), for both 2025 and 2030:

	Recycling target 2025	Recycling target 2030
General target	65%	70%
Plastic	50%	55%
Wood	25%	30%
Ferrous metals	70%	80%
Aluminium	50%	60%
Glass	70%	75%
Paper & cardboard	75%	85%

However, paragraph 1a allows the postponing of the target deadlines up to five years, under certain conditions. Member States are required to submit an implementation plan for the necessary action due to the delay. This plan is subject to additional control mechanisms. The requirements that such a implementation plan should fulfill can be found in annex IV.

The newly added article 6a describes the rules for calculating the progress towards the targets set in article 6. These new rules for calculation include an obligation to establish a system of quality control and traceability of packaging waste. Furthermore, in paragraph 4 of this article, it states that biodegradable waste that enters aerobic or anaerobic treatment will count as recycled, as long as it generates compost, digestate or other similar output and, if used on land, benefits agriculture or the environment. Similarly, packaging waste that has ceased to be waste through preparatory operation before being reprocessed can be counted as recycled materials, according to paragraph 5. This is in contrast to end-of-waste materials that are used as fuels, these shall not count as recycled, as is stated in paragraph 5. Other rules that are introduced in this article are that metals can be defined as recycled material if they meet certain quality criteria; that packaging waste sent to another Member State to be recycled there only counts for the targets of the Member State that sent it; and that waste exported from the EU shall count towards the attainment of those targets, if the shipment complies with European environmental regulations.

To monitor the progress of the recycling targets, the new article 6b introduces an obligation for the Commission to track the progress towards the attainment of the targets mentioned in article 6 and make a report (early warning report), at least three years before the target deadlines. This report would include the progress of individual Member States, recommendations for those who are not on track to reaching the targets and a list of best practices. This extra control mechanism helps in ensuring that the targets will be effectively met.

Return, collection and recovery systems

In article 7 it is stated that the member states must take necessary measures to ensure that return, collection, and recovery systems are present for packaging and/or packaging waste. There are several changes in the revised article 7. Most importantly, paragraph 2 obligates Member States to establish extended producer responsibility schemes for packaging by 31 December of 2024 (in accordance with article 8 and 8a of the WFD). Furthermore, MS must take measures to promote high quality recycling according to the new paragraph 4.

Information systems and reporting

According to article 12, Member States are obligated to maintain databases on the toxicity, danger or components of packaging materials. The requirements for these databases are drastically expanded in paragraphs 3a, 3b, 3c and 3d. In paragraph 3a an obligation is introduced for Member States to report the data concerning the implementation and the progress towards reaching the targets set in article 6 paragraph 1. Paragraph 3b introduces an obligation to accompany the data with a quality check report and a report on the measures taken to ensure quality of the packaging. Thirdly, 3c obligates the Commission to review this data and publish a report on the methodology, sources, organization and consistency of the data. Finally, paragraph 3d obligates the Commission to adopt implementing acts to determine the format for reporting the relevant data. Alongside these additions, article 17, which used to contain the obligation to report data on the implementation of the Directive has been removed.

Committee procedure & exercise of delegation

The 'old' article 21 stated the method in which the Commission could adopt implementing measures thereby referring to the old regulatory procedure. This article has been updated to be based on regulation 182/2011. Furthermore, article 21a has been added to provide the conditions for the adoption of delegated acts. In the revised articles 11(3), 19(2) and 20, the Commission is now empowered to adopt delegated acts themselves instead of implementing acts.

Directive 2006/66/EC (batteries and accumulators)

Introduction

[Directive 2006/66/EC](#) deals with rules on the selling of batteries and accumulators (after this: batteries). It forbids the selling of batteries with hazardous substances. In addition, this directive covers the collection, treatment, recycling and disposal of batteries. This directive was amended by [Directive 2018/849/EU](#). The amendments covers four articles of 2006/66:

- Article 10 (Collection targets)
- Article 12 (Treatment and recycling)
- Article 22 (National implementation reports)
- Article 23 (Review)

It adds one article:

- Article 22a (Incentives for the application of the waste hierarchy)

Changes

In article 10, the time period in which member states are required to transmit their yearly collection target reports for batteries to the Commission has been changed from six months to *18 months* after the end of the reporting year for which the data was collected.

In article 12, the time period in which member states are required to transmit their recycling level reports to the Commission has been changed from six months to *18 months* after the end of the reporting year for which the data was collected.

Article 22 has been deleted. This article covered the transmission of national implementation reports to the Commission every three years. Member states were required to report on the status of the implementation of this Directive, including the measures they take to encourage development affecting the impact of batteries on the environment like new recycling and treatment techniques.

Article 22a is added and states that Member States may make use of economic instruments to provide incentives for the application of the waste hierarchy. This is also laid down in the Waste Framework Directive, article 4 paragraph 3.

Article 23, following the removal of article 22, is changed accordingly. The Commission is now obliged to draw up a report on the implementation of the directive without the national implementation reports. [This report](#) has been published 9 of April 2019.

Conclusion

The amendments relieved some of the administrative burden for Member States regarding reporting. It does not include any substantive changes, no new requirements for the treatment and recycling of batteries were included.

Directive 2012/19/EU (Waste electrical and electronic equipment)

Introduction

[Directive 2012/19/EC](#) (WEEE Directive) lays down measures to protect the environment by preventing or reducing the effects of waste from electrical and electronic equipment. Moreover, it aims to contribute to sustainable development through the reduction of overall impact of resource use. This directive was amended by [Directive 2018/849/EU](#). The amendments cover the following articles:

- Article 16 (Registration, information and reporting)
- Article 19 (Adaptation to scientific and technical progress)

And adds one article:

- Article 16a (Incentives for the application of the waste hierarchy)

Changes

In article 16, paragraph 5 is deleted. This paragraph obligated the member states to send a report every three years on the implementation of the directive. This obligation has been replaced with a stricter one in the new paragraphs 6,7,8 and 9. These new paragraphs oblige the member states to report the data every calendar year to the Commission, instead of every three years as before. Moreover, member states have to include a quality check rapport with their report each year. In turn, the Commission will review the data submitted by the member states four-yearly and provide recommendations for improvements.

Article 16a is added to the directive. It stipulates that member states may use economic incentives for the application of the waste hierarchy. This is also laid down in the Waste Framework Directive, article 4 paragraph 3.

Article 19 is replaced by a largely similar, though reworded, text. The article lays down rules for amending annex IV, VII, VIII and IX. These deal, respectively, with the following subjects: Non-exhaustive list of EEE which falls within the categories listed in Annex III, Selective treatment for materials and components of waste electrical and electronic equipment referred to in article 8(2), Technical requirements referred to in article 8(3) and Symbol for the marking of EEE.

The new article adds the obligation to adopt a separate delegated act for each annex to be amended.

Conclusion

The most important change is the fact that member states are now obliged to report on the directive every year instead of every three years.