

DIRECTIVES

COMMISSION DIRECTIVE 2013/2/EU

of 7 February 2013

amending Annex I to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste ⁽¹⁾, and in particular Article 3(1) thereof,

Whereas:

- (1) Article 3(1) of Directive 94/62/EC defines 'packaging' by setting out a number of criteria. The items listed in Annex I to that Directive are illustrative examples of the application of those criteria.
- (2) For reasons of legal certainty and harmonisation of the interpretation of the definition of 'packaging', it is necessary to review and amend the list of illustrative examples to clarify additional cases where the borderline between what is packaging and what is not, remains unclear. The review follows calls from the Member States and the economic operators to reinforce the implementation of the Directive and create a level playing field in the internal market.
- (3) Directive 94/62/EC should therefore be amended accordingly.
- (4) The Committee established by Article 21 of Directive 94/62/EC has not delivered an opinion (on the measures provided for in this Directive) and the Commission therefore submitted to the Council a proposal relating to the measures and forwarded it to the European Parliament. The Council did not act within the two-month period provided for by Article 5a of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾ and the Commission therefore submitted the proposal to the European Parliament without delay. The European Parliament did not oppose the measure within four months from the abovementioned forwarding,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 94/62/EC is replaced by the text set out in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 September 2013 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 7 February 2013.

For the Commission
The President

José Manuel BARROSO

⁽¹⁾ OJ L 365, 31.12.1994, p. 10.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

ANNEX

'ANNEX I

ILLUSTRATIVE EXAMPLES FOR THE CRITERIA REFERRED TO IN ARTICLE 3(1)**Illustrative examples for criterion (i)***Packaging*

Sweet boxes

Film overwrap around a CD case

Mailing pouches for catalogues and magazines (with a magazine inside)

Cake doilies sold with a cake

Rolls, tubes and cylinders around which flexible material (e.g. plastic film, aluminium, paper) is wound, except rolls, tubes and cylinders intended as parts of production machinery and not used to present a product as a sales unit

Flower pots intended to be used only for the selling and transporting of plants and not intended to stay with the plant throughout its life time

Glass bottles for injection solutions

CD spindles (sold with CDs, not intended to be used as storage)

Clothes hangers (sold with a clothing item)

Matchboxes

Sterile barrier systems (pouches, trays and materials necessary to preserve the sterility of the product)

Beverage system capsules (e.g. coffee, cacao, milk) which are left empty after use

Refillable steel cylinders used for various kinds of gas, excluding fire extinguishers

Non-packaging

Flower pots intended to stay with the plant throughout its life time

Tool boxes

Tea bags

Wax layers around cheese

Sausage skins

Clothes hangers (sold separately)

Beverage system coffee capsules, coffee foil pouches, and filter paper coffee pods disposed together with the used coffee product

Cartridges for printers

CD, DVD and video cases (sold together with a CD, DVD or video inside)

CD spindles (sold empty, intended to be used as storage)

Soluble bags for detergents

Grave side lights (containers for candles)

Mechanical quern (integrated in a refillable recipient, e.g. refillable pepper mill)

Illustrative examples for criterion (ii)

Packaging, if designed and intended to be filled at the point of sale

Paper or plastic carrier bags

Disposable plates and cups

Cling film

Sandwich bags

Aluminium foil

Plastic foil for cleaned clothes in laundries

Non-packaging

Stirrer

Disposable cutlery

Wrapping paper (sold separately)

Paper baking cases (sold empty)

Cake doilies sold without a cake

Illustrative examples for criterion (iii)

Packaging

Labels hung directly on or attached to a product

Part of packaging

Mascara brush which forms part of the container closure

Sticky labels attached to another packaging item

Staples

Plastic sleeves

Device for measuring dosage which forms part of the container closure for detergents

Mechanical quern (integrated in a non-refillable recipient, filled with a product, e.g. pepper mill filled with pepper)

Non-packaging

Radio frequency identification (RFID) tags'
