

**Ordinance on the Avoidance and Recovery
of Packaging Waste
(Packaging Ordinance – Verpackungsverordnung – VerpackV)**

**in the version promulgated on 21 August 1998
(Federal Law Gazette I p. 2379, as last amended by the
Ordinance of 15 May 2002, Federal Law Gazette I p. 1572)**

This updated version takes into account the following amendments:

- The Fourth Ordinance on the Amendment to the Hazardous Substances Ordinance of 18 October 1999 (Federal Law Gazette I. p. 2059)
 - Specification of plant protectives and preparations of diphenylmethane-4,4'-diisocyanate (MDI) in Article 3 nos. 2 and 3 -
- The First Ordinance on the Amendment to the Packaging Ordinance of 28 August 2000 (Federal Law Gazette I p. 1344)
 - Transposition of the Commission Decision of 8 February 1999 (1999/177/EC) establishing the conditions for a derogation for plastic crates and plastic pallets in relation to the heavy metal concentration levels established in Directive 94/62/EC on packaging and packaging waste (Official Journal EC L56, p. 47) -
- The Act on the Adaptation of Environmental Provisions to the Euro of 9 September 2001 (Seventh Act Introducing the Euro - Federal Law Gazette I p. 2331)
 - Conversion of deposit charges in Article 8 from DM to € -
- The Ordinance on the Amendment to the Waste Provisions regarding the Furnishing of Proof of 25 April 2002 (Federal Law Gazette I p. 1488)
 - Establishment of obligations to furnish proof for manufacturers and distributors of sales packaging of pollutant-containing products (Article 7 para. 3) and specification of obligations to provide documentation (Annex I no. 2 para. 1 sentences 8-10) -

- The Second Ordinance on the Amendment to the Packaging Ordinance of 15 May 2002 (Federal Law Gazette I p. 1572)
 - Transposition of the Commission Decision of 19 February 2001 (2001/171/EC) establishing the conditions for a derogation for glass packaging in relation to the heavy metal concentration levels established in Directive 94/62/EC on packaging and packaging waste (Official Journal L 62, p. 20) -

**Ordinance on the Avoidance and Recovery of Packaging Wastes
(Packaging Ordinance - Verpackungsverordnung - VerpackV)**

in the version promulgated on 21 August 1998¹

**(Federal Law Gazette I p. 2379, last amended by Ordinance of 15 May 2002,
Federal Law Gazette I p. 1572)**

The Federal Government, acting pursuant to Article 6 (1) fourth sentence, Article 23 nos. 1, 2 and 6, Article 24 (1) nos. 2, 3 and 4 and Article 2 no. 1 and Article 57, each in conjunction with Article 59, and Article 7 (1) no. 3 and Article 12 (1) of the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschafts- und Abfallgesetz*) of 27 September 1994 (Federal Law Gazette I p. 2705) and having heard the parties concerned and having regard to the rights of the *Bundestag*, hereby decrees as follows:

Section I

Waste Management Objectives

Scope and Definition of Terms

Article 1 Waste Management Objectives

The purpose of this Ordinance is to avoid or reduce the environmental impacts of waste arising from packaging. Packaging waste shall in the first instance be avoided; reuse of packaging, recycling and other forms of recovery shall otherwise take priority over the disposal of packaging waste. By 30 June 2001, the share of all packaging waste being recovered shall be 65 percent by weight and the share being recycled shall be 45 percent by weight. The Federal Government shall conduct the necessary surveys.

Article 2 Scope of Application

¹The Packaging Ordinance of 21 August 1998 (Federal Law Gazette I p. 2379) transposes the European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste (OJ EC No. L 365 p. 10). The notification duties set out in Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ EC No. L 109 p. 8), as most recently amended by the European Parliament and Council Directive 94/10/EC of 23 March 1994 (OJ EC No. L 100 p. 30), have been complied with.

(1) The Ordinance shall apply to all packaging put into circulation within the area of validity of the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschafts- und Abfallgesetz*), regardless of whether it arises in industry, trade, administration, business, the service sector, households or elsewhere, and regardless of the materials of which it consists.

(2) This shall be without prejudice to any special requirements that may exist with regard to packaging or the management of packaging waste or the carriage of packaged products or of packaging waste.

(3) The powers of the Federal, Land and local authorities to require third parties to avoid and recover waste in the use of their facilities or land and in the special use of public roads shall not be affected.

Article 3 Definition of Terms

(1) Within the meaning of this Ordinance the following definitions shall apply:

1. Packaging:

Products manufactured from materials of any nature for the containment, protection, handling, delivery or presentation of goods, which may range from raw materials to processed products and are passed on by the manufacturer to the distributor or final consumer.

2. Sales packaging:

Packaging that is made available as a sales unit and arises at the final consumer. Sales packaging within the meaning of the Ordinance shall also include such packaging provided by retailers, restaurants and other service providers as facilitates or supports the transfer of goods to the final consumer (service packaging) and disposable dishes and disposable cutlery.

3. Secondary packaging:

Packaging that is used as packaging additional to sales packaging and is not necessary for transfer to the final consumer for reasons of hygiene, durability or the protection of goods from damage or contamination.

4. Transport packaging:

Packaging that facilitates the transport of goods, protects the goods from damage during transport or is used in the interests of transport safety and arises at the distributor.

(2) Drinks packaging within the meaning of this Ordinance shall be closed or mainly closed packaging for liquid foodstuffs within the meaning of Article 1 (1) of the Foodstuffs and Commodities Act (*Lebensmittel- und Bedarfsgegenständegesetz*) intended for consumption as drinks, with the exception of yoghurt and kefir.

(3) Reusable packaging within the meaning of this Ordinance shall be packaging that is intended to be reused several times for the same purpose.

- (4) Composite packaging within the meaning of this Ordinance shall be packaging made of different materials which cannot be separated manually and none of which exceeds a share of 95 percent by weight.
- (5) Long-life packaging within the meaning of this Ordinance shall be packaging that serves the purpose of long-term use of a product which on a statistical average has a lifetime of at least five years.
- (6) Pollutant-containing products within the meaning of this Ordinance shall be
1. substances and preparations which if sold in the retail trade would be subject to the ban on self-service pursuant to Article 4 of the Chemicals Prohibition Ordinance (*Chemikalienverbotsverordnung*);
 2. plant protectives within the meaning of Article 2 no. 9 of the Plant Protectives Act (*Pflanzenschutzgesetz*) which are labelled
 - a) as very toxic, toxic, corrosive, oxidising or highly flammable under the Hazardous Substances Ordinance (*Gefahrstoffverordnung*) or
 - b) as harmful to health under the Hazardous Substances Ordinance (*Gefahrstoffverordnung*) and labelled with R-phrase R 40, R 62 or R 63 pursuant to that Ordinance,
 3. preparations of diphenylmethane-4,4'-diisocyanate (MDI), insofar as such preparations are to be labelled as harmful to health and with R-phrase R 42 pursuant to the Hazardous Substances Ordinance (*Gefahrstoffverordnung*) and are put into circulation in pressurised gas packaging.
- (7) Manufacturer within the meaning of this ordinance shall mean anyone who manufactures packaging, packaging materials or products from which packaging can be directly manufactured, and anyone who imports packaging into the area of validity of this Ordinance.
- (8) Distributor within the meaning of this Ordinance shall mean anyone who puts into circulation packaging, packaging materials or products from which packaging can be directly manufactured, or goods in packaging, at whatever level of trade. Distributor within the meaning of this Ordinance shall also include the mail-order trade.
- (9) The catchment area of the manufacturer or distributor shall be taken to be that territory of the Federal Land in which the goods in packaging are put into circulation.

(10) Final consumer within the meaning of this Ordinance shall mean anyone who does not further resell the goods in the form delivered to him. Private final consumers within the meaning of this Ordinance shall mean households and comparable places where packaging arises, especially restaurants, hotels, canteens, administrations, barracks, hospitals, educational establishments, charitable institutions and members of the liberal professions, and farms and craft trade businesses with the exception of printing works and of other paper processing operations, from which the removal of waste can take place via standard household collection containers for paper, cardboard and light packaging by means of not more than one 1100-litre emptiable container per substance group at the usual household collection intervals.

(11) Emptied packaging within the meaning of this Ordinance shall mean packaging of which the contents have been exhausted in the designated manner.

Section II

Obligation to Accept Returned Packaging, Charge Deposits and Recover Packaging

Article 4 Obligation to Accept Returned Transport Packaging

(1) Manufacturers and distributors shall be obliged to accept returned transport packaging after use. In the context of repeated deliveries, such acceptance may take place at one of the next deliveries.

(2) The returned transport packaging shall be reused or recycled insofar as is technically possible and economically reasonable (Article 5 (4) of the Closed Substance Cycle and Waste Management Act), and especially where a market for a recovered substance exists or can be created. In the case of transport packaging manufactured directly from renewable raw materials, energy recovery shall be deemed equivalent to recycling.

Article 5 Obligation to Accept Returned Secondary Packaging

- (1) Distributors providing goods in secondary packaging shall be obliged to remove such secondary packaging upon delivery of the goods to the final consumer or to give the final consumer the opportunity to remove and return the secondary packaging free of charge at the point of sale or on the premises of the point of sale. This shall not apply if the final consumer desires the goods to be handed over in the secondary packaging; in this case the provisions concerning acceptance of returned sales packaging shall apply accordingly.
- (2) If the distributor does not remove the secondary packaging himself, he shall be obliged to indicate, by means of clearly recognisable and legible signs at the cash desk, that the final consumer has the opportunity, either at the point of sale or on the premises of the point of sale, to remove the secondary packaging from the acquired goods and to leave it there.
- (3) The distributor shall be obliged to provide at the point of sale or on the premises of the point of sale suitable collection containers to accommodate the secondary packaging which are clearly visible and easily accessible to the final consumer. Individual material groups shall be collected separately insofar as this is possible without labelling. The distributor shall be obliged to consign secondary packaging to reuse or recycling. Article 4 (2) shall apply with the necessary modifications.

Article 6 Obligation to Accept Returned Sales Packaging

- (1) The distributor shall be obliged to accept free of charge used and emptied sales packaging returned by the final consumer at or in the immediate vicinity of the place of actual transfer, to consign it to recovery in accordance with the requirements set out in No. 1 of Annex I and to meet the requirements of No. 2 of Annex I. The recovery requirements may also be met by reuse or transfer to distributors or manufacturers pursuant to paragraph 2. The distributor shall be obliged to draw attention to the return facility mentioned in the first sentence by means of clearly recognisable and legible notices. The obligation under the first sentence shall be limited to packaging of such type, form and size and to packaging of such goods as the distributor supplies in his own product range. In the case of distributors with sales areas of less than 200 m², the obligation to accept returned sales packaging shall be limited to the packaging of brands put into circulation by the distributor. In the mail-order trade, acceptance of returned packaging shall be ensured by means of suitable return facilities within reasonable distance of the final consumer. Attention shall be drawn

to the return facility in the consignment of goods and in the catalogues. Where sales packaging arises other than at private final consumers, different arrangements may be agreed regarding the place of return and the allocation of costs. If distributors do not meet the obligations pursuant to the first sentence by accepting returned packaging at the point of sale, they shall ensure compliance by means of a system pursuant to paragraph 3. Distributors who are unable to take part in a system pursuant to (3) shall notwithstanding the first sentence be subject to the recovery requirements of Article 4 (2) with the necessary modifications.

(2) Manufacturers and distributors shall be obliged to accept free of charge packaging returned by distributors pursuant to (1) at or in the immediate vicinity of the place of actual transfer, to consign it to recovery in accordance with the requirements set out in No. 1 of Annex I and to meet the requirements of No. 2 of Annex I. The recovery requirements may also be met by means of reuse. The obligation under the first sentence shall be limited to packaging of such type, form and size and to packaging of such goods as are put into circulation by the individual manufacturers and distributors. (1) eighth to tenth sentences shall apply with the necessary modifications.

(3) The obligations pursuant to paragraphs (1) and (2) shall not apply to packaging in respect of which the manufacturer or distributor takes part in a system which guarantees regular collection of used sales packaging from the final consumer or, to an adequate extent, in the vicinity of the final consumer throughout the catchment area of distributors subject to (1) and which meets the requirements specified in Annex I to this Ordinance. A system (system operator, applicant) pursuant to the first sentence shall consign the packaging entering such system to recovery in accordance with the requirements of No. 1 of Annex I and shall meet the requirements pursuant to nos. 3 and 4 of Annex I. Evidence of participation in a system pursuant to the first sentence shall be furnished to the competent authority on request. The system pursuant to the first sentence shall be coordinated with existing collection and recovery systems run by the public authorities responsible for waste management in whose area it is set up. Such coordination shall take place in writing between the system operator and the public waste management authority. Such coordination shall be a prerequisite for the pronouncement pursuant to the eleventh sentence. Special attention shall be paid to the interests of the public waste management authorities. The public waste management authorities may demand the takeover or joint use, for a suitable fee, of facilities required for collecting and sorting materials of the type referred to in the Annex to this Ordinance. Such coordination shall not conflict with the awarding of contracts for waste management services on a

competitive basis (Annex I No. 3 (3) no. 2). The system operator shall be obliged to bear a share of the costs incurred by the public waste management authorities as a result of giving waste management advice for his system and as a result of the creation, provision, maintenance and cleaning of areas for the siting of large collection containers. The highest Land authority responsible for waste management or the authority designated by it shall on application by the system operator pronounce that a system pursuant to the first sentence has been set up on a full-coverage basis. Such pronouncement may subsequently be made the subject of supplementary provisions that are necessary to ensure that the conditions applying at the time the pronouncement was made are maintained on a long-term basis during the operation of the system. It shall be publicly announced and shall take effect upon such public announcement.

(4) The competent authority may revoke its decision pursuant to (3) sentence 11 if and as soon as it ascertains that the requirements specified in (3) first sentence are not being met. It shall likewise announce the revocation publicly. The revocation shall be limited to packaging made of certain materials if it is only for such packaging that the recovery quotas specified in Annex I to this Ordinance are not being met. Paragraphs (1) and (2) shall apply on the first day of the sixth calendar month following the public announcement of the revocation. The competent authority may furthermore revoke its decision pursuant to paragraph (3) eleventh sentence if and as soon as it ascertains that the operation of the system has been discontinued. In this case paragraphs (1) and (2) shall apply two months after the announcement of the revocation.

(5) This provision shall apply to distributors of service packaging that is dispensed in artisanal food shops, with the proviso that No. 2 (1) of Annex I shall not apply. The provision shall not apply to sales packaging of pollutant-containing products. This shall be without prejudice to No. 4 (1) of Annex I.

(6) Manufacturers and distributors of long-life sales packaging shall by 31 December 1998 submit to the competent authority a sound plan describing the measures they will take to ensure that the packaging they put into circulation is returned after use to them or to an authorised third party.

Article 7 Obligation to Accept Returned Sales Packaging of Pollutant-Containing Products

(1) Manufacturers and distributors of sales packaging of pollutant-containing products shall be obliged to take by 1 January 2000 suitable measures to ensure that used and emptied packaging can be returned by the final consumer free of charge within a reasonable distance. They must draw attention to this return facility by means of clearly recognisable and legible notices at the point of sale, and in the mail-order trade by means of other suitable measures. Where sales packaging arises other than at private final consumers, different arrangements may be agreed regarding the place of return and the allocation of costs.

(2) The returned packaging shall be consigned to reuse or recovery insofar as is technically possible and economically reasonable.

(3) Manufacturers and distributors of sales packaging of pollutant-containing products shall be obliged to comply accordingly with the requirements pursuant to number 2 para. 1 sentences 1 to 5 of Annex I. The documentation shall be submitted on request to the authority in whose area the manufacturers and distributors are based. Number 2 para. 1 sentences 11 and 12 of Annex I shall apply correspondingly.

Article 8 Obligation to Charge Deposits on Drinks Packaging and on Packaging of Detergents and Cleaners and of Emulsion Paints

(1) Distributors who put liquid foodstuffs into circulation in drinks packaging which is not reusable packaging shall be obliged to charge the purchaser a deposit of at least DM 0.50 including turnover tax per drinks pack; a deposit of at least DM 1.00 including turnover tax shall be charged if the net volume exceeds 1.5 litres. The deposit shall be charged by each further distributor at all levels of business until delivery to the final consumer. The deposit shall be refunded on acceptance of the returned packaging in accordance with Article 6 (1) and (2).

(2) (1) shall with the necessary modifications apply to packaging provided to private final consumers

1. for detergents and cleaners within the meaning of Article 2 (1) of the Detergents and Cleaners Act (*Wasch- und Reinigungsmittelgesetz*),

2. for emulsion paints with a net weight of 2 kg or over. In this case the deposit shall be DM 2.00.

Article 9 Exemption from the Obligation to Charge Deposits, Protection of Ecologically Advantageous Drinks Packaging

(1) Article 8 shall not apply to packaging in respect of which the manufacturer or distributor takes part in a system pursuant to Article 6 (3). Article 6 (4) shall apply with the necessary modifications.

(2) If, for the categories beer, mineral water (including spring waters, table waters and remedial waters), carbonated soft drinks, fruit juices (including fruit nectars, vegetable juices and other non-carbonated soft drinks) and wine (excluding slightly sparkling wines, sparkling wines, vermouth and dessert wines), the combined proportion of drinks packaged in reusable packaging in the area of validity of this Ordinance in a calendar year falls below 72 percent, a new survey of the relevant reusable shares shall be made for the 12-month period following the announcement. If this shows that the reusable share in the territory of the Federal Republic is less than the percentage laid down in the first sentence, the decision pursuant to Article 6 (3) shall be deemed to be revoked with effect from the first day of the sixth calendar month following the announcement pursuant to (3) in respect of the drinks sectors for which the reusable share determined in 1991 is not reached. In the case of pasteurised milk, the first and second sentences shall apply with the necessary modifications if in any calendar year the share of reusable packaging and polyethylene bag packaging within the area of validity of this Ordinance falls below 20 percent.

(3) The Federal Government shall announce annually in the Federal Bulletin (*Bundesanzeiger*) the relevant shares pursuant to (2) of drinks packaged in ecologically advantageous drinks packaging.

(4) If, following a revocation, the share of drinks packaged in ecologically advantageous drinks packaging once again reaches the relevant percentage pursuant to (2), the competent authority shall on application or *ex officio* make a new pronouncement pursuant to Article 6 (3).

Article 10 Limitation of the Obligation to Accept Returned Packaging and to Refund Deposits

Distributors in a catchment area in which Article 8 applies may refuse to accept returned packaging and to refund deposits for packaging that originates from catchment areas in which a pronouncement pursuant to Article 6 (3) eleventh sentence has been made. They may for the purpose of differentiation issue their packaging with deposit stamps or mark it in some other way.

Article 11 Authorisation of Third Parties

Manufacturers and distributors may call upon third parties to fulfil the obligations laid down in this Ordinance. Acceptance of returned packaging and refunding of deposits may also be performed by machine.

Section III

Manufacture, Putting into Circulation and Labelling of Packaging

Article 12 General Requirements

Packaging shall be manufactured and distributed such that

1. pack volume and weight are reduced to the minimum commensurate with maintaining the necessary safety and hygiene of the packaged product and ensuring that it is acceptable to the consumer;
2. it may be reused or recovered and the environmental impacts arising from the recovery or disposal of packaging waste are minimised;
3. harmful and hazardous substances and materials occurring in emissions, ash or leachate on disposal of packaging or packaging components are minimised.

Article 13 Heavy Metal Concentrations

(1) Packaging or packaging components may only be put into circulation if the cumulative concentration of lead, cadmium, mercury and hexavalent chromium does not exceed the following levels:

- 600 ppm after 30 June 1998,
- 250 ppm after 30 June 1999,
- 100 ppm after 30 June 2001.

(2) (1) shall not apply to

1. packaging manufactured entirely from lead crystal glass,
2. packaging in established systems for reuse,
3. plastic crates or plastic pallets that meet the requirements of Annex II.

(3) (1), third dash, shall not apply to packaging made from miscellaneous glass that complies with the conditions of Annex III.

Article 14 Marking

To identify the material, packaging may be marked with the numbers and abbreviations laid down in Annex IV. The use of other numbers and abbreviations to identify the same materials shall not be permitted.

Section IV

Administrative Offences, Transitional and Concluding Provisions

Article 15 Administrative Offences

An administrative offence within the meaning of the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschafts- und Abfallgesetz*) shall be deemed to be committed by any person who deliberately or negligently

1. in contravention of Article 4 (1) first sentence or (2) first sentence, including in conjunction with Article 6 (1) tenth sentence, the latter also in conjunction with Article 6 (2) fourth sentence, does not accept returned packaging after use or does not consign it to reuse or recycling,
2. in contravention of Article 5 (1) first sentence does not remove secondary packaging and does not give the final consumer an opportunity to remove or return secondary packaging,
3. in contravention of Article 5 (2) or Article 6 (1) third or seventh sentence fails to provide information or to provide it properly or completely,
4. in contravention of Article 5 (3) first sentence fails to provide collection containers or to provide them in the prescribed manner,
5. in contravention of Article 5 (3) third sentence does not consign secondary packaging to reuse or recycling,
6. in contravention of Article 6 (1) first sentence or (2) first sentence fails to accept returned sales packaging or to consign it to recovery,
7. in contravention of Article 6 (1) first sentence or (2) first sentence, in each case in conjunction with No. 2 (1) fifth sentence or 6 of Annex I, No. 2 (1) fifth sentence also in conjunction with No. 2 (2) of Annex I, fails to submit a documentation or plan or to do so in time, or fails to confirm a documentation by means of an inspection report or to do so in time,
8. in contravention of Article 6 (1) sixth or ninth sentence, including in conjunction with (2) fourth sentence, fails to guarantee or ensure acceptance of returned packaging,
9. in contravention of Article 6 (3) third sentence fails to furnish evidence or to do so properly, completely or in time,

10. in contravention of Article 6 (3) second sentence in conjunction with No. 3 (1) or 2 of Annex I does not ensure collection from the private final consumer by means of suitable collection systems or does not ensure collection at typical waste occurrence sites in the leisure sector,
11. in contravention of Article 6 (3) second sentence in conjunction with No. 3 (3) no. 3 of Annex I does not disclose the cost of collection, sorting and recovery or disposal for the individual packaging materials,
12. in contravention of Article 6 (3) second sentence in conjunction with No. 3 (4) of Annex I fails to furnish evidence or to furnish it time or in the required manner,
13. in contravention of Article 6 (3) second sentence in conjunction with No. 4 (3) of Annex I fails to furnish the application authority with the relevant evidence or to do so in time or in the proper manner,
14. in contravention of Article 7 (1) first sentence does not ensure that packaging can be returned,
15. in contravention of Article 7 (1) second sentence fails to provide information or to do so properly or completely,
16. in contravention of Article 7 (2) does not consign returned packaging to reuse or recycling,
17. in contravention of Article 8 (1), also in conjunction with (2), fails to charge or return a deposit,
18. puts packaging or packaging components into circulation in contravention of Article 13 (1) or
19. uses other numbers or abbreviations in contravention of Article 14 second sentence.

Article 16 Transitional Provisions

(1) Until 31 December 1999 Article 6 shall not apply to packaging of products that require labelling under the Hazardous Goods Ordinance (*Gefahrstoffverordnung*) and are not subject to Article 7. The first sentence shall not apply where the packaging arises at private final consumers. Until 31 December 1999 Article 4 shall not apply to packaging bearing residues or deposits of pollutant-containing products.

(2) Where a pronouncement is applied for in respect of a system solely for plastic packaging which is manufactured predominantly from biodegradable materials on the basis of renewable raw materials and of which all the constituents are compostable, the competent authority may until 30 June 2002 make a pronouncement pursuant to Article 6 (3) eleventh sentence regardless of the full-coverage requirement if the system operator has taken suitable measures to ensure that the maximum possible proportion of the packaging entering the system is consigned to composting.

(3) Packaging that was used for goods before the entry into force of this Ordinance may notwithstanding Article 13 and 14 be put into circulation. Notwithstanding the provisions of Article 13 and 14, packaging that was manufactured before the entry into force of this Ordinance may be put into circulation until 31 December 2000.

Article 17 Entry into Force

With the exception of Article 15 nos. 14 to 16, this Ordinance shall enter into force on the day after its promulgation². Article 15 nos. 14 to 16 shall enter into force on 1 January 1999. Upon the entry into force of this Ordinance, the Packaging Ordinance (*Verpackungsverordnung*) of 12 June 1991 (Federal Law Gazette I p. 1234) shall cease to be effective.

The *Bundesrat* has given its consent.

² The Ordinance was promulgated on 27 August 1998.

Annex I (to Article 6)

1. Requirements for Recovery of Sales Packaging

(1) Manufacturers and distributors who are obliged to accept returned packaging pursuant to Article 6 (1) and (2) shall with regard to the packaging put into circulation by them during the calendar year meet the recovery requirements set out in paragraphs (2) to (5). Applicants pursuant to Article 6 (3) shall with regard to the packaging in respect of which manufacturers or distributors participate in their system meet the recovery requirements set out in paragraphs (2), (4) and (5).

(2) On average for the year, at least the following quantities of packaging in percent by weight must be consigned to recycling:

Material	from 1 January 1996	from 1 January 1999
Glass	70 %	75 %
Tinplate	70 %	70 %
Aluminium	50 %	60 %
Paper, cardboard	60 %	70 %
Composites	50 %	60 %

Where composites are consigned to a separate recovery channel, separate evidence of the quota pursuant to the first sentence shall be permissible. For composites which are collected from a stream of the above-mentioned principal materials and consigned to recovery, the quota pursuant to the first sentence shall be verified by suitable sampling. It must be ensured that composites are recycled with their principal material component unless recycling of a different material component approximates more closely to the objectives of closed substance cycle management, and that otherwise they are recovered.

Plastic packaging must be consigned to recovery in at least the following quantities:

from 1 January 1996: 50 % from 1 January 1999: 60 %

At least 60 percent of this recovery quota shall be ensured by processes in which new material of the same substance is replaced or the plastic remains available for further use as a substance (materials-oriented processes). The Federal Government will review this plastic recovery requirement in the light of experience by 1 January 2000.

Where plastic packaging which is manufactured predominantly from biodegradable materials on the basis of renewable raw materials and of which all the constituents are compostable is collected in a separate system, at least 60 percent shall be consigned to composting with effect from July 2002.

(3) In the case of manufacturers and distributors subject to obligations pursuant to Article 6 (1) and (2), the requirements of (2) shall not apply until 1998. In 1998 and 1999 the requirements of (2) shall be deemed to be met if at least 50 percent of the relevant quotas is reached.

(4) Packaging made from materials for which no definite recovery quotas are specified shall be consigned to recycling where this is technically possible and economically reasonable. In the case of packaging manufactured directly from renewable raw materials, energy recovery shall be deemed equivalent to recycling.

(5) Notwithstanding (2), the quantity of packaging actually collected shall be consigned to recovery insofar as this is technically possible and economically reasonable. Otherwise it shall be disposed of in accordance with the principles of waste disposal commensurate with the public good pursuant to Articles 10 and 11 of the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschafts- und Abfallgesetz*); insofar as it is not disposed of in own installations or if overriding public interests so require, it shall be transferred to the public waste management authorities.

2. General Requirements for Parties subject to Obligations pursuant to Article 6 (1) and (2)

(1) Manufacturers and distributors obliged to accept returned packaging pursuant to Article 6 (1) and (2) shall furnish evidence of compliance with the acceptance and recovery requirements. To this end they shall by 1 May every year document in verifiable form the sales packaging put into circulation and returned and recovered in the preceding calendar year. Such documentation shall be drawn up in terms of weight, broken down by individual packaging materials. Reusable packaging shall not be included in the documentation. Cooperation between several manufacturers and distributors shall be permissible. Compliance with the acceptance and recovery requirements shall be certified by an independent expert in accordance with (2) on the basis of the documentation. The certificate shall be deposited by the obliged manufacturers and distributors with the body set up pursuant to Article 32 (2) of the Eco-Audit Act (*Umweltauditgesetz*). The certificate shall be submitted by the body referred to in sentence 7 to the highest Land authority responsible for waste management or to the authority it specifies. The accompanying documentation pursuant to sentences 2 and 3 shall be submitted to the competent authority on request. In the case of a cooperation between several manufacturers and distributors pursuant to sentence 6, the certificate shall identify all cooperating manufacturers and distributors with names and headquarters. Distributors with a sales area of less than 200 m² who are obliged to accept returned packaging pursuant to Article 6 (1) may invoke the certificate for the preceding distribution level. In the case of manufacturers and distributors with several branches, the sales area shall be the total area of all branches.

(2) An independent expert within the meaning of (1) shall mean

1. a person whose qualifications have been ascertained by a member of the German Accreditation Council (*Deutscher Akkreditierungsrat*) in a generally recognised procedure,
2. an independent environmental verifier pursuant to Article 9 or an environmental verifier organisation pursuant to Article 10 of the Eco-Audit Act or
3. a person publicly appointed pursuant to Article 36 of the Trade Code (*Gewerbeordnung*).

3. General Requirements for Systems pursuant to Article 6 (3)

(1) It shall be ensured by means of systems pursuant to Article 6 (3) that packaging is collected from private final consumers (“fetch systems”) or collected from the vicinity of private final consumers by means of suitable collection systems (“bring systems”), or by a combination of the two systems. The collection systems must be designed to ensure regular collection of all packaging covered by the system. Collection shall be confined to private final consumers.

(2) It shall furthermore be ensured by means of systems pursuant to Article 6 (3) that collection of packaging also takes place from typical waste occurrence sites in the leisure sector. Typical waste occurrence sites shall include in particular holiday complexes, leisure parks, sports stadiums, service areas and comparable facilities.

(3) The applicant shall ensure that

1. recovery capacity actually exists for the packaging entering the system,
2. waste management services (collection, sorting, recovery) are offered for tender in a procedure that ensures the award of contracts on a competitive basis,
3. the costs of collection, sorting and recovery or disposal of the individual packaging materials are disclosed,
4. the packaging intended for recovery is transferred under competitive conditions,
5. the evidence of participation in the relevant system required pursuant to Number 4 of this Annex is submitted,
6. the materials recovery requirements set out in Number 1 of this Annex are shown to be met and
7. in the event that operation of the system is discontinued, waste management of the packaging actually collected by the system’s collection facilities is guaranteed.

(4) The applicant shall furnish in verifiable form evidence of the quantities collected and the quantities consigned to recycling and to energy recovery. This shall show in verifiable form the quantities collected in the individual Länder. Such evidence shall be furnished by 1 May of the following year on the basis of the quantity of packaging input into the system as shown by the applicant, broken down by packaging materials. At the request of the application authority, the evidence shall be confirmed by an inspection report by an independent expert. The application authority may at the applicant’s expense perform an inspection of the evidence of recovery itself or have such inspection performed by a suitable institution.

(5) The system operator may charge manufacturers and distributors who do not take part in this system for the cost of sorting, recovering or disposing of the packaging that is put into circulation by the latter and undergoes waste management by the system.

4. Participation in Systems pursuant to Article 6 (3)

(1) As a basic principle, packaging of products within the meaning of Article 7 may not be input into systems pursuant to Article 6 (3). The applicant may include such packaging in his system if manufacturers or distributors present *prima facie* evidence of its compatibility with the system in the form of an expert opinion by an independent expert, having regard to normal consumer behaviour. Packaging that has at the time of entry into force of this Ordinance been included in a system pursuant to Article 6 (3) may remain in the system if manufacturers or distributors present *prima facie* evidence of its compatibility with the system by 1 January 2000.

(2) The system operator shall furnish the participating manufacturers and distributors with confirmation of their participation in the system. Manufacturers and distributors shall indicate their participation by marking the packaging or by other suitable means.

(3) The applicant shall by 1 May every year furnish the application authority with evidence of the extent to which manufacturers or distributors have input sales packaging into his system during the preceding year within the area of application of this Ordinance. Such evidence, broken down by packaging materials, shall be certified by an auditor. All packaging in respect of which the manufacturers or distributors take part in the system shall be deemed to have been input.

(4) The application authority may at the applicant's expense perform an inspection of the evidence itself or have such inspection performed by a suitable institution. Insofar as there is reason to fear that the inclusion of packaging in the system may result in adverse impacts on the public good, and especially on people's health and well-being, the application authority may demand that the applicant produce *prima facie* evidence of the compatibility of the relevant packaging with the system. The application authority may in individual cases prohibit the inclusion of the packaging if no *prima facie* evidence of its compatibility with the system is produced.

Annex II

(to Article 13 para. 2)

Specification of conditions under which plastic crates and plastic pallets are exempted from the limit values for heavy metals laid down in Article 13 (1)

No. 1 Scope of Application

The limit values laid down for heavy metals in Article 13 (1) shall not apply to plastic crates and plastic pallets used in product loops which are in a closed and controlled chain.

No. 2 Definition of Terms

For the purposes of this specification, the following definitions shall apply:

- “Intentional introduction”:

The act of deliberately utilising a substance in the formulation of a packaging or a packaging component where its continued presence is desired in the packaging or packaging component to provide a specific characteristic, appearance or quality. The use of recycled materials as feedstock for the manufacture of new packaging materials, where some portion of the recycled materials may contain amounts of regulated metals, is not considered intentional introduction.

- “Incidental presence”:

The presence of a metal as an unintended ingredient of a packaging or packaging component.

- “Product loops which are in a closed and controlled chain”:

Product loops in which products circulate with a controlled reuse and distribution system and in which the recycled material originates only from these entities in the chain so that the introduction of external material is just the minimum technically feasible and from which these entities may only be removed in a specially authorised procedure so that return rates are maximised.

No. 3 Manufacture and labelling

- (1) Manufacture shall follow a controlled process of substance recycling in which the recycled material is produced using solely plastic crates and plastic pallets and in which the introduction of substances not stemming from the cycle is restricted to the minimum technically feasible, up to a maximum of 20 percent by weight.
- (2) Lead, cadmium, mercury and hexavalent chromium shall not be deliberately added during the manufacturing process or during distribution. The incidental presence of any of these substances shall remain unaffected hereby.
- (3) The concentration limits may be exceeded only as a result of the addition of recycled materials.
- (4) New plastic crates or pallets containing the regulated metals shall be identified in a permanent and visible way.

No. 4 System requirements and other management options

- (1) A system of inventory and record keeping shall be established, including a method of regulatory and financial accountability, to document the compliance with the requirements of Nos. 3 and 4, including the return rates, that is, the percentage of returnable entities which are not discarded after use but are returned to the manufacturer or packer / filler or an authorised representative and shall be as high as possible but in no case lower than 90 percent over the lifetime of the plastic crates or plastic pallets. The system shall account for all the reusable entities put into, and removed from, service.
- (2) All returned plastic crates and plastic pallets that are no longer reusable shall either be consigned to a process of substance recycling with a view to producing new plastic crates and plastic pallets as specified in No. 3 or be disposed of in a manner that is commensurate with the public good.

No. 5 Declaration of Conformity and Annual Report

- (1) The manufacturer or its authorised representative shall on an annual basis issue a written declaration of conformity stating that the plastic crates and plastic pallets manufactured in accordance with this Annex meet the requirements laid down in this Ordinance. It shall furthermore draw up an annual report to specify how the requirements of the Annex are complied with. The report shall in particular specify any changes to the system and any change with regard to the authorised representatives.
- (2) The manufacturer or its authorised representative shall keep this documentation in their archives for at least four years and submit them to the competent authority on request.
- (3) Where neither the manufacturer nor his authorised representative is established within the area of validity of this Ordinance, the obligation to keep this documentation available is the responsibility of the person who places the product on the market within the area of validity of this Ordinance.

Annex III

(to Article 13 para. 3)

Specification of conditions under which glass packaging is exempted from the limit values for heavy metals laid down in Article 13 (1)

No. 1 Definition of Terms

For the purposes of this specification, the definitions in no. 2 of Annex II to Article 13 para. 2 shall apply for the terms “intentional introduction” and “incidental presence”.

No. 2 Manufacture

- (1) Lead, cadmium, mercury and hexavalent chromium shall not be deliberately added during the manufacturing process.
- (2) The concentration limits may be exceeded only as a result of the addition of recycled materials.

No. 3 Monitoring

(1) Should the average concentration of heavy metals exceed the limit value of 200 ppm during checks carried out monthly of the production of every individual glass furnace over a period of twelve consecutive months that are representative for normal and regular production, the manufacturer or its authorised representative shall submit a report to the competent authority. This report must contain at least the following information:

- measured values,
- description of the measuring methods used,
- suspected sources for the presence of heavy metal concentration limit values
- detailed description of measures taken to reduce the concentration limit values.

(2) Measuring results from production workshops and the measuring methods used shall be archived for at least three years and shall be submitted to the competent authority on request.

(3) Where neither the manufacturer nor its authorised representative is established within the area of validity of this Ordinance, the obligations from paras. 1 and 2 shall be transferred to the person who places the product on the market within the area of validity of the Ordinance.

Annex IV (to Article 14)

1. Numbers and Abbreviations⁽¹⁾ for Plastics

Substance	Abbreviation	Number
Polyethylene terephthalate	PET	1
Polyethylene (high density)	HDPE	2
Polyvinylchloride	PVC	3
Polyethylene (low density)	LDPE	4
Polypropylene	PP	5
Polystyrene	PS	6
		7
		8
		9
		10
		11
		12
		13
		14
		15
		16
		17
		18
		19

⁽¹⁾ Use capital letters only.

2. Numbers and Abbreviations⁽¹⁾ for Paper and Cardboard

Substance	Abbreviation	Number
Corrugated cardboard	PAP	20
Other cardboard	PAP	21
Paper	PAP	22
		23
		24
		25
		26
		27
		28
		29
		30
		31
		32
		33
		34
		35
		36
		37
		38
		39

⁽¹⁾ Use capital letters only.

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3. Numbers and Abbreviations for Metals

Substance	Abbreviation	Number
Steel	FE	40
Aluminium	ALU	41
		42
		43
		44
		45
		46
		47
		48
		49

4. Numbers and Abbreviations⁽¹⁾ for Wood Materials

Substance	Abbreviation	Number
Wood	FOR	50
Cork	FOR	51
		52
		53
		54
		55
		56
		57
		58
		59

⁽¹⁾ Use capital letters only.

5. Numbers and Abbreviations⁽¹⁾ for Textiles

Substance	Abbreviation	Number
Cotton	TEX	60
Jute	TEX	61
		62
		63
		64
		65
		66
		67
		68
		69

⁽¹⁾ Use capital letters only.

6. Numbers and Abbreviations⁽¹⁾ for Glass

Substance	Abbreviation	Number
Colourless glass	GL	70
Green glass	GL	71
Brown glass	GL	72
		73
		74
		75
		76
		77
		78
		79

⁽¹⁾ Use capital letters only.

7. Numbers and Abbreviations⁽¹⁾ for Composite Materials

Substance	Abbreviation ^(*)	Number
Paper and cardboard / Miscellaneous metals		80
Paper and cardboard / Plastic		81
Paper and cardboard / Aluminium		82
Paper and cardboard / Tinplate		83
Paper and cardboard / Plastic / Aluminium		84
Paper and cardboard / Plastic / Aluminium / Tinplate		85
		86
		87
		88
		89
Plastic / Aluminium		90
Plastic / Tinplate		91
Plastic / Miscellaneous metals		92
		93
		94
Glass / Plastic		95
Glass / Aluminium		96
Glass / Tinplate		97
Glass / Miscellaneous metals		98
		99

(*) For composites use C plus abbreviation for principal component (C/).

⁽¹⁾ Use capital letters only.