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Packaging Regulation: what changes with the Commission's new guidance document

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On 10 June 2026, the European Commission published a guidance document on Regulation (EU) 2025/40 on packaging and packaging waste (the Packaging Regulation), which entered into force on 11 February 2025 and whose application, in general terms, begins on 12 August 2026.

The Packaging Regulation progressively replaces the previous legal framework based on Directive 94/62/EC and is one of the central elements of the European circular economy policy. As it is a regulation, and not a directive, it applies directly in Portugal, without the need for transposition. Through the new guidance, the Commission seeks to address the most frequently asked questions raised by national authorities and economic operators and to facilitate the uniform application of the rules across Member States.

The main aspects addressed by the document are highlighted below, with particular relevance for companies subject to extended producer responsibility (EPR).

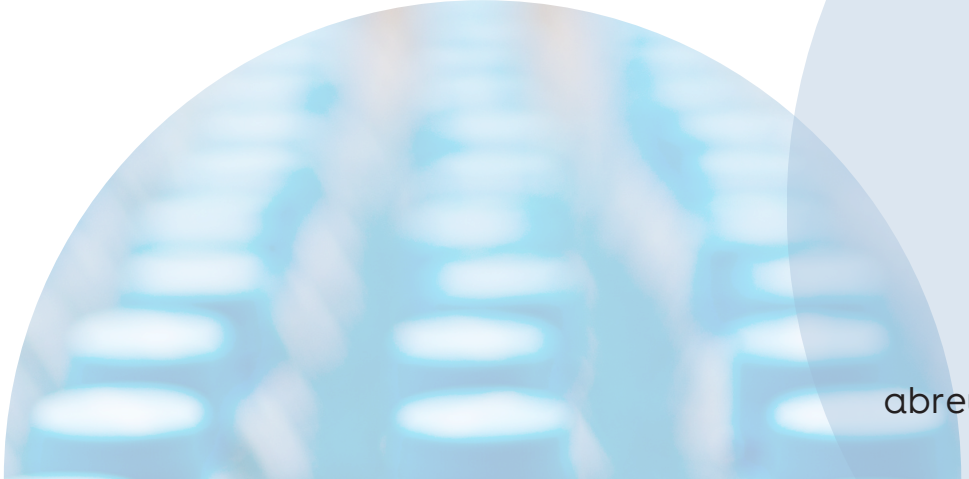
Concepts of manufacturer and producer

The document clarifies the distinction between manufacturer and producer. The manufacturer is, as a rule, the operator responsible for ensuring that the packaging complies with sustainability, safety and labelling requirements, even if it does not physically produce it, and this status may fall on the entity that designs the packaging and affixes its brand to it. The producer is the operator subject to extended producer responsibility obligations, determined according to the Member State in which the packaging is made available for the first time.

As the manufacturer and producer may not be the same entity, and the document provides criteria for their respective identification, this distinction is particularly relevant for groups with cross-border supply chains, e-commerce platforms and companies selling directly to end users in other Member States. In these cases, the document also details specific situations, such as branches of entities from third countries. Companies should map, for each item of packaging, which entity assumes each of these roles.

Scope of the concept of packaging

The document clarifies what should be classified as packaging through a set of examples of borderline cases, illustrating, in particular, how the same container may or may not constitute packaging depending on its intended use. As this classification determines the entire applicable regime, it should be confirmed as a first step, and it is advisable to review packaging portfolios in light of the criteria now clarified.



Sustainability requirements

The guidance confirms that the Regulation imposes a phased set of sustainability requirements. The general obligation for packaging to be recyclable applies from 12 August 2026, while the more detailed design-for-recycling criteria will depend on delegated acts, with application expected from 2030. Food-contact packaging will also become subject, from the same date, to the limits on per- and polyfluoroalkyl substances (PFAS) provided for in the Regulation, under a phased enforcement approach, with packaging placed on the market before that date allowed to remain in circulation.

The requirement for minimum percentages of recycled content in plastic parts and the obligation to minimise the weight and volume of packaging, including the limit on empty space in grouped, transport and e-commerce packaging, will take effect from 2030, according to methodologies to be established in implementing acts. For the food, retail, catering and consumer goods sectors, these requirements call for the early review of technical specifications, supply contracts and quality control procedures.

Harmonised labelling

From 12 August 2028, packaging must bear a harmonised label with information on its constituent materials, and national rules imposing additional or divergent sorting instructions will no longer be permitted. Reusable packaging will be required to bear an information label from February 2029, and the document also clarifies that information and labels relating to extended producer responsibility will only be permitted in digital format. The transition to harmonised pictograms and specifications should be planned in advance.

Single-use plastic bans

The document addresses the bans on certain single-use plastic formats, applicable from 2030, with particular relevance for the catering and hospitality sector. It also clarifies the relationship between the Regulation and the Single-Use Plastics Directive, establishing the prevalence of the former as regards the prohibited formats. This is an aspect with particular impact on retail, catering and the food sector.

Reuse targets

The Regulation establishes reuse targets applicable from 2030, namely for transport packaging and for beverages made available by final distributors, with the respective obligation falling on the entity using the packaging. The document clarifies that the feasibility of these targets depends on the type of product and provides for exemptions for certain categories. This is an area with a direct impact on logistics, retail and distribution, which should begin to be prepared for.

Extended producer responsibility, reporting and Member States' margin of discretion

The guidance reinforces the registration, reporting and financing obligations associated with extended producer responsibility, clarifying that each Member State is responsible for defining the circumstances in which waste management operators must provide information. The document also clarifies that Member States may not bring forward binding national rules before the harmonised deadlines, particularly where the matters depend on EU acts that are yet to be approved, nor may they impose requirements that go beyond the Regulation to the extent that they restrict the placing on the market of compliant packaging. Companies should map product and packaging flows and review contractual responsibilities between the various players in the chain.

Other aspects

The document also addresses, among other matters, the regime applicable to compostable packaging, with the distinction between industrial and home composting, and deposit and return systems, a particularly topical issue in light of the implementation of the DRS in Portugal.

Impact for companies operating in Portugal

For companies operating in Portugal, the guidance indicates that preparation for the new regime should begin before the general application date. It is advisable to review packaging portfolios, confirm the classification of each entity as manufacturer, importer, distributor or producer, assess exposure to extended producer responsibility and anticipate adaptations regarding recyclability, labelling, reuse and the reduction of empty space. It will also be important to monitor the adoption of the delegated and implementing acts planned for the coming years, which will further specify the regime's essential technical requirements.

Thinking about tomorrow? Let's talk today.

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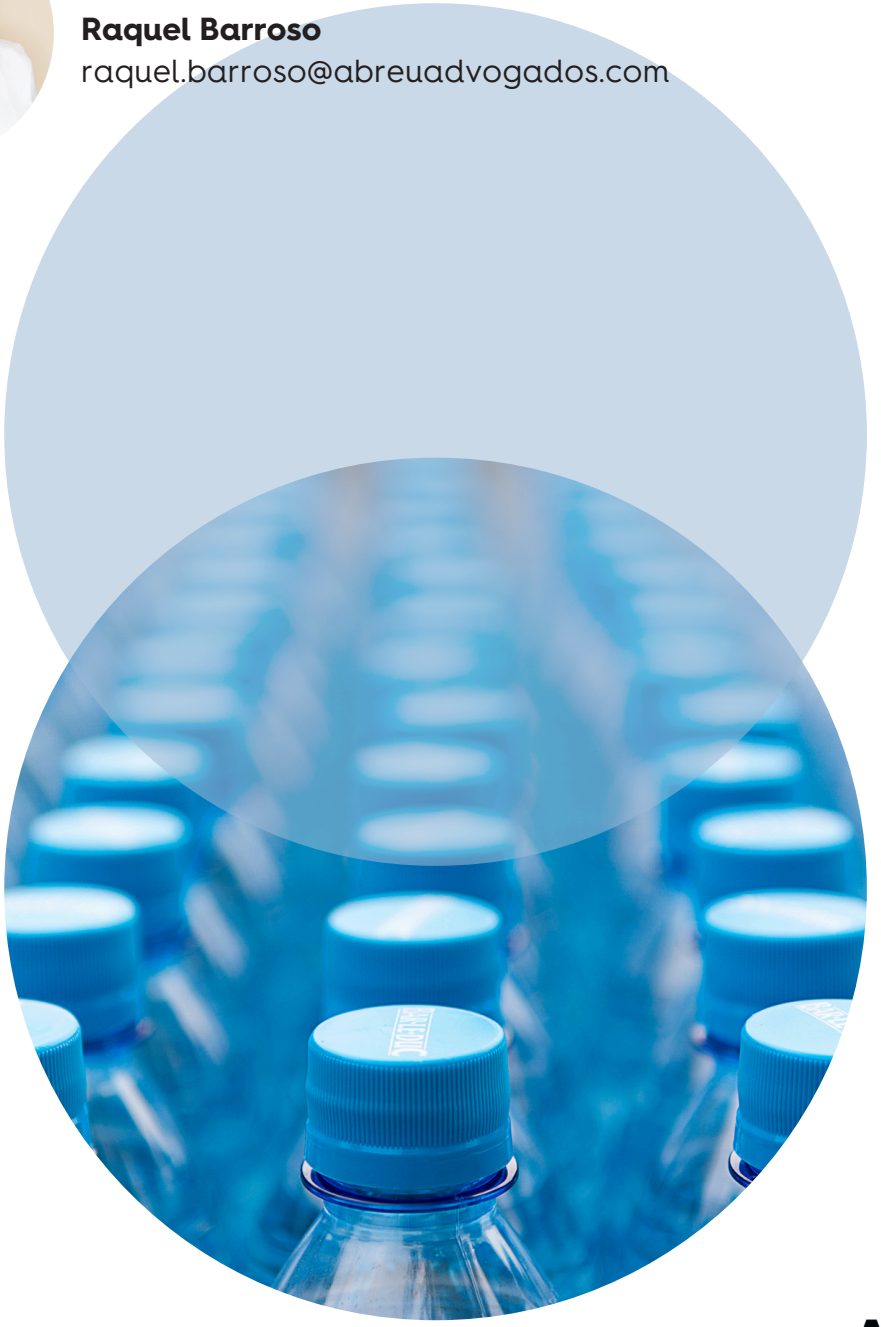

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