

APPROVAL FOR

REPAK LIMITED

TO ACT AS A

PACKAGING COMPLIANCE SCHEME

**UNDER THE EUROPEAN UNION (PACKAGING)
REGULATIONS 2014, as amended.**

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1. Purpose.

This approval sets out the terms and conditions under which Repak is approved as a packaging waste recovery and recycling scheme in accordance with their application to the Department of Environment, Climate and Communications (hereafter “the Department”) under the European Union (Packaging) Regulations 2014, as amended.

The general minimum requirements for extended producer responsibility (EPR) schemes as provided for under the European Union (Waste Directive) Regulations 2020 are reflected in this approval with the intention of introducing a level of harmonisation to improve the transparency, governance and cost-efficiency for all existing national level and EU level EPR schemes.

The approval also reflects the measures laid out in European Union (Packaging) (Amendment) Regulations 2020, which aims to prevent the production of packaging waste, promote reuse, recycling and other forms of recovery in order to contribute to the transition towards a circular economy.

The purpose of this approval is to ensure that Repak discharges its statutory functions in an efficient and effective manner throughout the term of the approval.

2. Corporate Governance.

Repak and its board have accepted and adopted the provisions of the Code of Corporate Governance (see appendix 1). Repak recognises that the Code is subject to modification by the Department in accordance with best practice. Repak undertakes to make any amendments to its Articles of Association and Constitution as may be necessary in the future if the Code is modified or updated by the Department.

Any proposed changes to Repak’s Articles of Association and Constitution shall be submitted to the Department for approval. Repak shall have full regard to the Department’s views on any proposed changes.

3. Reporting Requirements

Repak will provide a reporting system to gather data on the products placed on the market by its members. This will include data on the collection and treatment of waste resulting from packaging, specifying the waste material flows and other information relevant to the collation of the national and EU collection targets.

In accordance with the requirement for a reporting system Repak shall maintain an adequate self-control mechanism supported, where relevant, by regular independent audits, to appraise its financial management and the quality of data collected and reported.

In respect of annual reporting requirements, Repak shall, not later than 31st May in each year following the granting of this approval, submit to the Minister: -

- a report specifying the steps taken by Repak in pursuance of the aforementioned packaging scheme in the preceding calendar year, and the results of those steps, and
- a copy of the full audited accounts of Repak in respect of the preceding calendar year.

Repak shall make this report available to their members and on their website.

The report shall include:-

- Annual data relating to the quantities of packaging placed on the market,
- Annual data relating to the collection and treatment of waste packaging,
- Information about target attainment,

- Review of the collection and treatment system including the input of recovery operators,
- Information on its ownership and membership. To include details of its interaction with members in each year during this approval. The report shall outline the number of meetings held, including Annual General Meetings, newsletters issued, membership surveys, events, etc.,
- Details of the measures taken by the Company to ensure the financial contributions paid by its members comply with EPR obligations as provided for in Regulation 30A.(4) of the European Union (Waste Directive) Regulations as amended. The report shall include information about the financial contributions paid by producers of products per unit sold or per tonne of product placed on the market,
- Details of the Directors' and Chief Executive total remuneration and benefits, together with details of the attendance record of Directors at Board and sub-committee meetings level.
- Details of marketing and promotion activity and the total spend on awareness raising and communications undertaken in the preceding year,
- Details of the expenditure and measures taken by the Company to support enforcement.
- Details of the prevention and minimisation measures taken by the Company
- Information on corporate and office level risk registers in place by the Company,
- Information on procurement including details of green criteria, where included by the Company.
- Any special projects undertaken or key developments in the preceding year and projects to be undertaken in the coming year,

4. Target Achievement.

As outlined in the Waste Action Plan for a Circular Economy, the over-riding objective is to ensure all packaging on the Irish market is reusable or recyclable in an economically viable way by 2030. Throughout the timeframe of this approval, the Department will engage with Repak to set specific packaging format/product targets.

Under this approval Repak shall be responsible for the achievement of its member's share of the recycling and recovery targets set out in the Packaging Regulations. In order to continue our progression and attain the EU packaging recycling targets, Repak will build on existing performance as reported to the Commission in 2020 to position Ireland as a frontrunner within the EU working towards the early attainment of the EU packaging recycling targets for 2025, as outlined below:

All Packaging Recovery and Recycling Targets

| | Current EU Targets | National Stats for 2018 (reported in 2020) | By 2025 |
|-----------|--------------------|--|---------|
| Recovery | 60% | - | - |
| Recycling | 55% | 64% | 65% |

Material Specific Recycling Targets

| Materials | Current EU Recycling Targets | National Stats for 2018 (reported in 2020) | By 2025 |
|-------------------|------------------------------|--|---------|
| Glass | 60% | 82% | 70% |
| Paper & Cardboard | 60% | 79% | 75% |
| Metal | 50 % | 64% | - |
| Aluminium | - | 38% | 50% |
| Ferrous Metal | - | 87% | 70% |
| Plastic | 22.5% | 31% | 50% |
| Wood | 15 | 64% | 25% |

In addition, Repak will engage with the Department further as the Single Use Plastics Directive is transposed into national legislation in respect of:

- the consumption reduction target of cups for beverages and food containers and
- the separate collection of beverage bottles and recycled content in bottles, noting that these targets will be the responsibility of the DRS operator once the scheme is established in 2022.

Repak must, when using specific reprocessing sites outside the European Union, confirm that the requirements of Article 6a) of Directive 94/62/EC, as last amended by Directive (EU) 2018/852 have been met in respect of each site.

Repak will work with the Environmental Protection Agency (EPA) to ensure the collection and reporting of robust packaging statistics to the European Commission in fulfilment of national requirements under Articles 6(a) and 12 of the Packaging Directive 94/62/EC, as last amended by Directive (EU) 2018/852.

Furthermore, Repak will collaborate with the EPA on the packaging reporting requirements to enable Ireland report in accordance with Commission Implementing Decision (EU) 2019/665.

In addition, the requirements of Article 11, 11(a) and 37 of Directive 2008/98/EC, as last amended by Directive (EU) 2018/851 on the calculation and reporting methodology shall apply and be adhered to statistical calculations.

5. Enforcement.

A strong, effective enforcement regime is essential to ensure high levels of compliance and target achievement. While Repak is responsible for target achievement it does not have direct responsibility for enforcement of the Packaging Regulations. This lies with the local authorities with support from the Office of Environmental Enforcement in the EPA and the Department.

The Waste Enforcement Regional Lead Authorities (WERLAs) are responsible for coordinating waste enforcement actions within regions, setting priorities and common objectives for waste enforcement, ensuring consistent enforcement of waste legislation across the three existing waste management planning regions while still leaving local authority personnel as first responders on the ground to specific breaches of waste legislation. This structure complements the existing regional waste management planning group structure and the cooperative multi-agency approach of the NIECE network. The work of the WERLAs is overseen by a National Waste Enforcement Steering Committee which is co-chaired by the Department and the Environmental Protection Agency. An Industry Contact Group provides

other stakeholders in the waste sector, including the compliance schemes, with the opportunity to input into this enhanced waste enforcement structure.

A framework for co-operation in areas of mutual responsibility and shared interest between the enforcement network and the compliance scheme has been established with the targeted packaging enforcement project. The continued objective of the packaging enforcement project is to promote compliance within the packaging industry in line with the obligations on producers contained in the Packaging Regulations.

The Waste Action Plan for a Circular Economy, published by the Department in September 2020, recognises the importance of a sustainable national funding model for enforcement and in line with this commitment Repak will continue to make available a fund to assist in the enforcement of the Packaging Regulations. Repak will engage with the Department to assess and finalise their financial contribution.

In addition to the establishment of the statutory enforcement framework, to enhance monitoring of the packaging market, Repak will support the efforts of the regulatory bodies through the provision of expertise and industry knowledge.

Enhanced cooperation between Repak, the WERLAs and the Department on enforcement will ensure greater transparency across the sector to overcome future challenges.

6. Awareness Raising and Communications.

Repak shall operate a programme of national and sectoral educational and awareness raising activities for packaging waste holders to inform on prevention, centres for reuse, takeback and collection systems and prevention of littering. This awareness raising and communications campaign shall operate across all existing and emerging media platforms. Repak shall keep these campaigns under review and carry out internal analysis of the campaigns to ensure their impact and success. In carrying out this activity, Repak shall be aware of its obligation to co-operate with other compliance schemes as set out at Section 11 below.

As stipulated in the Waste Action Plan for a Circular Economy, mywaste.ie will be the communication tool to join up all stakeholders operating in the plastics and packaging space that communicate to the public ensuring the delivery of a consistent and continuous national message. In addition to a scheme's targeted awareness raising and communications measure, each EPR scheme will contribute towards a sustainable funding model for national awareness as mandated by the Waste Action Plan for a Circular Economy.

To augment national awareness of waste management each EPR scheme will promote the mywaste.ie website, through the provision of a link on their organisation's website. Repak shall look for collaborative opportunities in its awareness raising activities for the period of this approval which should include the development of additional content or functionality on mywaste.ie. Working with the Regional Waste Management Planning Offices, Repak will promote the development of a unified approach to labels and standards for citizens to easily understand what packaging goes where.

7. Membership Interaction.

The geographical area for operations under this approval consists of the 26 counties of the Republic of Ireland. Repak cannot limit operations to those areas where the collection and management of waste are the most profitable. An appropriate availability of waste collection systems will be provided within its operational area.

Repak will ensure the equal treatment of producers of packaging regardless of their origin or size.

8. Financial Contributions must comply with EPR obligations.

The fees charged by Repak should be based on the polluter pays principle for both operational costs and the costs of the administration of the compliance scheme. In accordance with this principle, the fees covering Repak's operational costs should therefore be distributed among producers according to the quantity of products placed on the market.

Repak must ensure that the financial contributions paid by its members comply with their EPR obligations. The following costs for packaging placed on the market must be covered:

- a. the costs of collection, transport and treatment of the products placed on the market at the end of life in line with the waste hierarchy.[Note where there is a value attributable to the materials at the end of life these should be offset against the costs borne by producers to implement their EPR obligations.]
- b. the costs of the provision of information to waste holders targeted by Repak about waste prevention measures, centres for re-use and preparing for re-use, take-back and collection systems, and the prevention of litter.
- c. the costs of data gathering and reporting.
- d. the costs of litter clean up associated with specific packaging items under the Single Use Plastics Directive.

The financial contributions paid by Repak's members must not exceed the costs that are necessary to provide waste management services in a cost-efficient way. These costs will be established in a transparent way between the parties concerned.

As provided for in Regulation 30A.(4) of the European Union (Waste Directive) Regulations to ensure proper waste management and the economic viability of EPR schemes established under legislative acts of the Union, the producers as a minimum must bear at least 80% of the necessary costs and Repak must ensure that its producers continue to bear at least this percentage.

Repak must introduce modulated fees for its members under the packaging compliance scheme. The pilot fee modulation project (Action 142 of the Climate Action Plan), will inform the development of a full fee modulation model and fee structure for plastic packaging in 2021 and for all other materials in 2023. This process must be transparent and involve key stakeholders including producers and the Department.

9. Success Factors.

In terms of considering a re-approval application from Repak (See Section 24), the Department shall have regard to the following criteria to measure the success of Repak during the period of its approval:-

- The administration of the packaging scheme in accordance with this approval,
- Adherence to the general minimum requirements for EPR schemes as provided for under the European Union (Waste Directive) Regulations 2020,
- Implementation of the applicable measures from the Waste Action Plan for a Circular Economy,
- Supporting greater circularity in the packaging sector to ensure more sustainable use of resources
- The achievement of the targets set out at 4 above,
- The level of member satisfaction,
- That the costs of the system adhere to the principle of "necessary costs",
- Level of fees & costs paid vis-a-vis other similar EU packaging schemes,

- Repak being in full compliance with all necessary filings with all applicable registries including, but not limited to, the Companies Registration Office and the Revenue Commissioners.

10. Contingency Reserve Fund.

Repak must ensure the necessary financial and organisational means to meet its extended producer responsibility obligations.

The purpose of the Contingency Reserve Fund is to ensure the availability to Repak members of sufficient resources for the continued delivery of the Scheme in the event of notice to terminate approval by the Department as in Section 20. The Fund should be sufficient to cover the direct operating costs of Repak for a period of 6 months from the date of notice and should be built up to a contingency reserve fund of €20.5m in line with Repak's Strategic Plan over the period of this approval. Repak is not permitted to access the fund to cover its day to day operations. The contingency fund should be ring-fenced from the day-to-day financial requirements of Repak, and the Fund should be held by Repak in trust for its members. The Fund can only be accessed by Repak in exceptional circumstance and only by agreement with Department.

The circumstances in which the Fund may be accessed are as follows:-

- In the event of the Scheme being wound down.
- Reaching recycling activity in excess of 838k tonnes per annum.
- The loss of major members in any one year.
- Commodity market shocks.

The latter three circumstances will have a cap of €12m in total over the life of the approval should such circumstance arises for access to the Fund.

It will constitute a breach of the approval for Repak to withdraw any amount from the Fund in circumstances other than those listed above and without the prior consent of this Department. Where drawdown of the Fund occurs, Repak shall rebuild the fund to the agreed level of €20.5m.

11. Co-operation.

Repak shall cooperate with compliance schemes across the various waste streams where this would be beneficial to all concerned parties (for example in the co-funding of a public awareness programme which could apply to a number of streams).

Repak shall continue to work with other Agencies operating in a similar environment to identify where better collaboration and cooperation will yield efficiencies in reducing the administrative burden and eliminating any unnecessary duplication in areas such as data collection, analysis, reporting and sharing.

12. Regulatory Affairs.

Repak shall keep updated on relevant regulatory developments at a national and EU level. The company shall be in a position to assist, advise and contribute to the development of Ireland's position on such regulatory matters.

13. Provision of Information and Confidentiality

Repak shall make available to this Department any and such information which might be required, including information requested at short notice, in order to support our role in the democratic process. This information may be in addition to the report required at Section 3 above.

The Department is subject to the Freedom of Information Act 2014 and the Access to Information on the Environment Regulations 2007, as amended.

These Regulations give effect to Directive 2003/4/EC on Public Access to Information on Environmental Matters, which provides that individuals have the right to access environmental information held by public authorities. In line with the provisions of the Aarhus Convention, to be proactive in disseminating environmental information to the public, Repak shall make information available on its website.

In considering a request under these Regulations, the Department, if it does not hold the information requested, may request the information from Repak. Repak shall provide the Department with the information requested within 5 working days so as to ensure that the request is responded to in a timely manner.

In line with Regulation 30A.(8) of the European Union (Waste Directive) Regulations, as amended, the provision of information to the public is without prejudice to preserving the confidentiality of the commercially sensitive information in conformity with relevant EU and national legislation.

14. Risk and issue management.

Building on the challenges posed by the global pandemic of 2020, Repak shall continue to utilise the processes they have in place to proactively manage and mitigate risks. The risk mitigating measures will include disaster recovery and business continuity planning. Repak shall draft an emergency action plan to form the basis for action should the need to impose collection and treatment restrictions arise.

The Department and Repak shall adopt a ‘no surprises’ approach to areas of common concern.

Repak shall, without undue delay, notify the Department of any material developments that will have an impact on the ability of Repak to deliver on its legal and regulatory obligations and to carry out its functions effectively, and of issues with wider financial or reputational implications for the State. This also applies to developments that will have an impact on the compliance of the service with the applicable laws and regulatory requirements.

Similarly, the Department shall, without undue delay, inform Repak of any material changes or issues that would affect the ability of Repak to perform and resource its functions.

15. Leading by example- Climate Action and Green Procurement.

Cognisant of Government policy on Climate Action Repak will aim to minimise carbon emissions in the course of their operations and in partnership with their members and stakeholders.

Repak shall adopt policies that are committed to environmental best practice in the procurement of goods and services (see <http://www.epa.ie/pubs/reports/other/corporate/olg/greenprocurementguidanceforthepublicsector.html>) and shall continue to employ measures that are currently in place under Repak’s Green Procurement Policy, so that the environmental impacts of its products and services are minimised where practicable.

16. Prevention, Minimisation and Reuse

To reflect the objectives of the waste hierarchy, Repak shall promote prevention, minimisation and reuse of members’ packaging waste. Throughout the timeframe for this approval, Repak

will engage with its members to assess and develop further opportunities for prevention and minimisation.

In accordance with the objectives of the EU Green Deal and the Circular Economy Action Plan waste should be reduced and goods re-used and recycled as much as possible. The commitment in the national Waste Action Plan for a Circular Economy to ensure all packaging on the Irish market is reusable or recyclable in an economically viable way by 2030.

The outcome of the current Commission review of the essential requirements on packaging and packaging waste in the EU will inform Repak's approach going forward. The objective is to:

- Improve packaging design to promote reuse and recycling
- Increase recycled content in packaging,
- Tackle excessive packaging and
- Reduce packaging waste.

17. Policy Direction.

Repak will develop a strategic plan for the packaging waste stream which will foster greater engagement along the supply chain with a particular focus on the design and manufacturing sectors.

Repak shall adopt policy directions in relation to packaging waste issued by the Minister, as and when these directions are issued.

18. Disputes.

Both the Department and Repak shall seek to resolve any disputes between them, arising out of or relating in any way to the issues covered by this approval, at the appropriate level. The Department and Repak may also agree a protocol for dispute resolution during the period of the approval.

19. Notice terms and conditions.

The Department may terminate the approval granted to Repak in the event of any of the following occurrences:-

- An order is made or an effective resolution is passed or a petition is presented for the winding up of Repak,
- A receiver, examiner, administrator or liquidator is appointed over any of the property or assets of Repak,
- Repak commits any material breach of this approval (including but not limited to defaults in provision of the Services) which, if capable of remedy, shall not have been remedied within an agreed or reasonable timeframe after written notification thereof has been served on Repak,
- Repak commits any material breach of the Code of Corporate Governance,
- A distress or execution order is levied or served upon any of the property or assets of Repak and is not paid off within thirty days,
- Repak ceases or threatens to cease to carry on all or a substantial part of the day to day compliance scheme operations as outlined in Section 1 above;
- Repak is in breach of any of the material provisions of this approval;
- Repak is in breach of any material provision of the Companies Acts or other applicable legislative provisions; and
- Any other material event occurs which the Department in its absolute discretion considers might or does adversely affect the ability of Repak to comply with its obligations under this approval.

The Department will provide Repak with 180 days' notice in the event of a decision being taken to terminate Repak's approval.

If Repak wishes to cease to provide the services it has been approved to provide, the Department must be informed, in writing, 180 days in advance of this cessation.

20. Corrective Actions.

In the event that Repak breaches certain material conditions of this approval or where it is agreed that target attainment is at risk, a range of corrective actions may be considered by this Department. Such actions that might be considered include:-

- increased spending by Repak on education and awareness,
- the use of subsidy rates to reduce levels of contamination,
- additional training for key personnel and directors, and
- the assignment of additional personnel/resources by Repak.

21. Interface.

The contact person in the Department dealing with all aspects of this approval is Sorcha Byrne, e-mail: sorcha.byrne@decc.gov.ie telephone number 01 678 2101. The contact person for Repak is Tony O Sullivan, e-mail: tony.osullivan@repak.ie, telephone 01 4670190. Contact between the Department and Repak will be maintained at this level.

22. Requirements.

Repak is only approved to act as a packaging compliance scheme on condition that Repak abides by the terms and conditions of this approval.

23. Duration.

This approval is valid from 1st January 2021 and shall remain in place for a period of five calendar years until 31st December 2025 from its commencement date. A review of the approval shall take place in H1 2023.

To ensure continuity of service both parties commit to informing each other of significant departures or changes in their respective roles and responsibilities. Amendments to the contents of this approval shall be made by the mutual agreement of the Department and Repak.

24. Re approval timeline.

If it is Repak's intention to seek re approval to continue to operate as a packaging compliance scheme on completion of this approval, the following timeline will apply:-

| | |
|----------------------------|--|
| 30 th June 2025 | Receipt by this Department of Repak's application to continue to operate as a packaging compliance scheme including Business, Financial and Strategic plans. Repak shall also provide this Department with a review, approved by their Board, of their current approval. |
| July – August 2025 | Assessment of Repak's application in conjunction with Section 9 of this approval, and indicative decision. |
| September – November 2025 | Engagement between the Department and Repak on the application. |
| December 2025 | Approval, if appropriate, to issue to Repak. |