

Deposit Return System.

Amendments introduced by Government Decision no. 1075/2023



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Amendments regarding the Deposit Return System

Amendments in brief:

On November 7, 2023, in the Official Gazette no. 1016, Government Decision no. 1075/2023 was published, amending and supplementing Government Decision no. 1.074/2021 regarding the establishment of the Deposit Return System (DRS) for non-reusable primary packaging. Several new provisions, as well as modifications to the existing ones are introduced, including:

- **For the period between November 30, 2023, and December 31, 2024**, specific administration and industry fees are introduced, differentiated by packaging type, color, and size.
- **Starting from January 1, 2025**, the fees will be transparently determined by the DRS administrator in accordance with the provisions of the Minister of Environment, Waters, and Forests' order.
- Products in distributors' inventory as of November 30, 2023, are also exempt from the obligation to display the specific DRS marking, extending beyond those solely present in the manufacturers' or traders' inventory.
- These inventories held as of **November 30, 2023**, can be introduced to the market **without markings** until June 30, 2024 (**deadline reduced** from December 31, 2024).

Amendments in detail:

Key words:

- DRS Packaging; exclusions
- Counting center
- Barcode (EAN)
- Contribution of the DRS Administrator
- Administration fee
- Industry fee
- DRS Register
- Packaging type
- Internal managerial control system of the DRS Administrator
- Products provided for free
- Prizes, samples
- DRS Guarantee

Some definitions are being modified

- ❖ **Packaging subject to DRS expressly** excludes drinking glasses, pouch-type packaging - flexible bag-like layered packaging, bag-in-box - beverages in a sealed cardboard box, and any other packaging that cannot retain its shape after being emptied.
- ❖ **By modifying the definition of the counting center**, the DRS administrator's responsibility to transmit DRS packaging to recyclers from the counting center is eliminated.
- ❖ **The modification of the barcode (EAN) definition** extends the scope of the DRS to products made available **on other markets**, not just the Romanian market. Additionally, the barcode must establish a connection with the data in the DRS Packaging Register.
- ❖ **The definition of the administration fee is nuanced by reformulating the penalty into a contribution** paid by the DRS administrator for not achieving the return objectives.
- ❖ **By modifying the definition of the industry fee:**
 - The economic operator collecting this fee is more clearly specified (traders, HoReCa traders) or those with a correlated obligation (e.g., HoReCa traders must hand over the corresponding amount to the DRS administrator under certain conditions);
 - The fee level is differentiated based on the **automatic or manual method of taking over DRS packaging**.

Producer obligations - News/Modifications

- ❖ **A new obligation is introduced** for producers – the registration in the DRS Packaging Register of **each type of DRS packaging** placed on the market.
- ❖ Failure to fulfill the above obligation is identified by the internal managerial control system of the DRS administrator and reported to the Oversight Committee (composed of representatives of producers, traders, and relevant public authorities).
- ❖ Unlike the previous provision, it is now expressly stated that producers must make **monthly** payments for the guarantee associated with products in DRS packaging introduced into the national market.
- ❖ An explicit exception to the basic rule is introduced – the producer **bears and directly pays** the guarantee without passing it on to customers, traders, or consumers and/or end-users if **(1)** products packaged in DRS packaging are offered, or **(2)** are provided **at the producer's instruction** as **free items** to the consumer and/or end-user (e.g., prizes or samples).
- ❖ A similar exception is introduced for traders who offer products packaged in DRS packaging for free (the guarantee is borne by the trader).

- November 30, 2024
- June 30, 2024
- Point-of-collection operators
- Explicit conditions

DRS- news/modifications

- ❖ Not only the introduction **but also the commercialization** of products packaged in DRS packaging is prohibited, with the fulfillment of all related obligations assigned to traders.
- ❖ An exception is made from the obligation to mark the specific DRS marking (as provided in Article 24) for products in distributors' inventory as of **November 30, 2023** (previously, only manufacturers' or traders' inventories were covered).
- ❖ The aforementioned inventories held as of **November 30, 2023**, can be introduced to the market without markings until **June 30, 2024** (a reduced deadline from December 31, 2024).
- ❖ Point-of-return operators are not obliged to take over returned packaging if it does not meet specific conditions (lacks the specific DRS marking, is damaged, destroyed, not intact and its affiliation to DRS cannot be determined, not emptied of content, or not returned within 24 months from the date of the product's market withdrawal announcement).

- Bank transfer
- Sorting station operators
- HoReCa traders (Hotels, Restaurants, Catering)
- Period from November 30, 2023, to December 31, 2024
- January 1, 2025
- HoReCa

The administration fee and the industry fee

- ❖ The industry fee is to be paid exclusively through bank transfer, applicable not only to point-of-return operators but also to HoReCa traders and sorting station operators.
- ❖ For the period between November 30, 2023, and December 31, 2024, **specific values for the administration fee** (as per Annex no. 2) **are introduced**, differentiated by (1) packaging type (glass, plastic, metal) and (2) packaging color (transparent, blue or green, mixed color, plastic with barrier). **The industry fee** is also differentiated based on (1) packaging type (glass, plastic, metal) and (2) size of glass or plastic packaging (small, large).
- ❖ Starting from January 1, 2025, the values of the administration and industry fees are transparently determined by the DRS administrator in accordance with the provisions of the Minister of Environment, Waters, and Forests' order specified in Article 27, paragraph (3).

- Withdrawal
- 2027
- Minimum two minimum annual objectives
- Return
- Contribution

HoReCa

- ❖ For the absence of the obligation for HoReCa traders to organize return points, it is mentioned correspondingly that there is no obligation for the DRS administrator to pay them the industry fee.

DRS Administrator

- ❖ One of the conditions for withdrawing the status of the DRS system administrator is nuanced - specifically, if producers do not meet the minimum annual **return** objectives stipulated in Article 4, paragraph (2) until 2027 for at least two types of materials derived from DRS packaging, **rather than their collection** (previous version).
- ❖ In correspondence with the above obligation, **the DRS administrator (and not the producers'**, through the administrator, as per previous provisions) is obliged to declare and pay the contributions established by Government Emergency Ordinance no. 196/2005 regarding the Environmental Fund,

- Signed agreements
- Industry fee simultaneously with guarantee refund
- DRS Packaging Register
- Packaging affiliation
- Calculation methodology
- December 31, 2023
- Import
- Intra-community sale

approved with modifications and completions by Law no. 105/2006, with subsequent modifications and completions.

- ❖ The aforementioned contributions **are recovered from producers through the administration fee (and are no longer reflected in the public methodology for calculating the administration fee approved by the Minister of Environment, Waters, and Forests).**
- ❖ The obligation of the DRS administrator to reimburse traders the full value of guarantees returned to consumers or end-users is no longer conditioned by requests made according to agreements signed with them.
- ❖ The DRS administrator is obligated to pay the industry fee simultaneously with the reimbursement of the guarantee to traders (previously, simultaneous payment of the guarantee was not provided).

Specific DRS Marking

The barcode applied to DRS packaging, or the product label must provide necessary, sufficient, and verifiable information. Additionally, compared to previous provisions, this information must be linked to the data in the DRS Packaging Register, allowing the DRS administrator to at least determine the packaging's affiliation to DRS, its weight and volume, and the identity of the producer.

Other provisions

- ❖ The methodology for calculating administration and industry fees **is proposed by the DRS administrator** (a previously nonexistent provision) and approved by the central public authority for environmental protection.
- ❖ **A new exception is introduced** – until December 31, 2023, the import, intra-community sale, and introduction into the national market of both products packaged in DRS packaging and products packaged in DRS packaging that are not marked as per the conditions in Article 24 (specific DRS marking) are allowed.



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