



COMMISSION DELEGATED REGULATION (EU) 2026/296

of 9 February 2026

supplementing Regulation (EU) 2024/1781 of the European Parliament and of the Council by setting out derogations from the prohibition of destruction of unsold consumer products

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2024/1781 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products, amending Directive (EU) 2020/1828 and Regulation (EU) 2023/1542 and repealing Directive 2009/125/EC ⁽¹⁾, and in particular Article 25(5) thereof,

Whereas:

- (1) Article 25(1) of Regulation (EU) 2024/1781 prohibits the destruction by an economic operator of certain unsold consumer products from 19 July 2026.
- (2) In order to allow economic operators to destroy unsold consumer products where this is justified and appropriate for any of the reasons listed in Article 25(5) of Regulation (EU) 2024/1781, it is necessary to set out derogations from the prohibition of destruction of unsold consumer products listed in Annex VII to that Regulation.
- (3) Depending on the circumstances justifying destruction, economic operators might still be able to remanufacture, refurbish or donate the relevant unsold consumer products as well as to discard them for the purpose of preparing them for reuse, in accordance with the definition of 'destruction' set out in Article 2(34) of Regulation (EU) 2024/1781. Where a derogation applies, the destruction of unsold consumer products is to be carried out in accordance with the priority order of the waste hierarchy as set out in Article 4 of Directive 2008/98/EC of the European Parliament and of the Council ⁽²⁾, prioritising recycling over other recovery, including energy recovery, and disposal operations.
- (4) The aim of Regulation (EU) 2024/1781 is to improve the environmental sustainability of products. However, the prohibition set out in Article 25(1) of that Regulation should not prevent or limit economic operators from taking the necessary action to ensure a high level of safety and to destroy unsold consumer products when they pose a danger to health or safety and when no other mitigation measures are possible.
- (5) Consumer products might also be non-compliant with Union or national law for reasons other than those related to consumer health or safety, for example for ethical reasons, such as forced labour. In such cases, destruction might be required by that law or might be an appropriate mitigation measure and should therefore be allowed.
- (6) The protection of intellectual property rights is fundamental to maintain the integrity of the internal market and to incentivise the development and commercialisation of new products and technologies. In cases where unsold consumer products are found to infringe intellectual property rights, destruction may be necessary to prevent further infringement.
- (7) Intellectual property rights may also be linked to valid and enforceable contractual obligations such as licences restricting the sale or distribution of a product beyond a specific date. Once such a date has passed, destruction may be necessary to ensure the effective exercise of those rights.

⁽¹⁾ OJ L, 2024/1781, 28.6.2024, ELI: <http://data.europa.eu/eli/reg/2024/1781/oj>.

⁽²⁾ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3, ELI: <http://data.europa.eu/eli/dir/2008/98/oj>).

- (8) Some consumer products may be unsuitable for reuse or remanufacturing due to the technical unfeasibility of removing or rendering permanently inaccessible labels, logos, or product design characteristics. Such removal may be necessary to ensure respect of intellectual property rights. Consumer products may also be unsuitable for reuse or remanufacturing because they are inappropriate within a particular cultural, ethical or societal context. Such products, while compliant with Union or national law, might be controversial and generate moral debate, raise ethical concerns, or contradict prevailing socially accepted norms of respect, equality or human dignity. In particular, but not exclusively, this includes products that perpetuate discrimination, exploit stereotypes, or rely on inflammatory language or images. In such cases, destruction should be possible where it is the most effective and proportionate solution to address such technical challenges. Technical unfeasibility refers to situations where existing technologies, established technical knowledge, or the expertise available to the economic operator are insufficient or unreliable to carry out effective remedies.
- (9) It should be possible to destroy damaged products, where they have been physically damaged, contaminated, or have deteriorated, during activities and processes taking place throughout the supply chain. This would include during handling, storage, transport, retailing, or return by consumers where such products were returned on the basis of the right of withdrawal provided by Directive 2011/83/EU of the European Parliament and of the Council ⁽³⁾ or, where applicable, during a longer withdrawal period provided by the trader, provided that repair is not technically feasible or cost-effective.
- (10) It should be possible to destroy products which are unfit for their intended purpose due to design or manufacturing defects that render the product non-functional. A product should be considered non-functional where it lacks essential properties reasonably expected by consumers or where the defect undermines the core purpose of the product. Destruction should only be allowed where such products cannot be repaired.
- (11) Economic operators might donate unsold consumer products, for the purpose of using or reusing them, to suitable donation partners, including social economy entities that, by statute or habitual practice, accept donations of the relevant consumer products, prioritising local donations to minimise environmental impacts and to foster the creation of sustainable, participatory and inclusive business models and quality jobs in the Union. Where such an offer has been made, either directly to at least three suitable social economy entities within the Union or on an easily accessible page of the website of the economic operator for a minimum period of eight weeks, and the products have not been accepted for donation, they could be destroyed. Social economy entities that receive unsold consumer products as a donation should be allowed to destroy these products if they cannot find recipients for them, unless such products are subject to the requirements of separate collection and preparation for reuse of discarded unsold textiles set out under Directive 2008/98/EC or equivalent requirements for other product groups.
- (12) To prevent unintended negative consequences for circular business models that involve the sale of products after their preparation for reuse, it should be possible to destroy unsold consumer products that were made available on the market following operations carried out by waste treatment operators in accordance with Directive 2008/98/EC. In accordance with that Directive, for waste to cease to be waste, a market or demand must exist for the recovered product. In the absence of such a market, it should therefore be possible to destroy the product.
- (13) To prevent abuse, to ensure that derogations applied by economic operators are justified so that destruction remains a measure of last resort, there should be adequate verification mechanisms that are based, where relevant, on existing product quality assurance practices. To enable competent national authorities to carry out appropriate checks, economic operators should for five years retain all relevant documentation used by the economic operators for verification. When multiple products are affected by the same circumstances justifying the destruction, documentation might be made collectively for all such products.

⁽³⁾ Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64, ELI: <http://data.europa.eu/eli/dir/2011/83/oj>).

- (14) Economic operators that are aware of circumstances determining the applicability of any of the derogations set out in this Regulation to unsold products, should provide a statement informing about the applicable derogation to the recipient waste treatment operator to support more effective sorting processes, to improve reuse and recycling rates and reduce unnecessary waste treatment costs,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'social economy entity' means a social economy entity as defined in Article 3(4i) of Directive 2008/98/EC;
- (2) 'cost-effective' means the cost of repairing or refurbishing a product not outweighing the total cost of destruction of that product and of materials, manufacturing, packaging, transport, stocking and any other administrative or logistical expenses of replacing that same product.

Article 2

Derogations from the prohibition of destruction of unsold consumer products

Unsold consumer products listed in Annex VII to Regulation (EU) 2024/1781 may, provided that the documentation referred to in Article 3 can be presented, be destroyed under any of the following circumstances:

- (a) the product is a dangerous product within the meaning of Regulation (EU) 2023/988 of the European Parliament and of the Council ^(*);
- (b) the product is unfit for purpose by reason that it is non-compliant with Union or national law, for reasons other than those referred to in point (a) and destruction is required by law or is the appropriate and proportionate corrective action;
- (c) it is found that the product infringes intellectual property rights by a final judicial decision, a decision resulting from an alternative dispute resolution (ADR) process, a notification by a right holder, competent authority or an entity authorised to act on behalf of a right holder or an internal investigation carried out by the economic operator, provided that the economic operator can duly substantiate the infringement;
- (d) the product subject to a valid and enforceable licence or similar contractual requirement protecting intellectual property rights, according to which the sale, distribution or any other form of transfer of the product after a specified period constitutes an infringement of those intellectual property rights, and that specified period has expired, provided that the economic operator can duly substantiate the infringement and can demonstrate that destruction is the appropriate and proportionate corrective action;
- (e) the product is unsuitable for preparing for reuse or remanufacturing because it is technically unfeasible either to remove or render permanently inaccessible labels, logos or recognisable product design or other characteristics that are:
 - (i) protected by intellectual property rights; or
 - (ii) considered inappropriate;

^(*) Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC (OJ L 135, 23.5.2023, p. 1, ELI: <http://data.europa.eu/eli/reg/2023/988/oj>).

- (f) the product can reasonably be considered unacceptable for consumer use due to damage, including physical damage, deterioration or contamination, including hygiene issues, whether it is caused by consumers or occurs during the handling of the product by the economic operators or other actors involved in the supply chain, transport, retail or storage, and repair and refurbishment are not technically feasible or cost-effective;
- (g) the product is unfit for the purpose for which it was intended due to design or manufacturing defects for which repair is not technically feasible;
- (h) only where none of the circumstances referred to in points (a) to (g) are applicable, the product was offered for donation either directly to at least three suitable social economy entities located within the Union or on an easily accessible page of the website of the economic operator, for a period of at least eight weeks, and the product has not been accepted for donation;
- (i) the product was received by a social economy entity located within the Union as a donation, but no recipient could be found for it;
- (j) the product was made available on the market after being prepared for reuse by a waste treatment operator, but no recipient could be found for it.

Article 3

Documentation for verification of compliance

Economic operators shall, for a period of five years after an unsold consumer product subject to a derogation pursuant to Article 2 has been destroyed, kept, and, upon request, put at the disposal of the competent authorities, in electronic form, within 30 days of receipt of the request, with the exception of when the information is available to the competent national authority on the basis of another legal act, the following documentation:

- (a) for a dangerous product referred to in Article 2, point (a), either of the following:
 - (i) a description of a health or safety concern that compromises compliance with the general safety requirement referred to in Article 5 of Regulation (EU) 2023/988, including an assessment of the safety of the product in accordance with Articles 6, 7 and 8 of that Regulation;
 - (ii) a test report indicating the presence in a product of non-compliant chemicals and stating the applicable Union or national law;
- (b) for a product referred to in Article 2, point (b), a self-assessment statement that indicates the type of the non-compliance and the applicable Union or national law;
- (c) in the case referred to in Article 2, point (c), the final judicial decision, ADR decision or notification referred to in that point, or documentation of an internal investigation substantiating the infringement;
- (d) in the case referred to in Article 2, point (d), a licence, contract or agreement that has been concluded with the rightsholder and that explicitly specifies the restrictions on the distribution or other forms of transfer of the product after a specified period, accompanied by a justification that destruction is appropriate and proportionate;
- (e) in the case referred to in Article 2, point (e), an inspection report or supporting documentation demonstrating that technical options for preparing the product for reuse or remanufacturing have been assessed and found to be unfeasible, including, as appropriate, visual evidence, technical analysis or expert opinions substantiating the technical unfeasibility of removing or permanently rendering inaccessible labels, logos or recognisable characteristics that are protected by intellectual property rights or that are considered inappropriate;
- (f) in the case of a damaged product referred to in Article 2, point (f), or of a product unfit for purpose referred to in point (g) of that Article, either of the following documentation:
 - (i) evidence that the product has been subject to quality assessment procedures including visual inspection and sorting that prioritises restocking and repairs, including a description of the quality assessment procedure, standardised remediation plans for specific types of damage and a description of specific cases in which repair and refurbishment are not possible for technical or cost-effectiveness considerations for a product referred to in Article 2, point (f), or for technical considerations for a product referred to in point (g) of that Article;

- (ii) an inspection record, in the form of a technical test, results from applicable practical evaluations or other expert judgements, that documents the type and severity of the damage identified for the compromised items or batches and the unfeasibility of corrective measures due to technical or cost-effectiveness considerations for a product referred to in Article 2, point (f), or due to technical considerations for a product referred to in point (g) of that Article;
- (g) in the case referred to in Article 2, point (h), evidence of the offer for donation;
- (h) in the case referred to in Article 2, point (i), a declaration attesting that the product was received as a donation and that no recipient could be found for it;
- (i) in the case referred to in Article 2, point (j), documentation demonstrating that the product was received from a waste treatment operator and that no recipient could be found for it.

Article 4

Statement to waste treatment operators

Economic operators shall provide a statement on the applicable derogation to the waste treatment operator to which they deliver unsold consumer products covered by one of the derogations set out in Article 2.

Article 5

Review

The Commission shall review this Regulation, taking into account new products added to Annex VII to Regulation (EU) 2024/1781 or the appropriateness of the derogations, in particular considering whether new scientific data or the evolution of the state of the art of technology justify a derogation for the application of high quality recycling technologies as the option with the least negative environmental impacts. The Commission shall present the results of this review, including, if appropriate, a draft revision proposal, every time a new product is added to Annex VII of that Regulation and, in any case, no later than 12 May 2031.

Article 6

Entry into force and application

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

It shall apply from 19 July 2026.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 9 February 2026.

For the Commission
The President
Ursula VON DER LEYEN