



Federal Law Gazette

Part I

2023

Published in Bonn on 15 May 2023

No. 124

**Act
transposing Article 8(1) to (7) of
Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June
2019 on the reduction of the impact of certain plastic products on the environment^{1, 2}**

Dated 11 May 2023

The Federal Parliament has adopted the following legislation:

Article 1

**Act
on the Single-Use Plastics Fund
(Einwegkunststofffondsgesetz – EWKFondsG)**

Part 1

General provisions

Section 1

Objective

The objective of this Act is to prevent and reduce the impact of the single-use plastic products listed in Annex 1 on the environment, in particular the marine environment, and on human health, and to promote innovative and sustainable business models, products and materials. In order to achieve these waste management objectives, the Act is also intended to regulate the market behaviour of obligated entities.

Section 2

Scope of application

(1) This Act regulates product responsibility for producers of the single-use plastic products listed in Annex 1 within the meaning of Section 23(1) to (3) of the Circular Economy Act of 24 February 2012, Federal Law Gazette (Federal Law Gazette I, p. 212), as last amended by Article 5 of the Act of 2 March 2023 (Federal Law Gazette 2023 I, No. 56), in its current version.

(2) Unless this Act lays down provisions to the contrary, the Circular Economy Act and the ordinances adopted on the

¹ Articles 1 and 2 of this Act are intended to transpose Article 8(1) to (7) and Article 14 of Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p. 1).

² Notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

basis of the Circular Economy Act or the Circular Economy and Waste Act in force until 31 May 2012 shall apply as amended. Section 62 of the Circular Economy Act shall apply, *mutatis mutandis*.

Section 3

Definitions

The following definitions apply for the purposes of this Act:

1. 'single-use plastic product' means a product that is made wholly or partly from plastic and that is not conceived, designed and placed on the market to accomplish, within its life span, multiple cycles by being returned to a producer or distributor for refill or re-used for the same purpose for which it was produced;
2. 'plastic' means a material consisting of a polymer as defined in point 5 of Article 3 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1), as last amended by Regulation (EU) 2020/507 (OJ L 110, 8.4.2020, p. 1), in its current version, to which additives or other substances may have been added, and which can function as the main structural component of final products; with the exception of materials made from natural polymers that have not been chemically modified;
3. 'producer' means any natural or legal person or partnership with legal capacity which
 - a) is established within the territory where this Act applies and professionally makes available on the market for the first time, as a producer, filler, seller or importer, irrespective of the selling technique used, including by means of distance contracts as defined in Section 312c of the Civil Code, the single-use plastic products listed in Annex 1, or
 - b) is not established within the territory where this Act applies and professionally operates, within the territory where this Act applies, the single-use plastic products listed in Annex 1 directly to private households or other users by means of distance communication as defined in of Section 312c(2) of the Civil Code;
4. 'making available on the market' means any supply of a product for distribution, consumption or use on the market in the territory where this Act applies in the course of a commercial activity, whether in return for payment or free of charge;
5. 'electronic marketplace' means a website or any other tool by means of which information is provided online that allows producers or third parties who are not operators of the marketplace to offer or make available the single-use plastic products listed in Annex 1 in their own name within the territory where this Act applies;
6. 'operator of an electronic marketplace' means any natural or legal person or partnership with legal capacity that maintains an electronic marketplace and allows third parties to offer or make available the single-use plastic products listed in Annex 1 on this marketplace within the territory where this Act applies;
7. 'offer' means presenting or publicly making available the single-use plastic products listed in Annex 1 within the territory where this Act applies as part of professional activities aimed at concluding a sale agreement; offering also includes an invitation to submit a tender;
8. 'fulfilment service provider' means any natural or legal person or partnership with legal capacity that offers at least two of the following services within the territory where this Act applies in the course of business activity: storage, packaging, addressing or dispatching of the single-use plastic products listed in Annex 1 in respect of which it has no right of ownership; postal, parcel delivery or other freight transport service providers are not considered to be fulfilment service providers;
9. 'authorised representative' means any natural or legal person or partnership with legal capacity that is established within the territory where this Act applies and is appointed by a producer that is not established within the territory where this Act applies to carry out tasks in its own name in order to fulfil certain producer obligations under this Act;
10. 'Central Agency' means the 'Central Agency Packaging Register' foundation established in accordance with Section 24(1) of the Packaging Act of 5 July 2017 (Federal Law Gazette I, p. 2234), as last amended by Article 2 of the Act of 22 September 2021 (Federal Law Gazette I, p. 4363), in its current version;
11. 'public collection system' means a collection system set up in generally accessible places and operated by or on behalf of a public waste management provider or a legal entity under public law;
12. 'collection costs' means the cost of collecting waste generated from the single-use plastic products listed in Annex 1 in public collection systems; collection costs include the costs of infrastructure, such as collection containers, and their operation, as well as the costs of transporting and disposing of waste; collection costs also include the cost of setting up specific infrastructures for the collection of waste from tobacco products with filters containing plastic, as well as filters marketed for use in combination with tobacco products, in common litter hotspots;
13. 'cleaning costs' means, to the respective extent, the costs of litter clean-up activities which are carried out by or on behalf of public waste management providers or legal entities under public law and are intended to remove from the environment waste generated from the single-use plastic products listed in Annex 1; cleaning costs include the cost of transporting and disposing of waste;
14. 'awareness-raising costs' means, to the respective extent, the costs of the awareness-raising measures which are

carried out by or on behalf of public waste management providers in the context of waste advice pursuant to Section 46(2) and (3) numbers 2 and 3, of the Circular Economy Act and concern the single-use plastic products listed in Annex 1 or waste arising therefrom;

15. 'data collection and transmission costs' means the costs of collecting and transmitting data on the collection and disposal of waste arising from the single-use plastic products listed in Annex 1;
16. 'administration costs' means the costs that are incurred by the Federal Environment Agency for carrying out the tasks under this Act and are eligible according to business principles, in particular personnel and material costs, calculation costs, costs for the establishment and operation of electronic data collection and processing systems, as well as fees for third-party services used.

Part 2

Single-use plastics fund

Section 4

Single-use plastics fund

- (1) The Federal Environment Agency will administer the single-use plastics fund. The single-use plastics fund will be used to handle the reimbursement of the costs referred to in Section 3, subparagraphs 12 to 16, by producers.
- (2) The principles of cost-effectiveness and economy shall be observed in administering the single-use plastics fund.

Section 5

Financing

(1) The administration costs will be financed from revenues to the single-use plastics fund, unless other reimbursement of costs is stipulated. The administration costs incurred by the Federal Environment Agency in the financial year 2023 will be reimbursed from the revenues to the single-use plastics fund from 2025 onwards, equally in the following five financial years.

(2) The revenues to the single-use plastics fund may also be used for expenditure beyond the respective financial year in accordance with the budgetary rules

1. to ensure the reimbursement of administration costs,
2. to secure legal claims arising from the implementation of this Act, and
3. to compensate for disproportionate fluctuations in the points value pursuant to Section 20(1).

However, in the case of subparagraph 3 of the first sentence, no more than 10 per cent of the revenue for a financial year may be used for further financial years.

Section 6

Annual statement

(1) Without prejudice to Section 80 to 85 of the Federal Budget Code of 19 August 1969 (Federal Law Gazette I p. 1284), as last amended by Article 2 of the Act of 1 July 2022 (Federal Law Gazette I, p. 1030), in its current version, the Federal Environment Agency will, at the end of each financial year, set out total revenue to and total expenditure from the single-use plastics fund in its annual statement.

(2) The Federal Environment Agency will publish the annual statement on its website in an appropriate manner.

Part 3

Register of producers, obligations of producers

Section 7

Registration of producers

(1) Producers must register with the Federal Environment Agency in accordance with paragraph (2) before commencing their activities. Changes to registration data as well as the permanent cessation of activities must be communicated to the Federal Environment Agency without delay.

(2) The following information must be provided during the registration referred to in the first sentence of paragraph (1):

1. name, address and contact details of the producer, in particular post code and city, street and house number, country, telephone number and the European or national tax number,
2. if an authorised representative is appointed in accordance with Section 10(1):

- a) name, address and contact details of the authorised representative in accordance with subparagraph 1, and
- b) written appointment by the producer,
3. a natural person with power of representation,
4. national identification number and e-mail address of the producer and, if an authorised representative is appointed, the same information for the authorised representative,
5. brand names under which the producer makes available on the market for the first time or sells the single-use plastic products listed in Annex 1,
6. types of the single-use plastic products, as listed in Annex 1, made available on the market for the first time or sold, and
7. declaration that all information provided is true.

The information referred to in subparagraphs 1 to 4 of the first sentence is not required if the producer agrees to use of this data, stating its registration number in the register pursuant to Section 9 of the Packaging Act.

(3) Registration and notifications of amendment must be made via the information technology system provided by the Federal Environment Agency in accordance with Section 8(1).

(4) The Federal Environmental Agency will

1. confirm the registration,
2. inform the producer of its registration number,
3. examine the notification of amendment, and
4. confirm that the notified amendment has been recorded.

(5) The Federal Environment Agency will publish the registered producers with the information referred to in the first sentence of paragraph (2), subparagraph 1, subparagraph 2 point a), and subparagraphs 5 and 6, as well as the registration number and the date of registration on its website. For producers whose registration has ended, the date of leaving the market will also be indicated. The data published on the website of the Federal Environment Agency must be automatically deleted three years after the date on which the producer's registration ends.

Section 8

Register of producers

(1) In order to register producers in accordance with Section 7, the Federal Environment Agency will establish an information technology system and provide access for producers and authorised representatives on its website. The Federal Environment Agency may provide further instructions on the electronic registration procedure and, for other communication with producers and the authorised representatives, lay down electronic transmission, certain encryption and the provision of access for the transmission of electronic documents. The Federal Environment Agency is authorised to retrieve, collect, store and use the data referred to in Section 7(2). The data must be automatically deleted three years after the end of the day on which the producer's registration ends.

(2) Insofar as the information referred to in the first sentence of Section 7(2), subparagraphs 1 to 4 is already available to the Central Agency as a result of registration under Section 9 of the Packaging Act, the Federal Environment Agency is required and authorised to collect, store and use the data available therein if the producer has given its consent in accordance with the second sentence of Section 7(2). For this purpose, the Central Agency will provide the Federal Environment Agency with this data and the necessary technical information on the type of data transmission and will document data retrievals. The documentation may only be used for the purposes of data protection control, data backup or to ensure proper operation of the data processing system. The documentation must be deleted automatically after six months.

(3) The Federal Environment Agency will transmit to the Central Agency electronically and annually, by 31 January, the data of all producers registered in the previous calendar year together with the information referred to in Section 7(2), first sentence, subparagraphs 1 to 6 and Section 11(1), insofar as this is necessary to fulfil the obligations under the Packaging Act. The Federal Environment Agency and the Central Agency will determine the format of the electronic transmission by mutual agreement.

(4) The Federal Environment Agency will transmit to the Federal Statistical Office electronically and annually, by 31 January, the data of all producers registered in the previous calendar year together with the information referred to in Section 7(2), sentence 1, numbers 1 to 6, insofar as this is necessary for the Federal Statistical Office to fulfil its tasks under Section 5a of the Environmental Statistics Act. The Federal Environment Agency and the Federal Statistical Office will determine the format of the electronic transmission by mutual agreement.

Section 9

Single-use plastic products from non-registered or improperly registered producers

(1) Producers who are not registered in accordance with the first sentence of Section 7(1) may not make available on the market for the first time or sell the single-use plastic products listed in Annex 1.

(2) The single-use plastic products listed in Annex 1 may not be offered for sale professionally if their producer is not registered in accordance with the first sentence of Section 7(1).

(3) Operators of electronic marketplaces may not allow the single-use plastic products listed in Annex 1 to be offered if

the producer of these single-use plastic products is not registered in accordance with the first sentence of Section 7(1).

(4) Fulfilment service providers may not provide the services referred to in Section 3 subparagraph 8 with regard to the single-use plastic products listed in Annex 1 if the producer of these single-use plastic products is not registered in accordance with the first sentence of Section 7(1).

Section 10

Appointment of authorised representatives or third parties

(1) Producers who are not established within the territory where this Act applies shall, prior to the commencement of their activities, appoint an authorised representative to fulfil the obligations under this Act, with the exception of registration pursuant to Section 7(1) and the annual notification pursuant to Section 11(1). For the purposes of this Act, the authorised representative will be considered to be the producer with respect to these obligations. The authorised representative will fulfil these obligations in its own name. Each producer may appoint only one authorised representative. The appointment must be made in writing and in German.

(2) The producer will inform the Federal Environment Agency of the authorised representative referred to in the first sentence of paragraph (1), without delay after the appointment. A copy of the appointment must be attached. The appointment needs to be confirmed by the Federal Environment Agency. The Federal Environment Agency will only issue such confirmation if the conditions laid down in paragraph (1) are met. If there are more than 20 appointments for the same authorised representative at the same time, the Federal Environment Agency will only confirm the authorisation if it has previously checked in accordance with Section 37 (7) of the Electrical and Electronic Equipment Act whether the authorised representative offers the necessary guarantee for the proper fulfilment of the producer's obligations. The producer will notify the Federal Environment Agency without delay of any changes to the appointment or corrections to the information.

(3) If the appointment of an authorised representative pursuant to paragraph (1) ends, the producer will inform the Federal Environment Agency without delay. The appointment ends as soon as the Federal Environment Agency confirms the end of the appointment to the producer. A producer to whom the end of the appointment has been confirmed by the Federal Environment Agency must, without delay, inform the producers, fillers, sellers or importers it supplies of the end of the appointment of the authorised representative. The obligation of the authorised representative to fulfil the producer obligations arising during the period of its appointment remains unaffected.

(4) Producers established within the territory where this Act applies, who make available on the market for the first time or sell the single-use plastic products listed in Annex 1 in another Member State of the European Union or in a Contracting State to the Agreement on the European Economic Area in which they are not established will appoint, before such making available on the market in this Member State or Contracting State, an authorised representative in order to fulfil the obligation to reimburse costs under extended producer responsibility in accordance with Article 8(1) to (3) of Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p. 1) as amended.

(5) Producers may appoint third parties to fulfil their obligations; the second and third sentences of Section 22 of the Circular Economy Act shall apply, *mutatis mutandis*. The first sentence shall not apply to registration pursuant to Section 7(1) and to the annual notification pursuant to Section 11(1).

Section 11

Annual notification by producers

(1) In accordance with the second and third sentences, producers will notify to the Federal Environment Agency annually by 15 May the single-use plastic products, as listed in Annex 1 sentences 2 and 3, they have made available on the market for the first time or sold in the previous calendar year, broken down by type and mass, in kilograms. The notification must be verified and confirmed by a registered expert within the meaning of Section 3(15) of the Packaging Act or by a registered auditor, tax consultant or sworn accountant in accordance within the meaning of Section 27(2) of the Packaging Act. The confirmation will be furnished with a qualified electronic signature in accordance with point 12 of Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73), and be sent electronically by the producer to the Federal Environment Agency, together with the notification and the verification report. In the case of an authorisation according to Section 10 (1), the Federal Environment Agency transmits the information provided by the producer to the authorised representative without delay.

(2) The Federal Environment Agency will provide uniform electronic forms for the notification referred to in the first sentence of paragraph (1), the confirmation and transmission of the notification, and the verification report referred to in the third sentence of paragraph (1), as well as for other communication with producers, and lay down the detailed procedure. The Federal Environment Agency will publish annually on its website by 31 December aggregated data on the single-use plastic products listed in Annex 1 that were made available on the market for the first time or sold in the previous year, broken down by type and mass.

(3) If there are indications that the notification is inaccurate or incomplete, the Federal Environment Agency may require the producer to submit further documents necessary for verification in individual cases. If the documents are not submitted or the documents submitted are not suitable to refute the indications of inaccuracy or incompleteness, the notification referred to in the first sentence of paragraph (1) will be deemed not to have been submitted.

(4) Any person who made available on the market for the first time or sold less than 100 kilograms of the single-use

plastic products listed in Annex 1 or exclusively deposit-based beverage bottles in accordance with Section 31 of the Packaging Act on the market for the first time in the previous calendar year will be exempt from the obligation laid down in the second sentence of paragraph (1). In the cases covered by sentence 1, the Federal Environment Agency may, at any time, require verification in accordance with the second sentence of paragraph (1) to be carried out and confirmation in accordance with the third sentence of paragraph (1) to be submitted.

(5) The Federal Environment Agency, in mutual agreement with the Federal Cartel Office, will develop verification guidelines to be followed by the registered experts as well as the registered auditors, tax consultants and sworn accountants during verifications under this Act. The Federal Environment Agency will report any infringements of the verification guidelines to the Central Body without delay, accompanied by available evidence.

Part 4

Single-use plastics levy

Section 12

Obligation to pay the levy

Producers of the single-use plastic products listed in Annex 1 will pay a special levy annually to reimburse the costs referred to in Annex 2 (single-use plastics levy).

Section 13

Determination, due date and default

(1) The single-use plastics levy will be determined annually by means of levy notice issued by the Federal Environment Agency. The single-use plastics levy will be calculated from the mass of the single-use plastic products listed in Annex 1 that were made available on the market for the first time or sold, as notified in accordance with Section 11(1), multiplied by the levy rate to be established by Ordinance pursuant to Section 14.

(2) If, contrary to Section 11(1), a producer has not submitted a notification, the Federal Environment Agency will estimate the mass of the single-use plastic products listed in Annex 1 that were made available on the market for the first time or sold, on the basis of previous notifications and other available data.

(3) The single-use plastics levy will be due one month after receipt of the levy notice, unless another due date is specified therein.

(4) If the entity required to pay the levy is in default with respect to payment of the single-use plastics levy for more than three working days, it will pay a default surcharge of 1 per cent of the rounded outstanding amount for each commenced month of default. The default surcharge is only imposed if the outstanding amount exceeds EUR 50 and the default is longer than three days. When calculating the default surcharge, the outstanding amount will be rounded off to a full EUR 50. Default surcharges collected will be recorded as revenue to the single-use plastics fund.

(5) Injection to the levy notice has no suspensory effect.

(6) Entitlement to payment of the single-use plastics levy becomes time-barred after five years. The limitation period begins with the end of the calendar year in which the entitlement first became due. The limitation period shall be suspended where the claim cannot be pursued, due to force majeure, within the last six months of the limitation period. Section 19 of the Federal Fees Act of 7 August 2013 (Federal Law Gazette I, p. 3154), as last amended by Article 2 of the Act of 16 July 2021 (Federal Law Gazette I p. 3019), in its current version, shall apply mutatis mutandis.

Section 14

Establishment of levy rates; enabling authorisation

(1) The Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection shall, after consulting the interested parties and without the assent of the Bundesrat, by means of an Ordinance by 31 December 2023, establish the levy rate for each type of single-use plastic product listed in Annex 1 in euros per kilogram in accordance with Annex 2. Section 68 of the Circular Economy Act shall apply, mutatis mutandis.

(2) When establishing the levy rates, the requirement to recover costs, the prohibition on exceeding costs, the principle of cost efficiency and the requirement for transparency will be respected. When determining the costs according to Annex 2, the weight, volume and number of pieces of waste resulting from the single-use plastic products should be taken into account.

(3) The levy rates will be reviewed regularly, at least every three years, and, where necessary, adjusted.

Part 5

Register of beneficiaries; obligations of beneficiaries

Section 15

Registration of beneficiaries

(1) Public waste management providers and other legal entities under public law who wish to claim reimbursement of their costs pursuant to Section 3 subparagraphs 12 to 15 must be registered with the Federal Environment Agency in accordance with paragraph (2). Changes to registration data as well as the permanent cessation of activities that give rise to such reimbursement must be communicated to the Federal Environment Agency without delay.

(2) The following information must be provided during the registration referred to in paragraph (1):

1. name, address and contact details of the beneficiary, in particular post code and city, street and house number, country, telephone number and, if available, the European or national tax number, 2. a natural person authorised to represent,
3. bank account details,
4. if responsibility arises from Land law, confirmation of eligibility issued by a competent Land-level authority, citing the legal basis, and
5. local area of responsibility.

(3) Beneficiaries referred to in paragraph (1) may appoint another beneficiary to exercise their rights and obligations under this Act. In this case, the information referred to in paragraph 2 numbers 1, 4 and 5 shall also be provided for the appointed beneficiary at the time of registration, as well as proof of the appointment.

(4) Registration and notifications of amendment must be made via the information technology system provided by the Federal Environment Agency in accordance with Section 16.

(5) The Federal Environmental Agency will

1. examine eligibility,
2. confirm the registration,
3. communicate the registration number to the public waste management provider or to the legal entity under public law,
4. examine the notification of amendment, and
5. confirm the notified amendment has been recorded.

(6) The Federal Environment Agency will publish the beneficiaries together with the information referred to in paragraph (2), subparagraphs 1, 4 and 5, as well as the registration number and the date of registration on its website. For beneficiaries whose registration has ended, the date of ceasing the eligible activities will also be indicated. The data published on the website of the Federal Environment Agency must be automatically deleted one year after the end of the day on which the beneficiary's registration ends.

Section 16

Register of beneficiaries

In order to register beneficiaries in accordance with Section 15, the Federal Environment Agency will establish an information technology system and provide access for beneficiaries on its website. The Federal Environment Agency may provide further instructions on the electronic registration procedure and, for other communication with beneficiaries, lay down electronic transmission, specific encryption and the provision of access for the transmission of electronic documents. The Federal Environment Agency is authorised to collect, store and use the data referred to in Section 15(2). The data must be automatically deleted one year after the end of the day on which the beneficiary's registration ends.

Section 17

Annual notification by beneficiaries

(1) Reimbursement of costs requires the registered beneficiary to notify the Federal Environment Agency by 15 May of the year concerned of the following data for the previous calendar year:

1. details of the services causing the collection costs,
2. details of the services causing the cleaning costs,
3. details of the services causing the awareness-raising costs,
4. details of the services causing the data collection and transmission costs.

(2) If notification is not made on time in accordance with paragraph (1), disbursement from the single-use plastics fund pursuant to Section 21 for the preceding calendar year is excluded.

(3) The Federal Environment Agency will lay down the type of information and evidence to be provided, provide uniform electronic forms for the notification and the verification report pursuant to Section 18(1) and regulate the detailed procedure. The Federal Environment Agency will publish annually by 31 December the data on the total services provided in the previous year and the resulting costs as referred to in paragraph 1 on its website.

Section 18

Checking of information

- (1) If there are indications that the notification of a beneficiary in accordance with Section 17(1) is inaccurate, and such inaccuracy could not be eliminated within a reasonable time frame even after a request to that effect, the Federal Environment Agency may order the beneficiary to have the information in the notification verified at its own expense by an approved expert and to submit the verification report. If a beneficiary fails to comply with this order within the prescribed period, the notification will be deemed not to have been made.
- (2) An approved expert within the meaning of paragraph 1 sentence 1 means anyone
1. who is publicly appointed pursuant to Section 36 of the Trade, Commerce and Industry Regulation Act, as amended by the promulgation of 22 February 1999 (Federal Law Gazette I, p. 202), which was last amended by Article 21 of the Act of 19 December 2022 (Federal Law Gazette I, p. 2606), in its current version,
 2. who is permitted to work as an environmental auditor or environmental audit organisation based on a licence pursuant to Sections 9 and 10 or in accordance with Section 18 of the Environmental Audit Act as amended by the promulgation of 4 September 2002 (Federal Law Gazette I p. 3490), which was last amended by Article 17 of the Act of 10 August 2021 (Federal Law Gazette I p. 3436), in its current version, in the field which is defined in more detail in Annex I Section E Division 38 of Regulation (EC) 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ L 393, 30.12.2006, p. 1), last amended by Regulation (EC) 295/2008 (OJ L 97, 9.4.2008, p. 13), in its current version,
 3. whose capability has been established by an accreditation from the national accreditation body under a generally recognised procedure or
 4. who is established in another Member State of the European Union or in another Contracting State to the Agreement on the European Economic Area and intends to carry out an activity in Germany only temporarily and occasionally and has had their professional qualification verified before taking up the activity in accordance with Sections 13a and 13b of the Trade Code; procedures referred to in this subparagraph may be carried out through a single body.

Part 6

Disbursement

Section 19

Points system; enabling authorisation

- (1) Disbursements from the single-use plastics fund will be made on the basis of a points system, which assigns a certain number of points to the beneficiaries' services rendered annually.
- (2) The Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection shall, after consulting the interested parties and without the assent of the Bundesrat, by means of Ordinance by 31 December 2023, establish the points system referred to in paragraph (1). Section 68 of the Circular Economy Act shall apply, mutatis mutandis.
- (3) When establishing the points system, the requirement to recover costs, the prohibition on exceeding costs, the principle of cost efficiency and the requirement for transparency will be respected.
- (4) The points system will be reviewed regularly, at least every three years, and, where necessary, adjusted.

Section 20

Announcement and calculation of the points value

- (1) The Federal Environment Agency will calculate the points value annually and announce it by the end of 30 September. The points value is the total disbursement amount divided by the total number of points.
- (2) The total disbursement amount is the total revenue to the single-use plastics fund up to 31 August
1. minus
 - a) administration costs incurred in the previous calendar year,
 - b) resources provided for in accordance with the first sentence of Section 5(2), and
 2. as applicable, plus any resources referred to in the first sentence of Section 5(2), subparagraph 3.
- (3) The total number of points is the sum of points for all beneficiaries, for the services provided in the previous calendar year.

Section 21

Designation and disbursement of resources

The Federal Environment Agency will indicate the resources to be disbursed from the single-use plastics fund to the respective beneficiary by means of a payment notice. The amount is calculated from the number of points attributed to the services provided in accordance with the points system multiplied by the points value. The disbursements are to be made no later than one month after the notice has legal validity.

Part 7

Powers of designation

Section 22

Designation of a product as a single-use plastic product, designation of producer status

(1) The Federal Environment Agency will designate, at the request of a producer or authorised representative, or at its proper discretion

1. whether a product is a single-use plastic product pursuant to Section 3, numbers 1 and 2,
2. the product type in accordance with Annex 1 to which the single-use plastic product is to be assigned, and
3. whether a natural or legal person or partnership with legal capacity is a producer within the meaning of Section 3, subparagraph 3, point a) or b).

The designation referred to in subparagraphs 1 and 2 of the first sentence may be made as a general order.

(2) The Federal Environment Agency may adopt administrative provisions on the matters referred to in paragraph (1).

(3) The Federal Environment Agency may lay down detailed instructions for communication with the applicant, in particular the use of certain electronic forms and input masks, specific encryption and the providing of access for the transmission of electronic documents.

(4) Objection to the notice referred to in paragraph (1) has no suspensory effect.

Part 8

Single-use plastics commission

Section 23

Establishment, tasks and procedures

(1) A single-use plastics commission will be established. It will advise

1. the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection in reviewing and adjusting the levy rates referred to in Section 14 (3) and the points system referred to in Section 19 (4) and
2. the Federal Environment Agency on
 - a) calculating the points value referred to in Section 20,
 - b) designating products as single-use plastic products in accordance with Section 22(1), first sentence, subparagraphs 1 and 2 and
 - c) the design of the studies according to paragraph 2 sentence 4.

The Federal Environment Agency will support the single-use plastics commission in carrying out its tasks by operating a commission office. The commission office is responsible for convening and organising the meetings.

(2) Advice from the single-use plastics commission will be in the form of recommendations based on available data and scientific findings. The recommendations will be adopted by a majority of the votes cast. Details will be laid down in the rules of procedure referred to in paragraph (4). As preparation for advice to be given by the single-use plastics commission pursuant to paragraph (1), second sentence, subparagraph 1, the Federal Environment Agency will commission a study or several studies. Decisions in the procedures according to paragraph 1 sentence 2 number 1 that deviate from the recommendations of the single-use plastics commission must be justified.

(3) The Federal Environment Agency may request the single-use plastics commission to issue a recommendation within a reasonable period of time. If no recommendation is made within that period, the procedures referred to in the second sentence of paragraph (1) will continue without the participation of the single-use plastics commission.

(4) The single-use plastics commission will draw up rules of procedure and adopt them by a majority of the votes cast. The rules of procedure require the approval of the Federal Environment Agency. With the approval of the Federal Environment Agency, the single-use plastics commission will be established. The Federal Environment Agency may request the single-use plastics commission to submit rules of procedure for approval within a reasonable period of time. If no rules of procedure are submitted within that period, the procedures referred to in the second sentence of paragraph (1) will continue without the participation of the single-use plastics commission.

Section 24

Composition and nomination

(1) The single-use plastics commission will consist of 12 members. Members will be distributed as follows:

1. six representatives from producers,
2. one representative from the municipal waste management industry,
3. two representatives from municipal umbrella associations,
4. one representative from other beneficiaries not represented by the representatives referred to in subparagraphs 2 and 3,
5. one representative from environmental organisations, and
6. one representative from consumer associations.

Commission members will sit in a voluntary capacity. No remuneration or reimbursement of expenses will be granted.

(2) The respective associations and other interest groups will designate their members and representatives to the Federal Environment Agency. To this end, the Federal Environment Agency will call on the associations and other interest groups to designate their representatives and deputies by consensus within a period of time. If no designation by consensus is made within this period, the respective members and representatives will be appointed by the Federal Environment Agency. Details will be laid down in the rules of procedure referred to in Section 23(4), first sentence.

Part 9

Final provisions

Section 25

Supervision

With regard to the tasks assigned to it under this Act, the Federal Environment Agency is subject to the legal and technical supervision of the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection.

Section 26

Provisions on regulatory fines

(1) A regulatory offence is deemed to have been committed by any person who, intentionally or negligently

1. contrary to Section 7(1), first sentence, fails to register, or does not do so correctly, in full or in good time,
2. contrary to
 - a) Section 7(1), second sentence, or
 - b) Section 10(2), fifth sentencefails to make a notification or fails to do so correctly, in full or in good time,
3. contrary to Section 9(1), makes available on the market for the first time or sells a single-use plastic product,
4. contrary to Section 9(2), offers a single-use plastics product for sale,
5. contrary to Section 9(2), allows a single-use plastics product to be offered,
6. contrary to Section 9(4), provides a service mentioned in said provision,
7. contrary to Section 10(1), first sentence or paragraph (4), does not appoint an authorised representative, fails to do so correctly or in good time,
8. contrary to the first sentence of Section 10(2), does not appoint an authorised representative, fails to do so correctly or in good time, or
9. contrary to the first sentence of Section 11(1), fails to submit a notification, or fails to do so correctly, in full or in good time.

(2) In the cases referred to in paragraph (1) subparagraph 1, subparagraph 2 point a), and subparagraphs 3 to 6, the regulatory offence may be punished by a fine of up to one hundred thousand euros and, in the other cases, a fine of up to ten thousand euros.

(3) The regulatory authority within the meaning of Section 36(1), subparagraph 1 of the Regulatory Offences Act shall be the Federal Environment Agency.

(4) Fines ordered during judicial proceedings and amounts recovered, as ordered by the court pursuant to Section 29a of the Regulatory Offences Act, will also accrue to the respective federal treasury branch, which also bears the costs imposed on the treasury.

Section 27

Confiscation

If a regulatory offence has been committed pursuant to Section 26(1), goods may be confiscated 1. to which the

regulatory offence relates, or

2. which were used or had been intended to be used for the preparation or commission of the offence.

§ 23 of the Regulatory Offences Act shall apply.

Section 28

Evaluation

The Federal Government shall, by 31 December 2027, evaluate the effect of the provisions contained in this Act with regard to the achievement of the objectives. As part of such evaluation, the following will be reviewed in particular:

1. the development of sustainable products as an alternative to the single-use plastic products listed in Annex 1,
2. improvement to the cleanliness of cities and landscapes with regard to waste generated by the single-use plastic products listed in Annex 1,
3. relief of the general public from previously borne collection, cleaning and awareness-raising costs,
4. the need to extend the scope to other products, taking into account the results of the review under Article 15 of Directive (EU) 2019/904.

Section 29

Transitional provision

- (1) Revenue and expenditure will be set out by means of the annual statement, as referred to in Section 6(1), and the statement will be published, as referred to in Section 6(2), for the first time for the 2025 financial year.
- (2) Producers who have already commenced their activities before the entry into force of Section 7(1) will register with the Federal Environment Agency by 31 December 2024.
- (3) Producers who are not established within the territory where this Act applies and have already commenced their activities before the entry into force of Section 10(1) shall appoint, by 31 December 2024, an authorised representative to fulfil the producer obligations, with the exception of registration pursuant to Section 7(1) and annual notification pursuant to Section 11(1).

Section 30

Participation of the Bundestag in the enactment of legislative ordinances

The statutory ordinance pursuant to Section 14 (1) and Section 19 (2) to be issued by 31 December 2023 must be forwarded to the Bundestag prior to promulgation. It can be changed or rejected by a resolution of the Bundestag. The decision of the Bundestag is forwarded to the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection. If the Bundestag has not dealt with it after three session weeks since receipt of the ordinance, the unchanged ordinance will be forwarded to the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection for promulgation.

Annex 1

(To Sections 1, 2 (1), to Section 3 numbers 3, 5 to 8 and 12 to 15, Section 7 (2) sentence 1 numbers 5 and 6, to Sections 9, 10 (4), to Section 11 (1) sentence 1, paragraph 2 and paragraph 4, to Sections 12, 13 (1) sentence 2 and paragraph 2, to Section 14 (1) sentence 1, Section 22 (1) sentence 1 number 2, Section 28 sentence 2 numbers 1 and 2)

List of single-use plastic products

1. Food containers, i.e. receptacles such as boxes, with or without a cover, used to contain food which:
 - a) is intended for immediate consumption, either on-the-spot or take-away,
 - b) is typically consumed from the receptacle, and
 - c) is ready to be consumed without any further preparation such as cooking, boiling or heating;beverage containers, beverage cups, plates, and packets and foil packaging, such as wrappers, containing food are not food containers for these purposes;
2. Packets and foil packaging, such as wrappers, containing food, which
 - a) is intended for immediate consumption from the packet or wrapper,
 - b) without any further preparation;
3. Beverage containers with a capacity of up to 3 litres, i.e. receptacles used to contain liquid, such as beverage bottles and composite beverage packaging on which a deposit is or is not charged, including their caps and lids; beverage containers in this sense are not beverage containers made of glass or metal with plastic caps, lids, labels, stickers or casings are not beverage containers for these purposes;
4. Cups for beverages, including their covers and lids;
5. Lightweight plastic carrier bags, i.e. plastic carrier bags, with a wall thickness of less than 50 micrometres, with or without carrying handle, offered to consumers at the point of sale of goods or products;
6. Wet wipes, i.e. pre-wetted personal care and domestic wipes;
7. Balloons; except balloons for industrial or other professional uses and applications that are not distributed to consumers;
8. Tobacco products³ with filters and filters intended for use in combination with tobacco products.

3.

³ Tobacco products as defined in Article 2 of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ L 127, 29.4.2014, p. 1).

Product type	Cost type				
	Collection costs	Cleaning costs	Awareness-raising costs	Data collection and transmission costs	Administration costs
Annex 2 (to Sections 12–14(1), sentence 1) Recovery of costs by product type					
Food containers (Annex 1, point 1)	X	X	X	X	X
Packers and wrappers (Annex 1, point 2)	X	X	X	X	X
Beverage containers (Annex 1, point 3)	X	X	X	X	X
according to Section 31 of the Packaging Act, beverage bottles subject to a deposit (Annex 1 Number 3)	X	X	X	X	X
Beverage cups (Annex 1, point 4)	X	X	X	X	X
Lightweight plastic carrier bags (Annex 1, point 5)	X	X	X	X	X
Wet wipes (Annex 1, point 6)		X	X	X	X
Balloons (Annex 1, point 7)		X	X	X	X
Tobacco products with filters and filters for tobacco products (Annex 1, point 8)	X	X	X	X	X

Article 2

Amendment to the Packaging Act

The Packaging Act of 5 July 2017 (Federal Law Gazette I p. 2234), as last amended by Article 2 of the Act of 22 September 2021 (Federal Law Gazette I p. 4363), is amended as follows:

1. § 26(1), second sentence is amended as follows:
 - a) In subparagraph 29a, the word "and" at the end is deleted.
 - b) The following subparagraphs 30 and 31 are inserted after subparagraph 29a:

"30. will make available to the Federal Environment Agency for data retrieval, in accordance with the second to fourth sentences of Section 8(2) of the Single-Use Plastics Fund Act of 11 May 2023 (Federal Law Gazette 2023 I 2024], as amended, the existing register information in accordance with Section 9 including the necessary technical information,

31. will use the register information provided by the Federal Environment Agency in accordance with the first sentence of Section 8(3) of the Single-Use Plastics Fund Act to fulfil its duties and will lay down the format for electronic data exchange in accordance with the second sentence of Section 8(3) of the Single-Use Plastics Fund Act in mutual agreement with the Federal Environment Agency, and'.
 - c) The previous subparagraph 30 becomes subparagraph 32.
2. In Section 27(4), the words 'in accordance with this Act or the Single-Use Plastics Fund Act' are inserted after the words 'verification guidelines'.

Article 3

Amendment to the Single-Use Plastics Fund Act

The Single-Use Plastics Fund Act of 11 May 2023 (Federal Law Gazette 2023 I No 124) is amended as follows:

1. The following sentence is added to Section 14 (1):

"The tax rate for fireworks is to be set in accordance with sentences 1 and 2 by 31 December 2026."
2. Section 29 is worded as follows:

"Section 29

Transitional provision

- (1) Manufacturers of fireworks who started their activities before 1 January 2026 must register with the Federal Environment Agency by 31 December 2026 in accordance with Section 7.
 - (2) For fireworks, Section 9 only applies from 1 January 2027.
 - (3) Manufacturers of fireworks who are not established within the scope of this Act and who started their activities before 1 January 2026 must appoint an authorised representative by 31 December 2026 in accordance with Section 10.
 - (4) Manufacturers of fireworks must submit the annual data report pursuant to Section 11 by 15 May 2028 for the first time.
 - (5) Manufacturers of fireworks have to pay the single-use plastics tax according to Section 12 for the first time for the 2027 calendar year.
 - (6) The single-use plastic tax for fireworks pursuant to Article 13 Section 1 must be determined for the first time in 2028."
3. Annex 1 is amended as follows:
 - a) In number 8, the full stop at the end is replaced by a semicolon.
 - b) The following number 9 is added:

"9. Fireworks within the meaning of Section 3(1) number 4 of the Explosives Act."

4. In Annex 2, the following row is added:

Product type	Cost type				
	Collection costs	Cleaning costs	Awareness-raising costs	Data collection and transmission costs	Administration costs
"Fireworks (Annex 1, number 9)		X	X	X	X".

Article 4

Entry into force, termination

- (1) This Act, subject to paragraphs (2) and (3), shall enter into force on the day after its promulgation.
- (2) Article 1 Sections 7 to 9(1) and (2), Section 10(1) to (3) and (5), Sections 12, 15, 16 and 22 shall enter into force on 1 January 2024.
- (3) Article 1 Section 9(3) and (4), Sections 11, 13, 17, 18, 20 and 21 shall enter into force on 1 January 2025.
- (4) Article 1 Section 30 shall expire on 1 January 2024.
- (5) Article 3 shall enter into force on 1 January 2026.

The rights of the Bundesrat under the constitution are preserved.
The Act stipulated above is hereby executed. It shall be published in the Federal Law Gazette.

Berlin, 11 May 2023

The Federal President
Steinmeier

The Federal Chancellor
Olaf Scholz

The Federal Minister
for the Environment, Nature Conservation,
Nuclear Safety and Consumer Protection
Steffi Lemke

