

Order on registration and reporting of packaging¹

Pursuant to Section 9p(2) and (11), Section 9s(10), Section 9y(3), Section 9z(2), (3), (5) and (6), Section 9æ(1), (3) and (4), Section 9ø(1) and (4), Section 9å(2), Section 67, Section 80(1) and (2) and Section 110(3) of the Environmental Protection Act, cf. Consolidation Act No 5 of 3 January 2023 and Section 1(3) of the Public Administration Act, cf. Consolidation Act No 433 of 22 April 2014, and after negotiation with the Minister of Justice, the following is laid down:

Scope and definitions

Section 1. This Order shall apply to packaging.

(2) The Order shall not apply to packaging covered by the deposit and return system, cf. Order on deposits and collection, etc. of packaging for certain beverages.

Section 2. The following definitions apply for the purposes of this Order:

- 1) Distributor: Any natural or legal person in the supply chain who is not a manufacturer or importer and who makes packaging or filled packaging available on the Danish market.
- 2) Packaging: Packaging as defined in the Order on certain packaging requirements. For the purposes of this Order, packaging is also understood to mean beverage containers and cups for beverages that are single-use plastic products.
- 3) Single-use plastic products: Single-use plastic products as defined in the Order prohibiting the placing on the market of certain single-use plastic products, etc. and on the labelling of certain other single-use plastic products.
- 4) Commercial packaging: Non-household packaging.
- 5) Manufacturer: Any natural or legal person who, in their own name or under their own trade mark, manufactures packaging or filled packaging, or who has the packaging or filled packaging designed or manufactured in their own name or under their own trade mark. However, for service and reusable packaging, the manufacturer will be the one who carries out the design of the packaging regardless of whether it is in their own name or under their own trademark.
- 6) Reusable packaging: Reusable packaging as defined in the Order on certain requirements for packaging.
- 7) Household packaging: Packaging that a household is likely to be an end user of.
- 8) Importer: Any natural or legal person established in an EU Member State who makes packaging or filled packaging from a third country available on the Danish market.
- 9) Collective scheme: A legal person that ensures the collective fulfilment of extended producer responsibility obligations on behalf of scheme members.
- 10) Plastics: Plastics as defined in the Order prohibiting the placing on the market of certain single-use plastic products, etc. and on the labelling of certain other single-use plastic products.
- 11) Producer: Any manufacturer, importer or distributor, irrespective of the selling method used, including distance selling, as defined in Article 2, No 7, of the Directive of the European Parliament and of the Council on consumer rights, who is:
 - a) Established in Denmark and makes filled package available on the Danish market for the first time, without prejudice to points (b), (c) and (d).
 - b) Established in Denmark and makes service packaging available on the Danish market for the first time, without prejudice to points (c) and (d).

- c) Established in Denmark and makes reusable packaging available on the Danish market for the first time, without prejudice to point (d).
 - d) Established in another EU Member State or in a third country, and by distance selling, makes packaging or filled packaging available directly to end-users in Denmark for the first time.
- 12) Representative: A natural or legal person who is authorised to represent a producer, cf. Section 9y(1) and (2) of the Environmental Protection Act and is registered in accordance with Sections 4 and 5.
- 13) Service packaging: Packaging designed and intended to be filled at the point of sale to the end user. For the purposes of this Order, service packaging is understood to mean beverage containers and cups for beverages that are single-use plastic products sold empty and which are not designed and intended to be filled at the point of sale.
- 14) End user: The last user of packaging before it becomes waste.
- 15) Making available: The supply of packaging or filled packaging for distribution, consumption or use on the Danish market in the course of a commercial activity, whether in return for payment or free of charge.

Producer register for producers and their representatives

Section 3. Dansk Producentansvar (Danish Producer Responsibility), as controller, maintains a digital producer register of:

- 1) producers who make packaging available, cf. Sections 4 and 5;
- 2) representatives of producers, cf. Section 9 y(1) of the Environmental Protection Act, which is covered by point 1; and
- 3) collective schemes, cf. Section 13.

(2) All registrations in the register must be made digitally and must be made in accordance with Dansk Producentansvar's instructions.

(3) The register is public and available free of charge on Dansk Producentansvar's website, www.producentansvar.dk.

(4) The Data Centre for Circular Economy shall refer to the national producer registers of the other EU Member States on the website www.producentansvar.dk.

Section 4. A producer who makes packaging available shall register himself or their representative, cf. Section 9y(1) of the Environmental Protection Act, in the producer register, cf. Section 3, by 31 August 2024 at the latest, without prejudice to paragraph 3.

(2) A producer who starts making packaging available after 31 August 2024 shall register himself or their representative, cf. Section 9 y(1) of the Environmental Protection Act, in the producer register no later than 14 days before making it available, without prejudice to paragraph 3.

(3) A producer who makes reusable packaging available shall first register themselves or their representative, cf. Section 9 y(1) of the Environmental Protection Act, in the producer register, cf. Section 3, after 31 December 2024.

Section 5. The producer's or his representative's registration in the producer register, cf. Section 4, shall contain the information referred to in Annex 1.

(2) The obligation to register is only fulfilled when:

- 1) all information referred to in paragraph 1 has been reported comprehensively;
- 2) fee for registration is paid, cf. Section 11; and
- 3) any representative has, as a representative, confirmed the registration, cf. Section 6(3).

(3) The producer may at any time register a representative in the producer register, cf. paragraphs 1 and 2, including the change of representative or the termination of the authorisation.

(4) The representative may at any time register the termination of the authorisation.

Section 6. Dansk Producentansvar shall confirm the registration in the producer register, cf. Section 5(1), to the producer and his representative, if any, no later than 14 days after the registration has been made, without prejudice to paragraph 4.

(2) Dansk Producentansvar shall confirm in writing within 7 days registration of termination of authorisation, cf. Section 5(3) and (4), to both the producer and the previous representative.

(3) The Data Centre for Circular Economy requests the natural or legal person registered by the producer as a representative, cf. Section 5(1) to (3), to digitally confirm or deny the registration as a representative within 7 days, including that the registered information about the representative is correct and that the representative has become aware of his obligations under this Order.

(4) The Data Centre for Circular Economy shall notify the producer in writing that registration has not been completed if the natural or legal person registered by the producer as representative denies the registration or if the deadline of 7 days, cf. paragraph 3, is exceeded.

Section 7. Producers shall register changes in the information already registered, cf. Section 5(1), to Dansk Producentansvar no later than one month after the changes have taken place.

(2) Dansk Producentansvar must confirm the changes in the registration in the producer register to the producer no later than 14 days after the registration has been made.

Section 8. Where a producer ceases to make packaging available, they shall register it in the producer register within one month after ceasing to make packaging available.

Section 9. At the request of a company, which may be subject to the obligation to register in the producer register, cf. Section 4, Dansk Producentansvar shall decide whether:

- 1) a producer is subject to the obligation to register in the producer register, cf. Section 4;
- 2) a representative, cf. Section 5(3), meets the requirements of Section 9y to be registered; and
- 3) the packaging made available is household or commercial packaging.

(2) Dansk Producentansvar shall also take a decision, as specified in paragraph 1(1-3), if the Danish Environmental Protection Agency so requests.

Obligation to report to Dansk Producentansvar

Section 10. In connection with registration, cf. Section 4(1) and Section 5, producers shall report information to the Data Centre for Circular Economy on the expected quantity of packaging made available in 2024, without prejudice to paragraph 2.

(2) Information on the expected amount of reusable packaging made available shall not be reported.

(3) The reporting of quantities shall be expressed in kilograms, broken down into the categories referred to in Annex 2 and broken down into household and commercial packaging respectively. Where a packaging consists of several materials, the main material of the packaging shall be reported. If the packaging is to be sorted as hazardous or residual waste according to the sorting criteria set out in the Order on waste, this shall be stated, without prejudice to paragraph 4.

(4) Producers who expect to make less than 8 tonnes of packaging available in 2024 and their possible representatives may choose to record only the expected amount of packaging made available in 2024 and the distribution in kilograms for household and commercial packaging respectively.

Fees

Section 11. For registration in the producer register, cf. Section 4, a one-off fee of DKK 1,000 per producer shall be paid to Dansk Producentansvar. If the producer is already registered in the producer register pursuant to the Order on batteries and accumulators and waste batteries and accumulators or the Order on the management of waste in the form of motor vehicles and waste fractions thereof or the Order on placing electrical and electronic equipment on the market as well as the handling of waste of such equipment or the Order on extended producer responsibility for filters for tobacco products that are single-use plastic products, a one-time fee of DKK 500 shall be paid.

Own checks

Section 12. The producer shall conduct own checks of compliance with the reporting requirements in Section 10.

(2) The producer must conduct own checks in accordance with paragraph 1 at least once a year.

(3) The producer must draw up a written description of the procedure for conducting own checks and be able to document the implementation of own checks.

(4) The description referred to in paragraph 3 shall be available to the Danish Environmental Protection Agency on request.

Collective schemes

Section 13. A collective scheme may perform the following obligations on behalf of a producer:

1) Registration of information in the producer register, cf. Sections 4, 5 and 7.

2) Reporting of information to Dansk Producentansvar, cf. Section 10.

3) Payment of registration fee to Dansk Producentansvar, cf. Section 11.

(2) If the collective scheme fails to fulfil the obligations on behalf of the producers who are members of the scheme, the obligations referred to in paragraph 1 shall be fulfilled by each producer.

Section 14. A collective scheme shall ensure that:

1) every producer shall have equal access to participation in the collective scheme and shall be treated on equal terms, taking into account the producer's market share;

2) competitively sensitive information is not disclosed to other companies.

Section 15. A collective scheme shall, in order for the obligations referred to in Section 13(1) to be carried out by the collective scheme, be registered in the producer register, cf. Section 3, indicating the name of the scheme, address, telephone number, e-mail address and CVR number (Central Business Register number), without prejudice to paragraph 2.

(2) For foreign collective schemes that are not registered in the CVR register, the company's VAT number, European VAT identification number or national VAT identification number must be provided instead of the CVR number.

Section 16. A collective scheme shall publish on its website information on:

1) ownership; and

2) the producers in the scheme.

Administrative cooperation and preservation of documents

Section 17. Within the framework of the data protection rules, Dansk Producentansvar shall, where appropriate, cooperate with relevant authorities and producer registers in other EU Member States as well as the European Commission and, in this context, exchange information and documents relevant to producers' compliance with their obligations regarding registration in the producer register pursuant to this Order.

(2) The exchange of information and documents referred to in paragraph 1 shall take place digitally.

Section 18. As a supervisory authority within the framework of the data protection rules, the Danish Environmental Protection Agency shall, where appropriate, cooperate with relevant authorities and producer registers in other EU Member States as well as the European Commission and, in this context, exchange information and documents relevant to the results of supervision.

(2) The exchange of information and documents referred to in paragraph 1 shall take place digitally.

Section 19. The Data Centre for Circular Economy shall ensure that documents that it has received or sent as part of administrative proceedings in connection with its handling of cases in which a decision is taken pursuant to this Order, and which have an impact on a case or other proceedings, are stored in such a way that, inter alia, in connection with supervision, request for access to documents or appeal proceedings, it is possible to identify and retrieve them. The same applies to internal documents which are in final form.

(2) Documents referred to in paragraph 1 shall be kept for at least 5 years.

Supervision and appeals

Section 20. The Danish Environmental Protection Agency carries out supervision to ensure that the provisions in this Order are complied with.

Section 21. Decisions taken by the Dansk Producentansvar may be appealed to the Danish Environmental Protection Agency, cf. Section 90(3) of the Act. The time limit for appeal shall be 4 weeks from the date on which the decision is notified. The appeal must be in writing.

(2) The rules of the Administrative Act shall apply to the cases in which the decision of Dansk Producentansvar is taken pursuant to this Order.

(3) Appeals against decisions of the Danish Environmental Protection Agency under this Order cannot be made to any other administrative authority.

Penal provisions

Section 22. Unless a higher penalty is due under the other legislation, a fine shall be imposed on any person who:

- 1) makes packaging available without having registered in accordance with Sections 4 and 5;
- 2) provides false or misleading information in accordance with Section 5(1) to (3);
- 3) fails to register changes in accordance with Section 7;
- 4) fails to register the cessation of being a producer of packaged products in accordance with Section 8;
- 5) fails to report information in accordance with Section 10(1) and (2);
- 6) fails to conduct own checks or to prepare a written description of the procedure and document the implementation of own checks or to make description and documentation available to the Danish Environmental Protection Agency in accordance with the requirements of Section 12;

- 7) as a collective scheme fails to ensure compliance with the requirements of Section 14; or
 - 8) fails to publish information on the collective scheme's website, cf. Section 16.
- (2) The penalty may increase to imprisonment for up to 2 years if the infringement was committed wilfully or through gross negligence, and if said infringement:
- 1) caused harm to or endangered the environment; or
 - 2) achieved or was intended to achieve a financial benefit for the parties concerned or others, including savings.
- (3) Companies etc. (legal persons) may be rendered criminally liable in accordance with the provisions in Chapter 5 of the Criminal Code.

Provisions for entry into force

Section 23. This Order shall enter into force on 1 April 2024.

Ministry of the Environment on xxxxx
Minister's signature

¹The Order contains provisions transposing parts of Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste, OJ 1994 L 365, p. 10, as last amended by Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018 amending Directive 94/62/EC on packaging and packaging waste, OJ 2018 L 150, p. 141, and parts 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 2019 L 155, p. 1. The Order contains provisions that have been notified as a draft in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification).

Annex 1

Information to be provided in connection with the registration of producers or their representatives, cf. Section 5(1).

- 1) The company's name under which the company makes packaging available.
- 2) Address of the company (street name and number, postal code and city, country and country code), URL, telephone number and e-mail address.
- 3) For foreign companies that are not registered in the CVR register, the company's VAT number, European VAT identification number or national VAT registration number should be provided instead of CVR number.
- 4) Contact person in the company, who must be employed in the same company: Name, phone number and email address.
- 5) Any representative of the company in Denmark: Name, address (street name and number, postal code, city and country), e-mail address, CVR number and telephone number. If the representative is a legal person, the name, address (street name and number, postal code and city), telephone number and e-mail address of the contact person of the representative shall also be provided.
- 6) Selling method(s) used, e.g. distance selling.
- 7) Indication of affiliation to a collective scheme. A collective scheme is specified per material category.
- 8) Declaration that the information provided in the request for registration is correct.

To the extent that the Data Centre for Circular Economy can retrieve the information via the Central Business Register, only the contact person, cf. No 4, shall be informed instead of Nos 1 and 2.

Annex 2

Material categories, cf. Section 10(3).

1. Cardboard
2. Paper
3. Ferrous metals
4. Aluminium
5. Glass
6. Plastic
7. Food and beverage cartons
8. Wood