

BRUSSELS-CAPITAL REGION

Decree of the Government of the Brussels-Capital Region

Draft decree of the Government of the Brussels-Capital Region on the modalities of intervention of the Regional Cleanliness Agency as the exclusive authority responsible for the manufacture and distribution of waste disposal bags and containers for collection

The Government of the Brussels-Capital Region,

Having regard to the Order of 19 July 1990 establishing the Regional Cleanliness Agency, Article 4(1), 9° and 10/2;

Having regard to the opinion of the Inspector of Finances, given on 25 March 2022;

Having regard to the opinion of the Environmental Council of the Brussels-Capital Region issued on 14 September 2022;

Having regard to the opinion of Brupartners (Economic and Social Council of the Brussels-Capital Region), given on 15 September 2022;

Having regard to the agreement of the Minister for the Budget of 30 June 2022;

Having regard to opinion 72.587 of the Council of State, issued on 22 December 2022, pursuant to Article 84(1), subparagraph 1(2), of the Laws on the Council of State, coordinated on 12 January 1973;

Having regard to the communication to the XX European Commission of XX 2023 pursuant to Article 5(1) of 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;

On the proposal of the Minister responsible for Climate Change, Environment, Energy and Participatory Democracy

Following deliberation,

Hereby decrees:

Title 1 - General provisions

Article 1. For the application of the present Decree, the following definitions shall apply:

- (1) " Agency": the Regional Cleanliness Agency, created by the Order of 19 July 1990 establishing the Regional Cleanliness Agency;
- (2) "waste": waste defined by Article 3(1) of the Order of 14 June 2012 on waste;
- (3) "household waste": household waste within the meaning of Article 3(5) of the Order of 14 June 2012 on waste;
- (4) "other than household waste": waste not derived from normal household activity;
- (5) "waste producer": the producer of waste within the meaning of Article 3(7) of the Order of 14 June 2012 on waste;
- (6) "waste holder": the holder of waste within the meaning of Article 3(8), of the Order of 14 June 2012 on waste.

Title 2 - Provisions relating to producers or holders of household waste proving domicile or residence in the Brussels-Capital Region

Article 2. The Agency acts as the exclusive authority responsible for the manufacture and distribution of bags and containers presented for collection intended for producers or holders of household waste proving domicile or residence in the Brussels-Capital Region.

Article 3. For the manufacture of bags and containers, the Agency shall use one or more manufacturer(s) designated under public contracts.

Article 4. § 1. The Agency entrusts the distribution of bags to any distributor who places an order with it. It centralises and deals with the central purchasing offices of large and small retailers and any other distributors, who then make available to producers or holders of household waste proving domicile or residence in the Brussels-Capital Region.

§ 2. It centralises and distributes containers via direct deliveries to these producers or holders, who place an order with it under a collection contract.

§ 3. Other distribution channels may be decided by the Agency.

These are provided on the Agency's website.

Article 5. Only bags and containers which meet the requirements of this Decree and those which the Agency determines in particular in its special specifications and on its website may be manufactured and distributed for presentation for collection by producers or holders of household waste proving a domicile or residence in the Brussels-Capital Region, to the exclusion of any other bag or container.

They shall include the logo of the Agency and the pictograms and indications mentioned by the Agency.

The special specifications for public contracts lay down, in particular, technical specifications for strength and resistance.

Article 6. § 1. The only bags that can be manufactured and distributed for presentation at collection are the following, with the following characteristics:

- PMC waste bags: usable volume: 60 litres;
- Paper-Cardboard waste bags: usable volume: 30 litres;
- Garden waste bags: usable volume: 60 litres;
- Food or kitchen waste bags: usable volume: 30 litres;
- Residual waste bags: usable volumes: 30 litres and 60 litres.

§ 2. The only containers that can be manufactured and distributed for presentation at collection are the following, with the following characteristics:

- PMC waste containers: usable volumes: 240 litres, 660 litres and 1,100 litres;
- Paper-Cardboard waste containers: usable volume: 240 litres, 660 litres and 1,100 litres;
- Food glass waste containers: usable volume: 240 litres;
- Food or kitchen waste containers: usable volume: 240 litres;
- Residual waste containers: usable volumes: 240 litres, 660 litres and 1,100 litres.

§ 3. Other types and usable volumes of bags and containers may be decided by the Agency.

These are provided on the Agency's website.

Article 7. The manufacturers of bags and containers presented for collection intended for producers or holders of household waste proving a domicile or residence in the Brussels-Capital Region are required to comply with the provisions of this Decree as well as those which the Agency determines in particular in its special specifications and on its website.

They provide, inter alia, that manufacturers must comply with the logistical rules which are specified by the natural or legal persons informed by the Agency to whom deliveries will take place.

Manufacturers must also produce all bags and/or containers to which they have committed themselves in the context of the relevant public contracts.

Article 8. § 1. Distributors who wish to make available to producers or holders of household waste proving a domicile or residence in the Brussels-Capital Region, the bags intended for collection, place an order with the Agency.

They are required to comply with the provisions of this Decree and as well as those which the Agency determines in particular in its order forms.

The Minister for Public Hygiene determines the sale prices for distributors who place an order with the Agency for waste collection bags intended for producers or holders of household waste proving a domicile or residence in the Brussels-Capital Region.

§ 2. The distributor may not offer residual waste bags for sale without also offering the selective collection bags.

The price of bags other than residual waste bags charged by distributors must be attractive, i.e. at identical usable volumes and similar main component materials, it must be lower than that of residual waste bags.

Article 9. Producers or holders of household waste proving a domicile or residence in the Brussels-Capital Region who wish to be supplied with containers intended for collection shall place an order with the Agency under a collection contract.

They are required to comply with the provisions of this Decree and as well as those which the Agency determines in particular in its order forms, collection contracts and on its website.

Article 10. Infringements of this Decree shall be recorded and prosecuted in accordance with the Code of Inspection, Prevention, Recording and Punishment of Environmental Offences and Environmental Liability.

Without prejudice to the penalties provided for in the Code of Inspection, Prevention, Recording and Punishment of Environmental Offences and Environmental Liability, the costs incurred by the Waste Management Agency in the context of infringements of this Decree and the supplementary rules shall be claimed from the offenders.

Title 3 – Provisions relating to producers or holders of non-household waste whose waste is collected by the Agency via a collection contract

Article 11. The Agency acts as the exclusive authority responsible for the manufacture and distribution of bags and containers presented for collection to producers or holders of non-household waste whose waste is collected by the Agency via a collection contract.

Article 12. For the manufacture of bags and containers, it shall use one or more manufacturer(s) designated under public contracts.

Article 13. § 1. The Agency centralises and distributes bags and containers via direct deliveries to producers or holders of non-household waste who place an order with it under a collection contract.

§ 2. Other distribution channels may be decided by the Agency.

These are provided on the Agency's website.

Article 14. Only bags and containers (types, volumes and characteristics) which meet the requirements of this Decree and those which the Agency determines in particular in its special specifications and on its website may be manufactured and distributed for presentation for collection by producers or holders of non-household waste whose waste is collected by the Agency via a collection contract, to the exclusion of any other bag or container.

They shall include the logo of the Agency and the pictograms and indications mentioned by the Agency.

The special specifications for public contracts lay down, in particular, technical specifications for strength and resistance.

Article 15. The manufacturers of bags and containers presented for collection intended for producers or holders of non-household waste whose waste is collected by the Agency through a collection contract are required to comply with the provisions of this Decree as well as those which the Agency determines in particular in its special specifications and on its website.

They provide, inter alia, that manufacturers must comply with the logistical rules which are specified by the natural or legal persons informed by the Agency to whom deliveries will take place.

Manufacturers must also produce all bags and/or containers to which they have committed themselves in the context of the relevant public contracts.

Article 16. Producers or holders of non-household waste whose waste is collected by the Agency, who wish to be supplied with bags or containers intended for collection, shall place an order with the Agency under a collection contract.

They are required to comply with the provisions of this Decree and as well as those which the Agency determines in particular in its order forms, collection contracts and on its website.

Article 17. Infringements of this Decree shall be recorded and prosecuted in accordance with the Code of Inspection, Prevention, Recording and Punishment of Environmental Offences and Environmental Liability.

Without prejudice to the penalties provided for in the Code of Inspection, Prevention, Recording and Punishment of Environmental Offences and Environmental Liability, the costs incurred by the Waste Management Agency in the context of infringements of this Decree and the supplementary rules shall be claimed from the offenders.

Title 4 - Amending and repealing provisions

Article 18. Article 4(1) of the Decree of the Government of the Brussels-Capital Region of 9

February 2023 on the collection procedures applicable to producers or holders of household waste in the Brussels-Capital Region and amending the Decree of the Government of the Brussels-Capital Region of 18 July 2000 regulating its operation and governing the signing of Government acts is replaced as follows:

“ Article 4. § 1. The only bags that may be presented for regular collection by producers or holders of household waste are bags manufactured and distributed by or on behalf of the Agency in accordance with the provisions of the Decree of the Government of the Brussels-Capital Region of XX on the modalities of intervention of the Regional Cleanliness Agency as the exclusive authority responsible for the manufacture and distribution of bags and containers of waste presented for collection and which meet the requirements laid down by the Agency:

- (1) PMC waste bags;
- (2) Paper-Cardboard waste bags;
- (3) Garden waste bags;
- (4) Food or kitchen waste bags;
- (5) Residual waste bags.

The only containers that may be presented for regular collection by producers or holders of household waste are containers (the volumes of which are expressed in litres) manufactured and distributed by or on behalf of the Agency in accordance with the provisions of the Decree of the Government of the Brussels-Capital Region of XX on the modalities of intervention of the Regional Cleanliness Agency as the exclusive authority responsible for the manufacture and distribution of bags and containers of waste presented for collection and which meet the requirements laid down by the Agency:

- (1) PMC waste containers;
- (2) Paper-Cardboard waste containers;
- (3) Food glass waste containers;
- (4) Food or kitchen waste containers;
- (5) Residual waste containers.

Household waste which is presented in containers shall be deposited either in the prescribed bags provided for in subparagraph 1, or in bulk, in accordance with what is indicated in Article 7(3).”

Article 19. Article 10 of the same Decree is repealed.

Article 20. In Article 19(3) of the same Decree, the last sentence of the 1st subparagraph is replaced by the following sentence:

“ These bags shall be manufactured and distributed by or on behalf of the Agency in accordance with the provisions of the Decree of the Government of the Brussels-Capital Region of XX on the modalities of intervention of the Regional Cleanliness Agency as the exclusive authority responsible for the manufacture and distribution of bags and containers of waste presented for collection and must meet the requirements laid down by the Agency.”

Article 21. Article 2(g) of the Decree of the Government of the Brussels-Capital Region of 9 February 2023 on the recovery of costs incurred by the Regional Cleanliness Agency in the context of waste management in the event of infringement or abandonment is replaced by the following:

“(g) Bags which do not comply with the Decree of the Government of the Brussels-Capital Region of XX on the modalities of intervention of the Regional Cleanliness Agency as the exclusive authority responsible for the manufacture and distribution of bags and containers of waste presented for collection: the same costs as those determined in points a., b. and c. of this Article, as the case may be, plus 25 percent.”

Title 5 - Final provisions

Article 22. This Decree shall enter into force on the first day of the month following that of its publication in the Moniteur belge, with the exception of Titles 2 and 4 which shall enter into force on a date to be determined by the Minister for Public Hygiene, and no later than 1st January 2027.

Article 23. The Minister for Public Hygiene shall be responsible for the implementation of this Decree.

Brussels, [date]

For the Government of the Brussels-Capital Region:

The Minister-President of the Government of the Brussels-Capital Region

Rudi VERVOORT

Minister responsible for Climate Change, Environment, Energy and Participatory Democracy.

Alain MARON