

DRAFT DECREE OF THE BRUSSELS CAPITAL GOVERNMENT AMENDING THE DECREE OF THE BRUSSELS CAPITAL GOVERNMENT OF 1 DECEMBER 2016 ON WASTE MANAGEMENT

The Government of the Brussels-Capital Region,

Having regard to Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 on batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC;

Having regard to the special Act of 8 August 1980 on institutional reform, Articles 20 and 87;

Having regard to the special Act of 12 January 1989 on the Brussels institutions, Articles 8 and 40;

Having regard to Article 3 of the Royal Decree of 8 March 1989 establishing Brussels Environment, as ratified by the Act of 16 June 1989 on various institutional reforms;

Having regard to the Ordinance of 14 June 2012 on waste, Articles 26 and 26/1;

Having regard to the Ordinance of the Brussels-Capital Council of 29 April 2004 on environmental agreements;

Having regard to the Code of Inspection, Prevention, Determination and Punishment of Environmental Crimes, and Environmental Liability of 25 March 1999, Article 2, § 2;

Having regard to the Decree of the Government of the Brussels-Capital Region of 1 December 2016 on waste management;

Having regard to the environmental agreement of 13 March 2019 on waste batteries and accumulators in the Brussels-Capital Region;

Having regard to the environmental agreement of 13 March 2019 on traction batteries for hybrid and electric vehicles in the Brussels-Capital Region;

Having regard to the 'Equal Opportunity Test' of 10 April 2025, as required by the Decree of the Government of the Brussels-Capital Region of 22 November 2018 implementing the Ordinance of 4 October 2018 establishing the Equal Opportunity Test;

Having regard to the XXX notification pursuant to 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;

Having regard to the recommendations of the Data Protection Authority, given on XXX;

Having regard to the recommendations of the Consumer Protection Council, given on XXX;

Having regard to the recommendation No XXX of Brupartners, issued on XXX;

Having regard to recommendation No XXX of the Council of State, given on XXX, pursuant to Article 84(§ 1)(1)(1°) of the Council of State Acts, coordinated on 12 January 1973;

On the proposal of the Minister responsible for the Environment;

After deliberations,

Hereby decrees:

## Art. 1

Article 1.1(1) of the Decree of the Government of the Brussels-Capital Region of 1 December 2016 on waste management, as last amended by the Decree of the Government of the Brussels-Capital Region of 23 June 2022, is amended as follows:

- a) points 14° and 15° are repealed;
- b) the following point is added:

“55° "Regulation (EU) No 2023/1542": Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 on batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC.”

## Art. 2

In Article 1.2(2) of the same Decree, as amended by the decree of the Government of the Brussels-Capital Region of 23 June 2022, point 1° is repealed.

## Art. 3

In the same Decree, Article 1.10.2/1 is inserted, as follows:

“Article 1.10.2/1. §1. In accordance with Article 59 of the Ordinance on Waste, Brussels Environment, in the implementation of Articles 2.4.3 to 2.4.20 of this decree, processes data that may contain personal data.

§2. The data referred to in section 1 is processed for the following purposes:

- 1° tracing waste from production to final processing;
- 2° monitoring and surveillance of the waste policy and related objectives;
- 3° producing the necessary data for efficient and effective monitoring of the measures of this Decree;
- 4° fulfilling various European, international, and Brussels reporting obligations imposed by applicable legislation and treaties.

§3. The relevant data are the name, contact details, identification data and company number of:

- 1° producers who produce batteries or make them available on the market in Belgium for the first time;
- 2° the authorised representative for extended producer responsibility;

- 3° registered collectors, dealers, brokers collecting waste batteries;
- 4° waste holders exporting waste batteries;
- 5° facilities for remanufacturing or repurposing batteries;
- 6° waste management operators preparing waste batteries for reuse or preparing them for repurposing;
- 7° waste processors responsible for the recycling of waste batteries.

The information stated in the first paragraph is necessary in the context of a minimum data processing for the purposes of the data processing referred to in section 2.

§4. The processed personal data relates to:

- 1° the natural and juristic persons who produce batteries or make them available on the market for the first time in Belgium;
- 2° collectors, dealers, brokers collecting waste batteries;
- 3° waste holders exporting waste batteries;
- 4° facilities for remanufacturing or repurposing batteries;
- 5° waste processors preparing waste batteries for reuse, preparing for repurposing or ensuring the recycling of waste batteries.”.

Art. 4

In the same decree, Article 1.11.2/1 is added:

“Article 1.11.2/1. §1. The data controller referred to in Articles 2.4.3 to 2.4.20 of this Decree is Brussels Environment.

This data is retained for the period of validity of the registration and approval referred to in Article 2.4.3.

§2. Brussels Environment may provide the personal data referred to in section 1 to:

- 1° the supervisors in charge of monitoring the provisions of this decree;
- 2° the European and international bodies to which Brussels Environment must report on waste produced, collected, transported or processed by specific natural or juristic persons.”.

Art. 5

In Article 2.1.1 of the same decree, last amended by the Decree of the Government of the Brussels-Capital Region of 23 June 2022, the following amendments are made:

- a) in section 3, 1°, the words "batteries and accumulators" are replaced by the word "batteries";
- b) A new section 5 is added with the following text:

“§ 5. From 18 August 2025, section 2 of this chapter and chapters 2 and 3 of this title do not apply to the extended producer responsibility scheme introduced for waste batteries.”;

## Art. 6

Article 2.4.1. of the same Decree, paragraph 1, shall be supplemented by the words “, with the exception of waste batteries to which chapters 2 and 3 do not apply.”.

## Art. 7

In Title II, Chapter 4, of the same Decree, section 1, which includes Articles 2.4.2 to 2.4.12, is replaced by the following:

### “SECTION 1. Waste batteries

#### Subsection 1. Definitions

Article 2.4.2. In this section, the definitions set out in Regulation (EU) No 2023/1542 apply.

#### Subsection 2. Application procedure for registration and approval

Article 2.4.3. §1. Producers fulfilling the extended producer responsibility obligations individually and the producer responsibility organisations appointed to fulfil those obligations collectively must submit an application for registration and an application for approval for the fulfilment of the extended producer responsibility, in accordance with Articles 55 and 58 of Regulation (EU) 2023/1542.

The registration procedure referred to in Article 55 and the approval procedure referred to in Article 58 of Regulation (EU) No 2023/1542 constitute a single

procedure. Applications are submitted simultaneously. The information referred to in Article 55(3)(d) must be provided in the application for approval.

The applications for registration and approval referred to in paragraph 1 must be submitted via the electronic system made available by Brussels Environment on its website.

An application for renewal of registration and approval must contain the information set out in Article 2.4.4 and must be submitted in accordance with the procedure set out in this article.

The applications for registration and approval referred to in paragraph 1 must be dated and signed by the person or manager who may bind the undertaking or organisation. The signature must state the signatory's name and position. The signatory declares that the information provided is complete and correct. A copy of the company or organisation's coordinated articles of association must be attached to the application.

§2. Brussels Environment examines the applications for registration and approval referred to in section 1 for their completeness in accordance with the requirements of Regulation (EU) 2023/1542, the Waste Ordinance and other applicable environmental legislation.

If it is established that the applications for registration or approval are incomplete, Brussels Environment will inform the applicant thereof within 30 calendar days of the submission or completion of the application. Brussels Environment also states the information and data that are missing.

If it is established that the applications for registration and approval are complete, Brussels Environment will inform the applicant accordingly within 30 calendar days of the submission or completion of the applications.

§ 3. Within 12 weeks from the date on which Brussels Environment has determined in accordance with section 2 that the applications for registration and approval are complete, Brussels Environment will grant or refuse the registration and approval. During those 12 weeks, Brussels Environment may request all explanations and information necessary for the substantive assessment of the applications.

Brussels Environment justifies its decision to grant or refuse the applications. Brussels Environment may include in the approval conditions relating to

compliance with and implementation of environmental legislation, which the producer or producer-responsibility organisation must adhere to.

The registration and approval referred to in section 1 may be granted for a maximum of five years. Brussels Environment may decide to extend that period by three years, provided that it gives reasons for doing so. Brussels Environment shall also provide justification for its decision to grant a shorter period.

§4. Any changes to information in the registration, approval or applications for registration and approval or to information relating to the conditions of approval or permanent cessation of activities, must be notified to Brussels Environment via the electronic system that Brussels Environment makes available on its website. The changes must be handled in accordance with the procedure set out in this article.

#### Subsection 3. Content of the application for registration and approval

Article 2.4.4. § 1. The application for registration and approval referred to in Article 2.4.3 must contain the following information:

1° the information referred to in Article 55, section 3, of Regulation (EU) No 2023/1542;

2° where applicable, the information referred to in Article 55(7) of that regulation and the written mandate for the appointment of the representative authorised for the extended producer responsibility referred to in Article 56(3) of that regulation;

3° the indication of the geographical area to which the application relates and a description of the collection system within this area;

4° if the application concerns waste portable batteries or waste batteries for light means of transport: documentary evidence that the requirements of Article 59, sections 1 and 2, or the requirements of Article 60, sections 1, 2 and 4 of the aforementioned regulation are met, that the calculation method in accordance with Annex XI will be complied with, and that all necessary arrangements have been made to be able to achieve and sustainably maintain at least the collection targets referred to in Article 59, section 3 and Article 60, section 3 of the aforementioned regulation, respectively. Compliance with the requirements are verified by an independent expert. The verification report will be attached to the application;

5° if the application concerns waste starter, lighting and ignition batteries, waste industrial batteries and waste batteries for electric vehicles:

documents and data proving compliance with the requirements of Article 61, sections 1, 2 and 4 of the aforementioned regulation;

6° a management plan for at least five years, in accordance with Article 2.4.7;

7° if the application is submitted by a producer responsibility organisation: documents and data demonstrating compliance with the requirements set out in Article 57(2) to (6) and (8) of that regulation;

8° a sworn statement that the directors and persons who may bind the producer responsibility organisation comply with the conditions laid down in sections 2, 4° and 5° of this article.

§ 2. The producer responsibility organisation must also fulfil the following conditions:

1° it was established in accordance with the Companies and Associations Code of 23 March 2019;

2° have as its statutory purpose the assumption of extended producer responsibility on behalf of member producers;

3° it is an organisation of undertakings representing a substantial share of producers in the battery market and to which extended producer responsibility applies;

4° includes among its directors or among the persons authorised to commit the association only persons who enjoy their civil and political rights;

5° there is no person among its directors or among the persons authorised to bind the association who has been convicted by a final decision of a breach of the applicable environmental legislation of the Regions or of any equivalent legislation of a Member State of the European Union;

6° has sufficient financial guarantees and human and technical resources to fulfil the obligations relating to extended producer responsibility;

7° uniformly serves the entire territory of the Brussels-Capital Region where the producers place their products on the market, so that local and accessible collection, taking into account the population density, is guaranteed, as well as the recycling and recovery of the waste, with a view to fulfilling extended producer responsibility;

8° submits accounts that comply with the provisions of the Code of Economic Law, Book III, Title 3, Chapter 2;

9° have its annual accounts examined by an auditor.

§ 3. If the application for registration and approval referred to in Article 2.4.3 is submitted by a producer responsibility organisation and that organisation assumes only part of the extended producer responsibility obligations of a producer, all of the following additional information must be included in the application:

1° a description for each producer of which extended producer responsibility obligations are fulfilled by the individual producer and which obligations are fulfilled by the producer-responsibility organisation;

2° the information for each obligation fulfilled by an individual producer that demonstrates that the individual producer will comply with the extended producer responsibility obligations referred to in section 1.

Article 2.4.5. A producer may transfer part of its extended producer responsibility obligations to a producer responsibility organisation that already has a registration and approval, provided that the producer or producer responsibility organisation submits an application in advance to Brussels Environment in accordance with Article 2.4.3. containing the following information:

1° an overview of the extended producer responsibility obligations fulfilled by the individual producer and an overview of the obligations fulfilled by the producer responsibility organisation;

2° for each obligation fulfilled by the individual producer, the information demonstrating that the individual producer will comply with the extended producer responsibility obligations referred to in Article 2.4.4.

#### Subsection 4. Procedure for withdrawal of registration and approval

Article 2.4.6. § 1. Brussels Environment may withdraw the registration and approval referred to in Article 2.4.3 if the requirements of Regulation (EU) 2023/1542 are no longer met, as provided for in Article 55(11) and Article 58(6), or if the requirements of the current section, other applicable environmental legislation are no longer met, or if the application contains incorrect information that was decisive for the granting of the registration and approval.

§ 2. Brussels Environment informs the producer or producer responsibility organisation by registered mail of the intention to withdraw.

From receipt of the letter of intent to withdraw, the producer or producer responsibility organisation has 45 calendar days to send its grounds for objections to Brussels Environment. The producer or producer responsibility organisation may request to be heard.

Brussels Environment will make its decision on the withdrawal of the registration and approval within 60 calendar days from the day on which it received the defences or after the period referred to in paragraph 2 has expired and will inform the producer or producer responsibility organisation of that decision by registered mail.

Brussels Environment may request additional information after receiving the grounds for objection. In this case, the period of 60 days referred to in paragraph 3 will be suspended from the submission of the request and will resume on the next working day after the day on which Brussels Environment has received the additional information. When requesting additional information, Brussels

Environment will set a reasonable time limit within which the information must be provided. On expiry of this reasonable period, the suspension of the 60-day period will end.

## Subsection 5. Management plan

Article 2.4.7. § 1. Producers fulfilling the extended producer responsibility obligations individually and producer responsibility organisations appointed to fulfil those obligations collectively must prepare a management plan for waste batteries for at least five years.

The management plan must contain the following elements:

1. an operational plan as referred to in Article 2.4.14, section 5, describing how the obligations set out in Chapter VIII of Regulation (EU) 2023/1542 and the obligations set out in this Decree are complied with in relation to batteries made available on the market for the first time in the territory of the Region;
2. a description of the approach and planning of the non-discriminatory selection procedure for waste processors in accordance with Article 57, section 8, of Regulation (EU) No 2023/1542 and Article 2.4.17;
3. a prevention and communication plan in accordance with Article 2.4.9 (3) and Article 2.4.10 (3);
4. a financial plan in accordance with Article 2.4.18, section 7;
5. the measures for reporting in accordance with the requirements set out in Article 75 of Regulation (EU) No 2023/1542 and Article 2.4.15, including a description of the adequate self-monitoring mechanism, supported by regular independent audits, for assessing the quality of the data collected and reported in the context of the implementation of extended producer responsibility;
6. arrangements for the remuneration of the public-law entities responsible for the management of household waste and measures to ensure good cooperation with them to collect waste batteries of household origin;
7. a description of how it is guaranteed that no costs are passed on to other producers or producer-responsibility organisations.

§ 2. Producers and producer responsibility organisations referred to in section 1 must submit an update of the management plan for the next calendar year to Brussels Environment for approval by 15 November of each year.

## Subsection 6. Producer register

Article 2.4.8. § 1. Brussels Environment has a producer register in accordance with Article 55 of Regulation (EU) No 2023/1542. The information in the producer register is publicly accessible via the Brussels Environment website.

§ 2. In accordance with Article 55(6) of Regulation (EU) 2023/1542, the producer responsibility organisation must provide to the register referred to in section 1 the necessary information referred to in Article 55(3) and (7) of that regulation concerning the producers that have appointed the producer responsibility organisation to fulfil the extended producer responsibility obligations. This information is accessible to Brussels Environment (and others) and online platforms, as stipulated in Article 55, section 13 of the aforementioned regulation.

§ 3. The information pursuant to Article 55(3)(d) of the aforementioned regulation is not be included in the register, but provided in the application for approval.

#### Subsection 7. Prevention

Article 2.4.9. § 1. Without prejudice to the applicability of the obligations set out in Regulation (EU) No 2023/1542, producers fulfilling the extended producer responsibility obligations individually and producer responsibility organisations appointed to fulfil those obligations collectively must take the necessary initiatives for qualitative and quantitative prevention, including:

1° Encouraging the appropriate use of batteries, namely conducting awareness-raising campaigns aimed at end-users and device manufacturers, on the types of batteries that seem most suitable for certain uses within their offering, taking into account the technical characteristics of the batteries and devices, on elements conducive to safe and long-term use such as storage, use and charging, as well as the use of devices without batteries if alternatives are available;

2° inform the collection points of their obligations for the management of waste batteries in accordance with Articles 62, 65, 66 and 67 of the aforementioned regulation.

§ 2. In addition, the producer responsibility organisation appointed to fulfil the obligations collectively must also take initiatives related to qualitative and quantitative prevention, including:

1° taking into account the principles of ecodesign when designing collection containers, without prejudice to the safety requirements for the storage and transport of dangerous goods;

- 2° contributing to research on the potential for the reuse, preparation for reuse, repurposing, preparation for repurposing, or remanufacturing of waste batteries entering the collection points;
- 3° monitoring developments in product-service combinations, where applicable;
- 4° following national and international developments in treatment and recycling techniques for waste batteries based on the information from selection procedures carried out pursuant to in Article 2.4.17;
- 5° participating in actions organised by Brussels Environment or third parties to stimulate knowledge exchange between technology developers, product designers, producers, processors and recyclers;
- 6° making its expertise available for studies carried out on behalf of Brussels Environment;
- 7° contributing to the prevention of battery fires by participating in initiatives for the safe collection and treatment of waste batteries.

§ 3. The actions in sections 1 and 2 are described in a prevention plan, which is part of the management plan referred to in Article 2.4.7.

#### Subsection 8. Communication

Article 2.4.10. § 1. Producers fulfilling the extended producer responsibility obligations individually, producer responsibility organisations appointed to fulfil those obligations collectively, distributors and points of sale:

- 1° meet the obligations related to sensitisation;
- 2° provide the information on the prevention and management of waste batteries in accordance with Article 74 of Regulation (EU) No 2023/1542;
- 3° comply with the obligations in accordance with the current section.

The information in accordance with Article 74 (1) and (3) of the aforementioned regulation and the information referred to in this Article must be provided at least in Dutch and French.

§ 2. Producers, producer responsibility organisations and distributors supplying batteries to end users must clearly communicate which types of waste batteries are accepted in the take-back and collection system and alternatives to other batteries.

§ 3. Without prejudice to the applicability of the obligations set out in section 1, producers and producer responsibility organisations mentioned in section 1 organise information and awareness-raising campaigns to achieve the objectives set.

To this end, they prepare a communication plan with the communication strategy and indicators to assess the results of the actions. The communication plan must contain all of the following elements:

- 1° a description of the measures taken to comply with the obligations under this article;
- 2° the number of campaigns and their size;
- 3° the target groups that require a separate approach;
- 4° the proposed communication methods;
- 5° the evaluation methods of the campaigns.

The information and awareness-raising campaigns referred to in paragraph 1 must cover the following elements:

- 1° avoiding batteries by using devices that operate on more environmentally friendly energy sources;
- 2° encouraging the appropriate and prudent use of batteries, taking into account the global impact of rechargeable and non-rechargeable batteries on the environment and human health;
- 3° specific focus on optimising collection in large cities, including businesses, towns;
- 4° encouraging end users to bring their waste batteries to a collection point;
- 5° informing end users about their role in the recycling of waste batteries;
- 6° informing end users about the contribution they can make to the prevention of battery fires.

§ 4. The producers and producer responsibility organisations referred to in section 1 must report annually to Brussels Environment on the information and awareness-raising campaigns referred to in section 3, which have been carried out, and the results achieved in the context of the communication plan.

The reporting on the results must include a description of all of the following elements:

- 1° the actions taken;
- 2° the target audience;

- 3° the instruments;
- 4° an assessment of the relevance of the actions taken.

This report is part of the annual update of the management plan.

§ 5. Producer responsibility organisations appointed to collectively fulfil the extended producer responsibility obligations must provide any information and awareness-raising campaign of regional scope to Brussels Environment no later than the day on which the campaign is launched.

If Brussels Environment deems that an information and awareness-raising campaign does not comply with the legal provisions or would conflict with the environmental policy of the region, the producer responsibility organisations must adapt the campaign before the next launch. Each campaign has a maximum duration of six weeks.

#### Subsection 9. Collection

Article 2.4.11. § 1. Producers fulfilling the extended producer responsibility obligations individually and producer responsibility organisations appointed to fulfil those obligations collectively must comply with the collection obligations set out in this subsection and Articles 59 to 61 of Regulation (EU) No 2023/1542.

§ 2. The producers and producer responsibility organisations referred to in section 1 have a take-back and collection system in place in accordance with Articles 59 to 61 of the aforementioned regulation. The list of collection points is made permanently available to Brussels Environment online.

§ 3. The collection points referred to in Article 59(2)(a), Article 60(2)(a) and Article 61(1) of the aforementioned regulation may only collect waste batteries if they are registered with a producer or a producer responsibility organisation.

In accordance with Article 62(3), Article 65(1), Article 66(2) and Article 67 of the aforementioned regulation, distributors, waste electrical and electronic equipment and end-of-life vehicle treatment facilities, public waste management bodies and voluntary collection points must hand over the collected waste batteries to the producers or producer responsibility organisations or, where applicable, directly to a waste processor selected by the producers or organisations for the extended producer responsibility.

§ 4. The producers and producer responsibility organisations referred to in section 1 must establish a specific scheme for collecting defective or damaged lithium batteries.

§ 5. If a party referred to in Article 59(2)(a), Article 60(2)(a) and Article 61(1) of Regulation (EU) No 2023/1542 is refused as a collection point, that refusal must be justified by the producer or producer responsibility organisation referred to in section 1. The criteria for refusal are transparent, objective and non-discriminatory, and are approved in advance by Brussels Environment.

The producers and producer responsibility organisations referred to in section 1 communicate the list of rejected collection points to Brussels Environment at the time of the annual update of the management plan referred to in Article 2.4.7(2) and make it available online.

§ 6. The collection points as referred to in section 3 that accept waste batteries under extended producer responsibility must keep a waste register containing the following data for the accepted waste batteries:

1. quantity of waste batteries disposed of in tonnes or kilograms;
2. date of disposal;
3. nature and composition of the waste batteries, stating the following:
  - a) waste list code;
  - b) battery categories or combination thereof, namely portable batteries, light means-of-transport batteries, starter, lighting and ignition batteries, electric vehicle batteries and/or industrial batteries;
4. where applicable:
  - a) name and address of the collector, waste dealer or broker of the discarded batteries;
  - b) business registration number for Belgian collectors, waste dealers or brokers;
  - c) VAT number for foreign collectors, waste dealers or brokers;
5. the following data for processing facilities of the waste batteries:
  - a) name and address;
  - b) business registration number for Belgian processing facilities;
  - c) VAT number for foreign processing facilities.

The obligation to maintain a register referred to in paragraph 1 may be waived following the approval of Brussels Environment if the producer, producer

responsibility organisation or registered collector, waste dealer or broker grants Brussels Environment the right to access the data for the waste register online for all collection points for the waste batteries collected at those collection points.

§ 7. The producers and producer responsibility organisations as referred to in section 1 must take the necessary measures to prevent waste batteries from entering the take-back and collection system of another producer or producer responsibility organisation and communicate this clearly.

§ 8. The producers and producer responsibility organisations as referred to in section 1 must ensure that the waste batteries for light means of transport, electric vehicles and waste industrial batteries that the last holder would return to a take-back and collection system from another producer or organisation are accepted, treated and reported in accordance with legal obligations.

The producers and producer responsibility organisations as referred to in paragraph 1 must, when applying paragraph 1, take into account the following elements:

1° if the producer of the waste battery is identifiable, the producer - responsibility organisation or the producer fulfilling the expanded producer-responsibility obligations individually must be informed as soon as possible. The identified producer or producer responsibility organisation must arrange for the collection and treatment of the identified waste batteries at its own expense and reimburse the costs of collection, management and storage incurred by the other take-back and collection system;

2° for the management of waste batteries for which the producer is not identifiable, an agreement must be concluded between producer responsibility organisations and producers fulfilling the obligations individually. These agreements must regulate the sharing of all costs associated with the management of non-identifiable waste batteries or their components, in accordance with Article 2.4.18;

3° producer-responsibility organisations and producers individually fulfilling expanded producer responsibility obligations must have a registration system in place that allows for the determination of the collection point at which the non-identifiable waste batteries or components have been collected.

§ 9. Producers and producer responsibility organisations referred to in section 1 collect all collection containers made available to collection points and citizens and process all waste batteries.

## Subsection 10. Collection by public-law entities

Article 2.4.12. § 1. If the extended producer responsibility relates to household waste batteries, collection must also be carried out in cooperation with the public-law entities with territorial responsibility for the management of household waste, in accordance with Articles 59(2)(a)(iii), 60(2)(a)(iii), 61(1)(d) and 66 of Regulation (EU) No 2023/1542.

Producers, in the case of individual fulfilment of extended producer responsibility obligations, and producer responsibility organisations, in the case of collective fulfilment of extended producer responsibility, are responsible, in the case referred to in paragraph 1, for the net cost of collecting the waste batteries subject to extended producer responsibility collected through the collection channels of the public-law entities. Compensation for the net cost is agreed mutually. If agreement cannot be reached, the minister may, after hearing the opinion of Brussels Environment, establish binding requirements for the allocation of the costs. Those rules include a list of costs to be reimbursed. They are prepared in consultation with the producers and producer responsibility organisations concerned.

In order to qualify for compensation for net costs, collection must be provided free of charge to consumers.

§2. Cooperation with the public-law entities is not mandatory for the collection of the following batteries:

- 1° waste industrial batteries and waste electric vehicle batteries exceeding 25 kg;
- 2° waste lead batteries weighing more than 5 kg.

For waste electric vehicle batteries of less than 25 kg, cooperation is not mandatory if it can be demonstrated that they do not end up in the collection system for public-law entities.

§3. The producers and producer responsibility organisations referred to in section 1 conclude an agreement with the public-law entities for the waste batteries collected by the recycling centre. The agreement is concluded on the basis of a model agreement submitted to Brussels Environment for its opinion in accordance with Article 2.4.20.

The agreement referred to in paragraph 1 establishes the following elements:

- 1° the requirements for free access and delivery of waste batteries;

- 2° access to collection points;
- 3° a scheme for reimbursement of the net costs for the collection points, including the coverage of the infrastructure and operating costs of the recycling centre;
- 4° the provision by the producer or producer responsibility organisation for the necessary containers for the temporary storage of the collected waste batteries;
- 5° transparency of the collection system with regard to the statistic follow-up of the flows;

Article 2.4.13. On the basis of the previous analyses on household waste, the producer responsibility organisation appointed for portable batteries and batteries for light means of transport, in cooperation with public-law entities, carry out a statistically representative analysis of mixed household waste every three years, the methodology and results of which are presented to Brussels Environment. The requirements and financing of this analysis are part of an agreement between the producer responsibility organisation and public legal entities.

#### Subsection 11. Processing

Article 2.4.14. § 1. Producers fulfilling the extended producer responsibility obligations individually and producer responsibility organisations appointed to fulfil those obligations collectively must ensure that:

- 1° the collected waste batteries for light means of transport, batteries from electric vehicles and waste industrial batteries are subject to an evaluation in order to assess whether the batteries are eligibility for reuse, preparation for reuse, repurposing, preparation for repurposing or remanufacturing;
- 2° the criteria and procedure for the evaluation referred to in point 1° are included in an operational plan, as referred to in section 5, taking into account the technical, operational, legal and financial feasibility and also taking into account the market demand for battery stacks, modules and cells referred to in point 1°, after preparation for reuse, preparation for repurposing, repurposing and remanufacturing;
- 3° the collected waste batteries are processed at facilities that use the best available techniques or equivalent techniques, that have the necessary permits and that carry out the storage and processing in accordance with Articles 70 to 72 and the requirements listed in Annex XII, Part A of Regulation (EU) No 2023/1542en and other applicable environmental legislation. It is prohibited to discard waste batteries outside a facility authorised for the processing of waste batteries;
- 4° the authorised processing facility reports the necessary data to the producer or producer responsibility organisation so that the producer or producer responsibility organisation is able to report the necessary data to Brussels Environment in accordance with this Decree.

§2. Preparation for reuse, preparation for repurposing, repurposing and remanufacturing must always be carried out in accordance with the requirements set out in Article 73 of Regulation (EU) No 2023/1542 and the product requirements set out in Chapters II, III, VI, VII, IX of Regulation (EU) No 2023/1542, especially in Articles 38 and 45.

§3. Until 31 December 2025, the following minimum recycling efficiencies must be achieved in recycling processes:

1. recycling of 65% of the average weight of lead-acid batteries and accumulators:
  - a) recycling the lead content to the greatest extent technically feasible, while avoiding excessive costs;
  - b) achieving the highest possible processing rate for the plastic content that is realistic technically without excessive expense, either for the original purpose or for another purpose, not including energy recovery;
2. recycling of 75% of the average weight of nickel-cadmium batteries and accumulators, with the most possible recycling of the cadmium content that is technically feasible, while avoiding exorbitant costs;
3. during recycling, the mercury is isolated in an identifiable stream, which is given a safe destination and is not likely to cause adverse effects on humans or the environment;
4. recycling of 50% of the average weight of other waste batteries and accumulators.

From 1 January 2026, recyclers must meet the recycling efficiency and material recovery targets set out in Part B and Part C of Annex XII to Regulation (EU) No 2023/1542. The recycling efficiency and material recovery rates are calculated using the calculation method set out in Article 71(3) and (4) of that Regulation (EU) No 2023/1542.

§4. In order to maximise recycling efficiency, waste batteries are sorted according to the recycling process. The batteries are sorted manually, mechanically and/or electronically in different fractions. The best available sorting techniques are used for this purpose, without excessive costs. The sorting process is subject to statistical process inspection to measure the quality of the sorting.

§5. In accordance with Article 2.4.7, producers or producer responsibility organisations referred to in section 1 prepare an operational plan containing all of the following elements:

- 1° a description of the method of storage, collection, processing and recycling of waste batteries;
- 2° the incentive measures to increase the amount of waste batteries collected and the amount of recycled material.

§6. For the storage and treatment of waste lithium batteries, the operator of the treatment facility must take appropriate precautionary and safety measures that are at least in line with the requirements for storage and treatment set out in Part A of Annex XII to Regulation (EU) No 2023/1542 to protect the waste batteries from exposure to excessive heat, water, breakage or other physical damage, and to control the risks of heating and fire. These special measures are tailored to the activity and prepared in consultation with the emergency zone or an independent expert.

The precautionary and safety measures and contact details of the relief zone or independent expert with whom the measures have been drawn up must be included, where appropriate, in the quality management system referred to in Article 3.5.4 of this Decree.

The minister may establish detailed rules for the prevention and control of heating and fire during the storage and treatment of waste batteries.

§7. The notifier referred to in Article 3(6) of Regulation (EU) No 2024/1157 of 11 April 2024 on shipments of waste, which treats waste batteries or makes them available to a third party for treatment, must achieve the recycling and material recovery targets set out in Article 2.4.14(3) and Article 72 of Regulation (EU) No 2023/1542. This information is included in the notification file.

§8. Producer responsibility organisations may set up pilot projects of limited duration to explore alternative processing and recycling scenarios. These must be submitted in advance for approval to Brussels Environment. At the end of the pilot project period, an evaluation report will be drawn up. On the basis of this report, producer responsibility organisations may possibly expand the project, following approval by Brussels Environment.

## Subsection 12. Reporting

Article 2.4.15. §1. Producers fulfilling the extended producer responsibility obligations individually and producer responsibility organisations appointed to fulfil those obligations collectively must, by 30 June of the year following the

reporting year, provide Brussels Environment or the organisation designated for that purpose with the following information for the expired calendar year:

1° the information stated in Article 75 of Regulation (EU) No 2023/1542;

2° for portable batteries and batteries for light means of transport, information demonstrating:

- a) that appropriate measures have been taken in order to achieve the collection targets set for waste portable batteries, referred to in Article 59(3)(1) (a), (b) and (c) of that regulation and the collection targets set for waste batteries for light means of transport referred to in Article 60(3)(1)(a) and (b) of that regulation;
- b) that the calculation method in accordance with Annex XI to the aforementioned regulation has been used;
- c) how the parameters for calculating the collection rate have been determined;

3° the following information on the licensed establishments and manner in which the collected waste batteries are prepared for reuse, prepared for repurposing or recycled, broken down by chemical composition and category of batteries as referred to in Article 1(3) of the aforementioned regulation:

- a) quantity of waste batteries in kilograms that is delivered to each authorised facility;
- b) the following details of the authorised facility:
  - i) business registration number;
  - ii) postal code and town/city;
  - iii) street name and number;
  - iv) country;
  - v) phone and fax number;
  - vi) email address;
  - vii) first and last name of a contact person;
- c) quantity of waste batteries in kilograms that are about to undergo preparation for reuse, preparation for repurposing or recycling process;
- d) for every authorised facility, per process of preparation for reuse and preparation for repurposing:
  - i) a description of the process;
  - ii) quantity of batteries in kilograms that were reused or repurposed after preparation;

- iii) quantity of waste batteries or components in kilograms delivered to an authorised recycling facility for further treatment and, for each authorised facility, the data specified in 3°(e) per recycling process;
- e) for each authorised facility, per recycling process:
  - i. information on recycling efficiencies for waste batteries, material recovery from waste batteries and the destination and yield of the final output fractions. Reporting on recycling efficiencies and material recovery covers all individual steps of preparation for recycling, recycling, and all output fractions produced in the process. The recycling efficiency and material recovery rates are calculated using the calculation method set out in Article 71(3) and (4) of Regulation (EU) No 2023/1542.
  - ii. a description and the quantity of the waste flows to be disposed of and the place of final treatment;
  - iii. a description of how the requirements set out in Annex XII, Part A, points 4, 5 and 6 of Regulation (EU) No 2023/1542 are met;
- 4° when transporting waste batteries in accordance with the provisions of Regulation (EU) No 2024/1157 to destinations outside the European Union, the information demonstrating that the processing has taken place under conditions equivalent to those set out in Regulation (EU) No 2023/1542 and in accordance with other Union law on the protection of human health and the environment as set out in Article 72(3) and (4) of that regulation;
- 5° a report on the prevention, awareness-raising and information actions, demonstrating compliance with the requirements set out in Article 74 of Regulation (EU) No 2023/1542, with Article 2.4.9 of this Decree and with the communication plan;
- 6° a report on the main developments in the management of waste batteries in the reporting year;
- 7° a report on the implementation of the financial plan in accordance with Article 2.4.18, paragraph 7;
- 8° a report on the implementation of the other measures from the management plan in accordance with Article 2.4.7;
- 9° if a producer responsibility organisation takes over only part of the extended producer responsibility obligations of a producer, the producer responsibility organisation must provide the following information:

- a) the information referred to in section 1 relating to the extended producer responsibility obligations fulfilled by the producer responsibility organisation;
- b) the information referred to in section 1 relating to the extended producer responsibility obligations fulfilled by the individual producer. The information is provided to Brussels Environment at the level of the individual producer.

§2. The reporting referred to in section 1 must meet the following conditions:

- 1° the figures provided to Brussels Environment under extended producer responsibility are validated by an independent inspection body;
- 2° the producers and producer responsibility organisations mentioned in section 1 assess the numerical data of collectors, traders or brokers, facilities for preparing for reuse, preparation for repurposing and processors supplied to the producer responsibility organisation or producer under extended producer responsibility. If necessary, producers and producer responsibility organisations listed in section 1 will have the figures validated by an independent inspection body;
- 3° the numerical data on batteries made available on the market, provided by producers to the producer responsibility organisation under extended producer responsibility, are validated by an independent inspection body. The producer responsibility organisation or a third party appointed by that organisation may take over that task, provided that all members are checked at least once every five years and that the producer-responsibility organisation reports annually to Brussels Environment on that action and the results.

After approval by Brussels Environment, producers that individually fulfil the extended producer responsibility obligations and producer responsibility organisations appointed to fulfil those obligations collectively may derogate from the conditions set out in paragraph 1, points 1° to 3°, if the quality of the data can be guaranteed in another way.

§3. The annual report also includes a quality inspection report describing the self-checks and regular independent inspections. The quality inspection report must be prepared on the basis of the European model and manual published by Brussels Environment on its website or on the website of the designated organisation.

The quality report must contain all of the following elements:

- 1° the sources of information used, the method of collecting information and the quality of the data reported;
- 2° the process of validating the data;

- 3° the information on the completeness and coverage of the data and the difficulties in collecting the data;
- 4° an explanation for significant changes in reported data compared to previous reporting years;
- 5° a list of relevant data or information sources, including downloadable reference documents.

§4. In accordance with Article 69(3) to (5) of Regulation (EU) No 2023/1542, if Brussels Environment finds that the measures taken by producers individually fulfilling the extended producer responsibility obligations or producer responsibility organisations appointed to fulfil those obligations collectively are not sufficient to achieve the collection targets, Brussels Environment requests that a draft corrective action plan be submitted to ensure that the collection targets can be met. The draft plan must be submitted to Br Environment no later than 90 days after the producers fulfilling the extended producer responsibility obligations individually or the producer responsibility organisations appointed to fulfil those obligations collectively have received the request.

Brussels Environment will communicate any comments to the producer or producer responsibility organisation no later than 30 days after receipt of the draft corrective action plan. If Brussels Environment communicates its comments on the draft corrective action plan, the producer or producer responsibility organisation must, taking into account those comments, prepare an adjusted corrective action plan no later than 30 days after receiving those comments and implement the plan accordingly.

The content of the report, corrective action plan and its compliance by the producer or the producer responsibility organisation must be taken into account in the assessment of whether the conditions for registration set out in Article 55 of Regulation (EU) No 2023/1542 and, where applicable, the approval set out in Article 58 of that regulation continue to be met.

§5. If different producer responsibility organisations operate for the same waste flow, the producer responsibility organisations concerned must designate, at their own expense, the same independent inspection body to verify that the organisations fulfil their obligations in a coordinated manner. If the producer responsibility organisations do not come to a joint choice of inspection body, Brussels Environment will make the final decision after consulting with the various producer responsibility organisations.

The verification referred to in paragraph 1 consists of all of the following elements:

- 1° the figures from the organisations referred to in paragraph 1 are checked and corrected for double counting and gaps;

2° it is verified whether the activities referred to in Article 59(1), Article 60(1), and Article 61(1) of Regulation (EU) No 2023/1542 cover the entire territory.

§6. Producers, producer responsibility organisations, distributors, operators of treatment facilities subject to Directive 2000/53/EC or Directive 2012/19/EU, public waste management authorities, collectors and processing facilities of waste batteries provides to Brussels Environment any information which Brussels Environment deems useful for evaluating the objectives, monitoring extended producer responsibility and ensuring the reliability of the reported data. If the parties deem it necessary, a system will be developed that guarantees confidentiality.

§ 7. Brussels Environment or the organisation designated for that purpose by Brussels Environment will make available an electronic system and model form through which the data are reported in accordance with Article 2.4.15.

A breakdown by chemical composition as referred to in section 1, 3°, and Article 75 of Regulation (EU) 2023/1542 consists of a breakdown into the following types of batteries in accordance with the standard form:

- 1° alkaline batteries;
- 2° zinc carbon batteries;
- 3° silver oxide batteries;
- 4° zinc-air batteries;
- 5° primary lithium batteries;
- 6° nickel-cadmium batteries;
- 7° nickel-metal hydride batteries;
- 8° lead batteries;
- 9° rechargeable lithium batteries;
- 10° other batteries.

Article 2.4.16. §1. The following actors report to Brussels Environment or the organisation designated for that purpose annually on the following information by 30 June after the reporting year has ended:

1° authorised collectors, dealers and brokers collecting waste batteries report on the information referred to in Article 75(1)(2) and Article 75(3) of Regulation (EU) No 2023/1542, and also on the following information broken down by chemical composition and category of batteries:

a) the name of the recipient of the waste batteries, business registration number, postal number and city, street name and number, country, phone and fax number, email address and first and last name of a contact;

- b) the amount of collected waste batteries delivered for preparation for reuse or preparation for repurposing to authorised facilities and the information referred to in point 2° on the treatment of the delivered waste batteries;
- c) the amount of collected waste batteries delivered for recycling to authorised facilities and the information referred to in point 3° on the recycling of the delivered waste batteries;
- d) the amount of collected waste batteries exported to third countries for preparation for reuse, preparation for repurposing or treatment and the information referred to in point 4° on the treatment of the exported waste batteries;

2° waste treatment operators preparing waste batteries for reuse or preparing them for repurposing reports on the data referred to in Article 75(5) of Regulation (EU) No 2023/1542, as well as on the following information, broken down by chemical composition and category of batteries, and by country where the waste batteries were collected:

- a) the following information on the waste management operator:
  - i) name;
  - ii) business registration number;
  - iii) postal code and town/city;
  - iv) street name and number;
  - v) country;
  - vi) phone and fax number;
  - vii) email address;
  - viii) first and last name of a contact person;
- b) description of the process;
- c) quantity of batteries reused or repurposed following preparation;
- d) quantity of waste batteries or components in kilograms delivered to each authorised recycling facility and the data referred to in point 3° on the recycling of the delivered waste batteries or components;

3° waste treatment operators responsible for the recycling of waste batteries report on the information referred to in Article 75(5) of Regulation (EU) No 2023/1542, as well as on the following information, broken down by chemical composition and category of batteries, and broken down by country where the waste batteries were collected:

- a) the following information on the waste management operator:
  - i) name;

- ii) business registration number;
- iii) postal code and town/city;
- iv) street name and number;
- v) country;
- vi) phone and fax number;
- vii) email address;
- viii) first and last name of a contact person;

b) description of the entire treatment and recycling process;

c) description of the method used to determine the input and output fractions for calculating the recycling efficiency and material recovery rate. The recycling efficiency and material recovery rates are calculated using the calculation method set out in Article 71(3) and (4) of Regulation (EU) No 2023/1542;

d) a description and the quantity of the waste flows to be disposed of, the place of final treatment, a description of how the requirements set out in points 5 and 6 of Part A of Annex XII to Regulation (EU) No 2023/1542 are met and how the input and output of mercury and cadmium have been determined;

4° waste holders exporting waste batteries report on the information referred to in Article 75(6) of Regulation (EU) No 2023/1542 and also on the following information, broken down by chemical composition and category of batteries:

- a) the name of the recipient of the waste batteries, business registration number, postal number and city, street name and number, country, phone and fax number, email address and first and last name of a contact person;
- b) the information referred to in points 2° and 3° of this section on the processing of the waste batteries;
- c) information demonstrating that the processing has taken place under conditions equivalent to those laid down in Regulation (EU) No 2023/1542 and in accordance with other European Union law on the protection of human health and the environment as referred to in Article 72 of Regulation (EU) No 2023/1542;

5° battery remanufacturing or repurposing facilities report on the following information, broken down by chemical composition and category of batteries:

- a) the following details on the facility:
  - i) name;
  - ii) business registration number;
  - iii) postal code and town/city;
  - iv) street name and number;
  - v) country;

- vi) phone and fax number;
- vii) email address;
- viii) first and last name of a contact person;

- b) quantity in kilograms of batteries they have received for remanufacturing or repurposing;
- c) quantity of batteries in kilograms that are about to undergo preparation for reuse, preparation for repurposing or recycling process;
- d) description of the remanufacturing or repurposing process;
- e) information demonstrating compliance with the definition stated in Article 3 (1), 31° of 32° of Regulation (EU) No 2023/1542.

§2. The reporting referred to in section 1 must meet the following conditions:

- 1° the reported data must be validated by an independent inspection body at the request of Brussels Environment;
- 2° each report must contain, at the request of Brussels Environment, a quality report drawn up on the basis of the European model and the manual published by Brussels Environment on its website or on the website of the designated organisation, covering at least the data referred to in Article 2.4.15, section 3.

§3. Distributors, operators of treatment facilities for the treatment of end-of-life vehicles, operators of treatment facilities for the treatment of waste electrical and electronic equipment, operators of treatment facilities for the treatment of waste batteries, public waste management authorities, and the actors referred to in section 1 must provide Brussels Environment with any information that Brussels Environment deems useful for the purpose of evaluating the targets and ensuring the reliability of the data reported. If the parties deem it necessary, a system will be developed that guarantees confidentiality.

§4. Brussels Environment or the organisation designated for that purpose will make available an electronic system and model form through which the data is reported in accordance with section 1.

§5. A breakdown by chemical composition as referred to in this article and Article 75 of Regulation (EU) 2023/1542 consists of a breakdown into the following types of batteries in accordance with the model form referred to in section 4:

- 1° alkaline batteries;
- 2° zinc carbon batteries;
- 3° silver oxide batteries;
- 4° zinc-air batteries;
- 5° primary lithium batteries;
- 6° nickel-cadmium batteries;

- 7° nickel metal hydride batteries;
- 8° lead batteries;
- 9° rechargeable lithium batteries;
- 10° other batteries.

### Subsection 13. Non-discriminatory selection procedure for waste processors

Article 2.4.17. § 1. In accordance with Article 57(8) of Regulation (EU) No 2023/1542, waste treatment operators are selected through a non-discriminatory selection procedure on the basis of transparent award criteria. Producers or producer responsibility organisations carry out that selection.

§ 2. The agreements for the collection and treatment of waste batteries collected within the take-back and collection system established by the producer responsibility organisation are awarded on the basis of a specifications model and a market-allocation procedure model.

The specifications model and market-allocation procedure model are drawn up by the producer responsibility organisation and approved in advance by Brussels Environment. Any changes to the specifications model and to the market-allocation procedure are subject to prior approval by Brussels Environment.

The market allocation procedure includes the minimum selection criteria, the time limits within which applications and tenders must be submitted, the requirements of publicity, the grounds for exclusion, the required certificates or documents, the procedure in case of conflict of interest and any other information considered relevant by the producer responsibility organisation.

The market allocation procedure ensures adequate publicity of calls for candidates, equality of treatment, transparency, compliance with competition rules and applicable environmental legislation.

The procedure for dealing with conflicts of interest requires that any natural or juristic person who is part of the staff or decision-making body at the producer responsibility organisation may not intervene, directly or indirectly, in the preparation of the specifications and the market allocation procedure if that person could be in a conflict of interest situation with a candidate, either in person or through an intermediary. Where applicable, the producer responsibility organisation informs Brussels Environment, which either decides that the person concerned must withdraw in writing and without delay from the entire procedure for allocation by the producer responsibility organisation or that the entire allocation procedure must be outsourced to an independent body.

In the requirements specification, the criteria relating to environmental performance taken together must have a weight of at least 30%. The environmental performance includes at a minimum recycling efficiency, the hierarchy between prevention, reuse, recycling and recovery, the minimisation of residual waste to be disposed of and the impact of transport.

§ 3. The producer responsibility organisation submits the candidate waste processors established in the territory of the region to Brussels Environment for prior approval, with Brussels Environment verifying that these candidates comply with the environmental regulations.

The producer responsibility organisation provides Brussels Environment with a copy of the documentation on recycling efficiency and material recovery rates for each candidate recycler under consideration, drawn up in accordance with the model established by the European Commission and, where applicable, validated at least by the competent authority.

If the documentation referred to in paragraph 2 does not comply with the requirements set out in Article 71 of Regulation (EU) No 2023/1542 and the achievement of the recycling efficiency and material recovery targets has not been demonstrated, Brussels Environment has a maximum of four weeks after receiving the documentation referred to in paragraph 2 to reject a candidate recycler.

The producer responsibility organisation only assigns contracts to candidates that fulfil all of the following conditions:

- 1° They have all administrative authorisations at the time of assignment to provide the services in question, in accordance with environmental regulations;
- 2° Brussels Environment did not reject their candidacy.

A report on the allocation procedure and the reasoned choice of the waste processors is submitted to Brussels Environment for approval. Brussels Environment has the right to ask additional questions. Brussels Environment verifies whether the procedure set out in the specifications referred to in section 2 has been respected and checks whether the applicants have been treated equally.

§ 4. The agreements between the producer responsibility organisation and the waste processors are concluded for a maximum duration of five years.

If the execution of an agreement entails investments that lead to the creation of new markets or to the improvement of recycling techniques, the duration of the agreement can be equated with the depreciation period.

§ 5. The provisions of sections 2 to 4 do not apply in the following cases:

- 1° the award of contracts by producer responsibility organisations, the value of which does not exceed EUR 140,000, exclusive of VAT, for the initial award period;
- 2° in specific circumstances justified by the producer responsibility organisation, demonstrated where appropriate by an investigation by an independent body and after approval by Brussels Environment;
- 3° agreements concluded by producer responsibility organisations at the request of individual producers for the collection and recycling of waste batteries from take-back and collection systems of those individual producers.

When awarding an agreement for the treatment of waste batteries in the cases referred to in paragraph 1, 1° and 2°, the reasoned choice of the waste processor and the envisaged duration of the contract must be submitted to Brussels Environment for approval. The justification includes at least a copy of the documentation on recycling efficiency and material recovery rates prepared in accordance with the model established by the European Commission and, where applicable, at least validated by the competent authority.

If the documentation referred to in paragraph 2 does not comply with the requirements set out in Article 71 of Regulation (EU) No 2023/1542 and the achievement of the recycling efficiency and material recovery targets has not been demonstrated, Brussels Environment has a maximum of four weeks after receiving the documentation referred to in paragraph 2 to reject a candidate recycler.

§ 6. Brussels Environment is be informed of any changes to a recycling process after the assignment of the agreements that may affect recycling efficiency and material recovery rates.

#### Subsection 14. Financing

Article 2.4.18. § 1. Producers have extended producer responsibility for the batteries they make available on the market for the first time and bear the costs referred to in Article 56 of Regulation (EU) No 2023/1542. Those costs are indicated separately to the end user at the point of sale where a new battery is sold.

The financial contribution is differentiated in accordance with Article 57(2) of Regulation (EU) No 2023/1542. The constitutive elements for determining and reviewing the financial contribution are submitted to Brussels Environment for approval. The amount of the financial contributions are subject to annual review.

The determination of the amount of the financial contribution is part of the financial plan referred to in section 7 of this article.

The financial contribution, specifying the amounts, is shown separately on the invoice between professionals in the sale of batteries. Brussels Environment may derogate from this on the basis of a reasoned request by the producer in the case of individual fulfilment of extended producer responsibility obligations or on the basis of a reasoned request by the producer responsibility organisation in the case of collective fulfilment of extended producer responsibility and on condition that the payment of the financial contribution in the sales chain is clarified in an alternative way.

§ 2. If batteries are prepared for reuse, prepared for repurposing, repurposed or remanufactured, the cost-sharing mechanism referred to in Article 56(5) of Regulation (EU) No 2023/1542 is part of the financial plan referred to in section 7 of the producers of the original batteries and of the producers of the batteries made available on the market as a result of those operations.

§ 3. In accordance with Article 56(4)(d) of Regulation (EU) No 2023/1542, producers are responsible for financing the costs of the electronic system through which the data must be reported to Brussels Environment in accordance with Article 75(8) of that regulation.

The costs referred to in paragraph 1 are shared pro rata between the producer responsibility organisations implementing the extended producer responsibility for batteries, according to a distribution key agreed by the producer-responsibility organisations and submitted to Brussels Environment for approval.

The financing referred to in paragraph 1 also covers:

- 1° hosting and maintenance of the website and electronic system;
- 2° a helpline accessible to all actors in the battery chain and Brussels Environment.

In the case of individual fulfilment of extended producer responsibility obligations, producers pay a fee commensurate with the quantities of batteries made available on the market.

Producer responsibility organisations cooperate in the development and modalities of the electronic system in consultation with the other actors in the battery chain for the collection of the information referred to in Article 75 of Regulation (EU) No 2023/1542 and Article 2.4.15.

The requirements for the electronic system take into account the confidentiality of the information. The supervisors and independent inspection bodies have access to the system in the context of the validation of that information. Anyone required to report in accordance with Article 75 of Regulation (EU) No 2023/1542 also has access to their own data.

§ 4. Producers, in the case of individual fulfilment of extended producer responsibility obligations and producer responsibility organisations in the case of collective fulfilment of extended producer responsibility, must provide a guarantee to cover the costs related to waste management activities due by the producer or producer responsibility organisation in the event of non-compliance with extended producer responsibility obligations, including in the event of permanent cessation of their activities or insolvency as referred to in Article 58(7) of Regulation (EU) No 2023/1542.

The guarantee referred to in paragraph 1 may take the form of:

1° a collective guarantee that takes one of the following forms:

a) the producer may appoint a producer responsibility organisation to fulfil all extended producer responsibility obligations on its behalf, paying a financial contribution at the time of first making the batteries available on the market as referred to in section 1. In that case, the financial contribution is intended to cover all costs associated with extended producer responsibility. Payment of the financial contribution then constitutes the guarantee for the producer. The producer responsibility organisation's guarantee may in that case take the form of specific provisions or a sufficient reserve in relation to the risk referred to in this section;

b) the participation of the producer in a guarantee fund managed by a producer responsibility organisation;

2° a collective guarantee that takes one of the following forms:

a) an individual guarantee, namely a pledged account, a bank guarantee on first demand or insurance, in the name and at the expense of the individual producer and Brussels Environment as beneficiary, submitted to Brussels

Environment for approval and covering at least the future net costs arising from the waste management activities in the event of non-compliance with extended producer responsibility obligations, including in the event of permanent cessation of activities or insolvency.

b) an individual guarantee, namely a pledged account, a bank guarantee on first demand or insurance, in the name and at the expense of the individual producer and producer responsibility organisation as beneficiary and covering at least the future net costs arising from the waste management activities in the event of non-compliance with extended producer responsibility obligations, including in the event of permanent cessation of activities or insolvency.

If a producer has appointed a producer responsibility organisation to fulfil part of the extended producer responsibility obligations on its behalf, the producer must provide an individual guarantee as referred to in point 2 (b) with the producer responsibility organisation as beneficiary.

Equivalent alternative guarantees can be submitted to Brussels Environment for approval.

A guarantee fund as referred to in paragraph 2(1°)(b) must comply with the following criteria:

1° the guarantee fund is managed by a producer responsibility organisation or various producer responsibility organisations;

2° the amount of the guarantee per kilogram of battery made available on the market, for each category, and if applicable per chemical composition, must be submitted to Brussels Environment for approval, taking into account:

- a) lifespan;
- b) durability of materials;
- c) warranties provided by producers;
- d) quantities offered on the market;
- e) a risk analysis;
- f) likely future costs or revenues for collection, treatment and recycling;

3° payment of the contribution as referred to in point 2° does not constitute discharge from the financial and operational responsibilities of the producer concerned.

§ 5. For batteries for which a warranty has been opted for as referred to in section 4(2), 1°(b), the following provisions apply:

1° The costs associated with the management of waste batteries for which the producer no longer exists are covered by the guarantee funds referred to in section 4(2), 1°(b), in proportion to the deposits already collected for the batteries of the same product category;

2° the costs associated with the management of waste batteries for which the producer cannot be identified are covered by the guarantee funds referred to in section 4(2), 1°(b), and by the producers who have provided an individual guarantee, in proportion to their market share for the product categories of batteries in question;

3° if the accumulated guarantees in the guarantee funds are insufficient to cover the costs, the responsibility for financing the uncovered costs rests with the producers who have posted an individual guarantee and with the different guarantee funds to which all producers who provide their guarantee through participation in a guarantee fund and who are present on the market at the time the costs arise contribute in proportion to their market share for the product categories of batteries in question.

The auditor of the producer responsibility organisation must verify compliance with the provisions referred to in paragraph 1 and draw up a certificate to that effect.

§ 6. For certain batteries with lead content, Brussels Environment may decide that a guarantee need not be provided, on condition that there is no indication that the future net costs resulting from the collection, treatment and recycling of those batteries made available on the market by the producer will not be covered.

§ 7. In the case of individual fulfilment of extended producer responsibility obligations and producer responsibility organisations in the case of collective fulfilment of extended producer responsibility, producers prepare a financial plan. The financial plan shows that producers or producer responsibility organisations have the necessary financial means to fulfil their extended producer responsibility obligations. That financial plan contains the following elements:

1° budget for a minimum duration of five years;

2° calculation of the financial contributions and manner in which they are collected;

3° financing of any losses;

4° method of financing waste batteries for which the producer is no longer active or can no longer be identified;

5° policy on commissions and reserves;

6° investment policy;

7° guarantee scheme referred to in section 4; the necessary measures in accordance with this article;

8° description of the adequate self-monitoring mechanism, supported by regular independent audits, to assess the producer or organisation's financial management.

§ 8. The financial plan referred to in section 7 must respect the following principles:

1° the producers and producer responsibility organisations must have financial reserves enabling them to operate without income for six months;

2° the reserves must not exceed what is necessary to cover for 12 months the operating costs for the implementation of the current agreement calculated on the basis of the average of the previous three years; should the reserves exceed the requirements of this rule for two years in a row, the producers and producer responsibility organisations must submit an adjustment plan for the reserves to Brussels Environment for approval;

3° producers and producer responsibility organisations ensure that they do not impose unnecessary or disproportionate fees.

§ 9. The financial plan referred to in section 7 must be submitted to Brussels Environment for its opinion by 15 November of each year. Additional information can be requested by Brussels Environment on a reasoned basis.

#### Subsection 15. Online platforms

Article 2.4.19. § 1. The operator of an online platform informs in writing all producers who, through its online platform, offer batteries, including batteries incorporated into devices, light means of transport or other vehicles, through remote sales to private households or users other than private households in the territory, of their obligations under extended producer responsibility.

§ 2. The operator of an online platform prevent producers that do not have a registration and approval as referred to in Articles 55 and 58 of Regulation (EU) No 2023/1542, in order to fulfil the extended producer responsibility obligations individually, and who have not appointed a producer responsibility organisation to fulfil those obligations collectively, from concluding remote contracts through its online platform with private households or users other than private households in the territory. To this end, the operator of an online platform requires the producer to provide, at the time of registration on the online platform, written evidence that it holds a registration and approval as referred to in Articles 55 and 58 of Regulation (EU) No 2023/1542 in order to fulfil the extended producer responsibility obligations individually or provide evidence that

it has appointed a producer responsibility organisation to fulfil those obligations collectively.

§ 3. By way of derogation from section 2, the operator of an online platform may nevertheless allow a producer that does not have a registration and approval as referred to in Articles 55 and 58 of Regulation (EU) No 2023/1542 to fulfil the extended producer responsibility obligations individually and that has not appointed a producer responsibility organisation to fulfil those obligations collectively to conclude remote contracts with private households or users other than private households in the territory through its online platform. The administrator is then responsible for the duties under extended producer responsibility to which that producer is normally bound.

The operator of an online platform must submit all of the following elements to Brussels Environment by 1 March each year:

- 1° an overview of all producers that have been able to conclude remote contracts with private households or users other than private households in the territory on its online platform in the past year;
- 2° the registration number of the producers referred to in point 1° in the register of producers referred to in Article 55 of Regulation (EU) No 2023/1542.

§ 4. If the operator of an online platform also acts as a producer, it is also subject to the obligations relating to extended producer responsibility for the batteries it sells.

#### Subsection 16. Other provisions

Article 2.4.20. § 1. Where this section refers to an approval by Brussels Environment, this is carried out in accordance with the procedure set out in section 2 of the current article, except in the case of the application for registration and approval referred to in Article 2.4.3 and in Article 58 of Regulation (EU) No 2023/1542.

§ 2. All documents that must be prepared as part of the implementation of this section and are of strategic importance are submitted to Brussels Environment for approval. These include at a minimum the management plan, specifications, procedure for allocation and allocation of the markets.

Brussels Environment shall approve or reject such documents within 45 working days. If Brussels Environment does not make a decision within that period, the documents will be deemed to be approved. If Brussels Environment requests additional information, the period may be extended by a maximum of one month. The extension commences from the date of receipt of all the requested additional

information. If Brussels Environment rejects the documents, an amended proposal must be resubmitted for approval.

§ 3. Contrary to section 2, the following documents must be submitted to Brussels Environment for advice:

- 1° the financial plan referred to in Article 2.4.18, section 7;
- 2° the model membership agreement mentioned in section 5;
- 3° the model agreement with the public-law entities referred to in Article 2.4.12.

Brussels Environment has 45 days to provide advice from the date on which Brussels Environment received the documents. If no opinion is given within this time period, Brussels Environment is deemed to have given a favourable opinion. If Brussels Environment requests additional information, the deadline may be extended by a maximum of 30 days. The extension takes effect from the date on which Brussels Environment has received all the requested information.

§ 4. A representative of Brussels Environment is invited, as a permanent observer without voting rights, to all meetings of the governing body of the producer responsibility organisation, as well as to the general meetings. Brussels Environment receives an invitation to participate in the meetings in good time and receives the minutes at the end of the meeting.

§ 5. If producers appoint a producer responsibility organisation in accordance with Article 57(1) of Regulation (EU) No 2023/1542 to fulfil extended producer responsibility obligations on their behalf, a membership agreement must be signed between the producer and the organisation.

The standard membership agreement guarantees the prevention of discrimination or distortion of free competition between producers and is submitted to Brussels Environment for its opinion.

The producer responsibility organisation may only refuse producers if there are serious reasons. Any refusal must be justified. The reasons for the refusal must be approved in advance by Brussels Environment. The list of rejected producers must be communicated annually to Brussels Environment or made available online."

## Art. 8

In Article 2.4.64 of the same Decree, the provision under 5° is replaced by the following:

“5° the meaning of the symbol of the crossed-out wheeled bin referred to in Article 14(4) of Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE)”.

#### Art. 9

Annex 3 of the same Decree is hereby repealed.

#### Art. 10 Final provisions

Management organisations that have a valid environmental agreement and producers that have an approved individual prevention and management plan must submit a complete application for registration and approval in accordance with the procedure specified in Articles 2.4.3. to 2.4.6. of the decree of the Brussels Capital Government of 1 December 2016 on waste management, as amended by this decree. The applications will then be processed in accordance with the aforementioned procedure.

#### Art. 11

In Article 2 (1) (3) of the Code of Inspection, Prevention, Determination and Punishment of Environmental Offences and Environmental Liability of 25 March 1999, as last amended by the decree of the Brussels Capital Government of 14 September 2023, the following is added:

“- provisions 54 to 76 of Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 on batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC;”.

#### Art. 12. Entry into force

This Decree enters into force 10 days following its publication in the Belgian Official Gazette, with the exception of Article 2, which enters into force on 1 January 2026.

#### Art. 13. Implementation provision

The Minister with responsibility for the Environment is charged with the implementation of this Decree.

Brussels,

On behalf of the Government of the Brussels-Capital Region,

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

Rudi Vervoort

The Minister of Climate Transition, Environment, Energy, Participatory Democracy, Wellbeing and Health

Alain Maron