

Subsection 23 (1)⁵ of the Waste Act

The wording of subsection 23 (1)⁵ of the Waste Act is amended and supplemented. The definition of the term 'tyre manufacturer' is extended compared to the present one and it is added that the tyre manufacturer is also a person who places tyres on the market in Estonia in the form of an independent product 'tyre' or with a trailer, towed equipment, off-road vehicle, or motor vehicle. The term used so far only defined as a tyre manufacturer a person who places tyres on the market in Estonia in the form of an independent product 'tyre'. In the future, tyre manufacturers are persons who place tyres on the Estonian market with a trailer as defined in clause 2 (9) of the Traffic Act, an off-road vehicle as defined in clause 36, a power-driven vehicle as defined in clause 40, a towed equipment as defined in clause 58, or an interchangeable towed equipment as defined in clause 91. The term tyre manufacturer will include persons who place tyres on the market in Estonia from used vehicles imported into the Estonian market, which have been retreaded or re-used, and imported second-hand tyres which have been retreaded or re-used.

The Waste Act regulates the responsibility of producers of both tyres and motor vehicles for the collection and recovery of products of concern placed on their market. Tyres under motor vehicles are currently included under the motor vehicles and the components thereof provided for in clause 25 (2) 3) of the Waste Act. According to subsection 26 (4)³ of the Waste Act, a producer placing on the market motor vehicles and their trailers shall, in the part of the tyres of the motor vehicles and trailers, keep separate account of the quantity and mass of the tyres, and organise the collection and recovery of the waste tyres removed from use.

The legislator has no obligation to provide for a single system of producer responsibility for the tyres placed on the market separately and for the tyres placed on the market on motor vehicles, but for the sake of legal clarity and more precise regulation, the term of the tyre manufacturer is extended, thereby creating a single producer responsibility system. The term 'tyre manufacturer' which has been in force until now defined as a tyre manufacturer only as a person who places tyres on the market in Estonia as an independent product. In order to establish a single system of producer responsibility, the term *tyre manufacturers* will in the future include all persons placing tyres on the Estonian market with a trailer as defined in clause 2 (9) of the Traffic Act, an off-road vehicle as defined in clause 36, a power-driven vehicle as defined in clause 40, a towed equipment as defined in clause 58, or an interchangeable towed equipment as defined in clause 91, or as a stand-alone product, including tyres from end-of-life vehicles and end-of-life tyres which have been retreaded or re-used.

The collection of waste tyres is carried out through collection facilities of manufacturers, but the collection of tyres on end-of-life vehicles is carried out through demolition workshops processing end-of-life vehicles, i.e. through waste operators holding environmental protection permits. The extension of the term of a tyre manufacturer creates a single producer responsibility system in which in the future unlimited amounts of all tyres can be taken to a collection point of waste tyres. Furthermore, manufacturers no longer have to make sure that they do not accepted free of charge waste tyres from a repair workshop processing end-of-life vehicles. Controlling persons who transfer waste tyres is burdensome for producers and producers' responsibility organisations.

End-of-life tyres, i.e. waste tyres, will be accepted at the collection points of producers' responsibility organisations. Section 5 of Government of the Republic Regulation No 80 of 17 June 2010 on 'Requirements and Procedures for the Collection, Return to Producer and

Recovery or Disposal of Waste from Tyres' provides that a producer (if the producer has transferred his obligations to the producers' responsibility organisation, the producers' responsibility organisation) is required to take back waste tyres in unlimited quantities free of charge. Waste tyres must be taken back free of charge in unlimited quantities from users, maintenance workshops for motor vehicles and tyres, local municipalities, and the waste management operators managing the municipal waste stations of the local municipality on the basis of a contract. Waste tyres may not be taken back free of charge from demolition workshops processing end-of-life vehicles. Several local municipalities have pointed out that collection points of producers' responsibility organisations have established quantitative limits (4 or 8 old tyres) on how many waste tyres are accepted from a person. Since the collection points of the producers do not carry out checks of the persons transferring the tyres, collection points have limited the quantity of tyres accepted, as this is a burden on producers. The objective of limiting the collection of tyres is to refrain from accepting for free waste tyres from demolition workshops and second-hand tyre traders processing end-of-life vehicles, who, for example, import a shipment tyres from Finland or Sweden, which are then sorted locally in Estonia and attempt to hand over unfit tyres to the collection point of waste tyres without paying a fee.

In practice, supervisory authorities and producers have also raised questions about the term of the manufacturer, that is whether a demolition workshop engaged in the processing of end-of-life vehicles, which sells tyres from end-of-life vehicles to consumers is also a tyre manufacturer. The tyres placed on the market in Estonia also include retreaded or reusable tyres from end-of-life vehicles. Importers of end-of-life vehicles and end-of-life tyres who are engaged in retreading or re-use of the tyres and who resell these tyres as a product are obliged to comply with the requirements of producer responsibility. A fee must be paid to the waste tyre handler for imported end-of-life tyres which cannot be passed on as a product.

In the case of a manufacturer of motor vehicles, in practice, a situation may arise in which waste from the motor vehicle, including tyres, is collected after the end of the life of the motor vehicle. This means, inter alia, that the manufacturer of the motor vehicle bears the cost of collecting and recovering the tyres from the end-of-life vehicle (i.e. the last tyres of the motor vehicle). However, motor vehicle generally lasts *ca* 15 years. At the same time, the lifespan of tyres is a few years, so it is possible that the first tyres coming from a motor vehicle placed on the market will be collected and reused by tyre manufacturers, but the last tyres coming from the end-of-life vehicle (which have been produced by a tyre manufacturer) will be collected and reused by motor vehicle manufacturers. This situation has prompted the producers' responsibility organisation of tyres to question whether and how much costs are borne by motor vehicle manufacturers and whether any end-of-life vehicle operators take end-of-life vehicle tyres to the collection points of the tyre producers. Since end-of-life vehicle operators include in their waste reports the delivery of waste tyres and the collection points of tyre manufacturers do not have an overview of the producers of the waste tyres, it is not possible to assess whether and how many waste tyres from end-of-life vehicles are transferred to the collection points of tyre manufacturers. The creation of a single system of producer responsibility will enable all tyres to be transferred to a single collection point and to deal with the handling of tyres more efficiently.

Furthermore, the extension of the definition of a 'tyre manufacturer' *will also specify* the term of the manufacturer. A clause is added to the term 'manufacturer' according to which the tyre manufacturer is a person who places tyres on the market in any form of sale. The wording of the current Waste Act – the manufacturer brings the products into Estonia – has raised questions on the side of both the producers and the supervision, as import into Estonia or the

manufacture of products does not automatically mean that these products are placed on the market in Estonia. A product shall be made available on the market if it is supplied for distribution, consumption, or use on the market in the course of a commercial activity, whether in return for payment or free of charge. In this context, it is irrelevant which sales method was used by the manufacturer to place the product on the market, i.e. sales by means of distance communication such as the internet (online stores) are also taken into account. The emphasis is on the fact that the manufacturer has to place these products on the market in order for producer responsibility to apply and the economic operator to be considered a producer of products of concern within the meaning of the Waste Act. Producer responsibility requirements apply to producers of products of concern and products of concern regardless of the type of sale, the obligations of the producers and distributors using remote and electronic sales channels are the same as those of the producers who use a point of sale to place goods on the market. In the future, the obligations of the producers and distributors using remote or electronic sales channels will be clearer in order to avoid these other distribution channels having to bear the costs of producer responsibility for the products of concern sold by remote or electronic sales.

In the future, a tyre manufacturer will be a natural or legal person whose place of business is in Estonia and who is placing tyres on the Estonian market regardless of the method of sale, including by means of distance communication, including with trailers as defined in clause 2 (9) of the Traffic Act, off-road vehicles as defined in clause 36, power-driven vehicles as defined in clause 40, towed equipment as defined in clause 58, or interchangeable towed equipment as defined in clause 91; a natural or legal person who, by means of a contract concluded via distance communication as defined in point (7) of Article 2 of Directive 2011/83/EU of the European Parliament and of the Council, places tyres on the Estonian market on a professional basis, including with a trailer as defined in clause 2 (9) of the Traffic Act, an off-road vehicle as defined in point 36, a power-driven vehicle as defined in point 40, a towed equipment as defined in point 58, or an interchangeable towed equipment as defined in point 91; a natural or legal person who sells tyres directly to Estonian households or other users by means of distance communication, including with a trailer as defined in clause 2 (9) of the Traffic Act, an off-road vehicle as defined in clause 36, a power-driven vehicle as defined in clause 40, a towed device as defined in clause 58, or an interchangeable towed equipment as defined in clause 91, but has a place of business is in another Member State of the European Union or outside the European Union.

Clause 25 (3) 5) of the Waste Act

The provision is complemented by adding that a tyre is a tyre of trailer as defined in clause 2 (9) of the Traffic Act, an off-road vehicle as defined in clause 36, a power-driven vehicle as defined in clause 40, a towed equipment as defined in clause 58, or an interchangeable towed equipment as defined in clause 91. Complementing the definition of a tyre is essential for the creation of a single producer responsibility system of tyres. Tyres also include tyres from end-of-life vehicles and end-of-life tyres that are retreaded or re-used. Tyres already included tyres for trucks, buses, and tractors.

Proposed amendment: The term tyre manufacturer includes all persons who place tyres on the Estonian market with a trailer as defined in clause 2 (9) of the Traffic Act, an off-road vehicle as defined in clause 36, a power-driven vehicle as defined in clause 40, a towed equipment as defined in clause 58, or an interchangeable towed equipment as defined in clause 91, and as a stand-alone product, including tyres from the end-of-life vehicles and end-of-life tyres which are retreaded or re-used.

Target group: The extension of the term of a tyre manufacturer concerns all persons placing tyres on the Estonian market with a trailer as defined in clause 2 (9) of the Traffic Act, an off-road vehicle as defined in clause 36, a power-driven vehicle as defined in clause 40, a towed equipment as defined in clause 58, or an interchangeable towed equipment as defined in clause 91.

The companies placing motor vehicles of categories M1, N1, and L2e on the market in Estonia (132). In 2022, 9,224 new and 6,837 used motor vehicles (lorries, buses, motorcycles, mopeds, tractors, mobile machinery), 7,519 new trailers, 1,679 used trailers, 125 new off-road vehicles, 277 used off-road vehicles and 20,561 new M1, N1 motor vehicles and 29,173 used M1, N1 vehicles were registered. The motor register does not include towed equipment and interchangeable towed equipment, and the Road Administration does not have an overview of them, so neither the number of such equipment nor the companies that place said equipment on the market are known.

Impact on business and economy: The impact on the groups of economic undertakings indicated is different. The impact is lower on the manufacturers of motor vehicles of categories M1, N1 and L2e. According to subsection 25¹ (1) of the Waste Act, a producer is required to ensure the handling of waste resulting from its products of concern placed on the market and bear the costs thereof. This responsibility includes, in particular, the obligation to finance and organise separate collection and treatment of waste from products of concern. According to clauses 25 (2) 3) and 5) of the Waste Act, products of concern include motor vehicles and parts thereof, as well as tyres. Pursuant to subsection 26 (43) of the Waste Act, a producer placing on the market motor vehicles and their trailers shall, in the part of the tyres of the motor vehicles and trailers, keep separate account of the quantity and mass of the tyres, and organise the collection and recovery of the waste tyres removed from use. Thus, the Waste Act lays down a similar obligation for both tyre manufacturers and manufacturers of motor vehicles for the recovery of products of concern placed on the market by them, including a specific obligation for manufacturers of motor vehicles to collect and recycle the tyres placed on the market under motor vehicles.

In the future, the manufacturer of a motor vehicle of categories M1, N1 and L2e must also observe the requirements relating to the producer responsibility of a tyre manufacturer, join the producers' responsibility organisation, and pay the recovery fee for the collection and re-use of tyres to the producers' responsibility organisation. Under the current Act, tyre manufacturers are obliged to enter into a written agreement with the producers' responsibility organisation to organise the collection and recovery of the waste generated from their products. A proper collection network set up by the producers' responsibility organisation will enable to reduce the costs of waste management of tyres, as without a supporting network of the organisation, the collection of tyres on an individual basis is unreasonably costly.

There is some impact on the manufacturers of motor vehicles of categories M1, N1 and L2e concerning the reporting process. In the past, a manufacturer of motor vehicles of categories M1, N1 and L2e submitted a joint report to the register of products of concern on motor vehicles and tyres, in the future, though, only motor vehicle must be reported to the register of products of concern and a separate report on placing of tyres on the market must be submitted to the producers' responsibility organisation. Since importers of M1, N1 and L2e motor vehicles will form the majority of tyre manufacturers in the future, the expansion of the term of a tyre manufacturer will not have a major impact on the activities of the undertakings.

There will be no impact on the manufacturers who place tyres on the Estonian market with a trailer as defined in clause 2 (9) of the Traffic Act, an off-road vehicle as defined in clause 36, or a power-driven vehicle as defined in clause 40 of the Traffic Act. Since 2013, the producer responsibility of a tyre manufacturer has applied to the tyres of an off-road vehicle as defined in clause 2 (36) of the Traffic Act, a power-driven vehicle as defined in clause 40 of the Traffic

Act, and the trailers thereof, which were placed on the market as an independent product. The producers of such products already have a contract with the producers' responsibility organisation, hold registrations, and submit data.

The impact will be greater on those manufacturers who were not previously subject to the producer responsibility of tyre manufacturers, i.e. The companies placing on the Estonian market the tyres of towed equipment and interchangeable towed equipment and tyres installed on towed equipment and interchangeable towed equipment. These new tyre manufacturers will have to cover the costs of managing waste from the tyres placed on the market by them, including the collection and treatment costs. There are also administrative costs related to the registration in the register of products of concern and the reporting obligation. The waste management cost of these tyres has previously been covered by the waste holder, but will now be covered the company that places the tyres to the market. Usually, the producer responsibility costs for products of concern are included in the price of the product, so the costs of the producer do not increase.

There is no impact on the manufacturer of the tyres from imported second-hand vehicles that have been retreaded or re-used or the manufacturer of imported second-hand and retreaded tyres, as producer responsibility applies to the tyres from imported second-hand vehicles that are retreaded or re-used and to the imported used and retreaded tyres that are made available on the market for the first time. There may be an impact on the manufacturers who have placed on the market tyres from imported second-hand vehicles that have been retreaded or re-used, or imported used tyres that have been retreaded or re-used, but have circumvented the producer responsibility of a tyre manufacturer.

The establishment of a single producer responsibility system will provide better legal clarity and in the future all manufacturers falling under the term tyre manufacturer will be able to direct all tyres to the collection point of waste tyres in unlimited quantities. Furthermore, the establishment of an integrated system will allow for an annual comparison of the quantities of tyres placed on the market, collected and recovered by motor vehicle and tyre manufacturers, and a common average recovery rate can be used. Thanks to creating a single producer responsibility system, the costs will be significantly lower due to economies of scale, as clearly demonstrated by the E&Y analysis¹. Economic operators are regularly exposed to the change, but by creating a single producer responsibility system that is clearer and less time consuming for tyre manufacturers and consumers, the impact is limited.

Impact on the organisation of governmental authorities and local municipalities There is some impact on the organisation of government institutions and local municipalities. The workload of the Environmental Board and the Environment Agency may temporarily increase in the first year, but there will be no impact in the coming years. The Environmental Board has a producer responsibility working group consisting of 8-10 people who are involved in inspecting the producers of products of concern, producers' responsibility organisations, and waste handlers of products of concern. The authorised representative of the register of products of concern is the Environment Agency. At the Environment Agency, one employee deals with the supervision of the producers of products of concern, the registration of producers, the reports submitted by the producers, and the analysis of the data. The workload of the Environment Agency may increase temporarily in connection with advising and inspecting the companies during the first year. The workload of the Environmental Board may increase

¹ Analysis of the economic impact of the opportunities for ensuring a guarantee for the producers and producers' responsibility organisations and proportionality for the manufacturers (Ernst & Young Baltic AS, 2014).

temporarily, as in the first years it will be necessary to check whether the manufacturers producing tyres with towed equipment and interchangeable towed equipment who were not previously subject to producer responsibility comply with the obligations of a tyre manufacturer. The producer responsibility working group at the Environmental Board annually inspects 50-100 producers of products of concern on the basis of a sample, and the sample is put together depending on the need. If the sample consists of tyre manufacturers and the number of checks on other manufacturers of products of concern is reduced, the workload will not increase.

The workload of the officials of the Environmental Board and of local municipality officials may be reduced in terms of solving and responding to the problems related to the reception of tyres, as in the future all waste tyres will be accepted in unlimited quantities at the collection points of tyres, including the waste tyres of towed and interchangeable towed equipment.

Impact on the living and natural environment: There will be a significant impact on the living and natural environment. The impact on the living and natural environment will be positive, as all of the aforementioned tyres can be delivered free of charge to the collection points. In the future, the collection of end-of-life tyres will not be restricted and will not have to be paid for separately. It may be concluded that less end-of-life tyres will be dumped into the nature, as the user will be able to take an unlimited quantity of waste tyres to the collection point of tyres in the future. In particular, several local municipalities have pointed out that the collection points of the producers' responsibility organisation have set quantitative limits on the receipt of waste tyres, for example, in some collection points 4 waste tyres are accepted at the same time, and in other places, up to 8 waste tyres. This restriction has led to a situation where waste tyres are dumped in the forest near collection points, etc.

It is necessary for the producers' responsibility organisation to limit the receipt of waste tyres, as the persons transferring the waste tyres are not checked at the collection points. The aim of limiting the collection of tyres is to refrain from accepting, free of charge, waste tyres from demolition workshops and second-hand tyre traders engaged in the processing of end-of-life vehicles, who, for example, bring in a shipment tyres from Finland or Sweden, which are then sorted locally in Estonia, and attempt to hand over unfit tyres

at the collection point of waste tyres free of charge. With the extension of the term of a tyre manufacturer, there is no longer any reason for the organisation to limit the receipt of waste tyres.

Significance of the impact: rather a minor impact. By the new amendment, producer responsibility of tyre manufacturers is applied to tyres of the motor vehicles of categories M1, N1 and L2e which are fitted on the motor vehicles and off-road vehicles at the time of placing the vehicles on the market, and to tyres of towed equipment and interchangeable towed equipment.

The impact is lower on the manufacturers of motor vehicles of categories M1, N1 and L2e. According to subsection 25¹ (1) of the Waste Act, a producer is required to ensure the handling of waste resulting from its products of concern placed on the market and bear the costs thereof. This responsibility includes, in particular, the obligation to finance and organise separate collection and treatment of waste from products of concern. According to clauses 25 (2) 3) and 5) of the Waste Act, products of concern include motor vehicles and parts thereof, as well as tyres.

In the case of such motor vehicles are, for example, the motor vehicles of categories M1, N1 and L2e, producer responsibility was applied when the motor vehicle became waste, i.e. the

waste tyres on the end-of-life vehicle were handled together with the end-of-life vehicle, and paid for by the manufacturer of the M1, N1 or L2e motor vehicle. The person placing on the market of motor vehicles not falling within categories M1, N1 and L2e, trailers, towed equipment, and interchangeable towed equipment will in future bear the costs of waste management previously covered by the waste holders. Based on the statistics on the vehicles registered in 2022, the volume of tyres placed on the market can be expected to increase most in the case of new and used M1 and N1 tyres. For end-of-life vehicle operators, the extension of the producer responsibility of tyre manufacturer could lead to a reduction in costs, as in the future, the waste tyres removed from end-of-life vehicles can be transferred free of charge to a collection point of the producers' responsibility organisation. Unwarranted storage of waste tyres on waste management sites has been identified during in the course of supervision. The extension of the definition of a tyre manufacturer will also reduce the storage of waste tyres at waste management sites for end-of-life vehicles.

The extension of the definition of a tyre manufacturer will have some impact on the organisation of government authorities and local municipalities. The workload of the Environmental Board and the Environment Agency may temporarily increase in the first year, but there will be no impact in the coming years.

Subsection 26 (1)⁷ of the Waste Act

As it was specified clearly under the term of a *manufacturer of motor vehicles, a tyre manufacturer, agricultural plastic manufacturer, and a producer of motor vehicle parts* that the placing on the market also includes making the goods available by means of distance communication, the provision on the authorised representative is complemented, specifying that the authorised representative shall be appointed by means of a written authorisation. In the future, manufacturers of motor vehicles, parts of motor vehicles, tyres, and agricultural plastics who place their products on the market of another Member State of the European Union in which they are not established on a professional basis must appoint an authorised representative, whether a natural or a legal person, who has a place of residence or seat in that Member State, who will perform the obligations imposed on the manufacturer on his behalf. The authorised representative will allow smooth functioning of the internal market and reduce the administrative burden. The authorised representative will be responsible for fulfilling the obligations of the manufacturer. The appointment of an authorised representative will make it easier to register the manufacturer and submit reports.

Proposed amendment: The manufacturers of agricultural plastics, tyre manufacturers, and manufacturers of motor vehicles who do not have a place of business in Estonia but who, regardless of the manner of sale, place products of concern on the Estonian market in the course of their economic or professional activity, shall appoint an authorised representative who is a natural or legal person with a place of residence or seat in Estonia for placing the products of concern on the market.

Target group: agricultural plastic producers, tyre manufacturers, and motor vehicle manufacturers.

As of 12 June 2023, 930 producers of electrical and electronic equipment, 7 producers of agricultural plastics, 183 tyre manufacturers, 132 manufacturers of motor vehicles, and 51 manufacturers of parts of motor vehicles have been registered in the register of products of concern.

Impact on business and economy: some impact on businesses and the economy. In the future, a producer who operates on the Estonian market but does not have a place of business in Estonia will be able to fulfil the obligations arising from the Waste Act through an

authorised representative. This provision allows the manufacturer to operate without a place of business if the manufacturer has appointed an authorised representative. This will allow smooth functioning of the internal market and reduce the administrative burden for manufacturers. The administrative burden of manufacturers will be reduced as the producer is allowed to operate without a place of business. If a manufacturer fails to appoint an authorised representative, the obligations arising from the law shall be fulfilled by the manufacturer itself and a place of business in Estonia shall be established. The authorised representative shall register in the register of products of concern and then nominate manufacturers and distributors of products of concern who have joined them who are established outside Estonia but place products of concern on the Estonian market. The frequency of the impact is one-off, the manufacturer engaged in remote sales enters into a contract with an authorised representative who will organise the registration of the manufacturer in the register of products of concern and submit annual reports like other producers of products of concern.

Impact on the organisation of government authorities and local municipalities: minor impact on government authorities. The Environmental Board has a producer responsibility working group consisting of 8-10 people who are involved in inspecting the producers of products of concern, producers' responsibility organisations, and waste handlers of products of concern. The authorised representative of the register of products of concern is the Environment Agency. At the Environment Agency, one employee deals with the supervision of the producers of products of concern, the registration of producers, the reports submitted by the producers, and the analysis of the data. The employees of the Environmental Board and the register of products of concern are exposed to the change, but the workload will not be significantly affected by the change. When inspecting manufacturers, it is checked whether the manufacturer complies with the requirements of the Waste Act, including whether the manufacturer has a place of business in Estonia. In the future, there will be an additional verification of the existence of a contract between the manufacturer and an authorised representative, which does not significantly affect the workload.

Impact on the living and natural environment: negligible impact on the living and natural environment, no impact on the living and natural environment

Significance of the impact: as a whole, rather minor effects. The clarifications are needed to create better legal clarity and a more coherent approach for all manufacturers. The amendment also has no significant impact on the organisation of government agencies and local municipalities, and there is no impact on the living and natural environment. For the manufacturers, it will allow smooth functioning of the internal market and reduce the administrative burden.