

## Order on extended producer responsibility for fishing gear containing plastic<sup>1)</sup>

Pursuant to Sections 9h(3) to (6) and 9-12, 9y(3), 9z(2) to (6), 9æ, 9ø(1)(1) subparagraphs (3), (4), (6) and (7), (3) and (4), 9å(1) to (3), 44(1), 45(6), 67, 73(1), 80(1) and (2), and 110(3) of the Environmental Protection Act, cf. Consolidated Act No 5 of 3 January 2023, as amended by Act No 745 of 13 June 2023, and Section 1(3) of the Administration Act, cf. Consolidation Act No 433 of 22 April 2014, and after negotiation with the Minister of Justice, the following is laid down:

### Section I

#### General provisions

##### Chapter 1

##### *Scope and definitions*

##### *Scope*

**Section 1.** The Order shall apply to fishing gear containing plastic.

(2) Fishing gear containing plastic shall be divided into the following two categories: commercial fishing gear and other fishing gear.

##### *Definitions*

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

- 1) Waste: Waste as defined in the Order on waste.
- 2) Distance contract: Distance contract as defined in Article 2(7) of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.
- 3) Treatment: Treatment as defined in the Order on waste.
- 4) Commercial fishing gear: Towing fishing gear containing plastic, including trawls, purse seines, towed dredges and Danish seines.
- 5) Established in Denmark: Established as an active Danish company in the Central Business Register (CVR) with a Danish CVR number.
- 6) Fishing gear: Any object or pieces of equipment used for fishing or aquaculture to find, capture or farm marine biological resources, or that floats on the sea surface and is used for the purpose of attracting, capturing or farming such marine biological resources.
- 7) Recycling: Recycling as defined in the Order on waste.
- 8) Collection: Collection as defined in the Order on waste.

<sup>1)</sup> The Order contains provisions transposing parts of Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment, OJ 2019, No L 155, p. 1. A draft of this Order has been notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification).

- 9) Collective scheme: A legal person that ensures the collective fulfilment of extended producer responsibility obligations on behalf of scheme members.
- 10) The Act: Environmental Protection Act.
- 11) Placing on the market: The first time a product is made available on the Danish market.
- 12) Port reception facility: Port reception facility as defined in the Order on reception facilities for waste from ships, delivery of waste from ships and port waste plans.
- 13) Operational costs: Expenses of handling end-of-life fishing gear containing plastic. Purely administrative expenses are not included.
- 14) Extended producer responsibility scheme: A set of measures taken by Member States to ensure that producers of products bear the financial responsibility or financial and organisational responsibility for the management of the waste phase of a product's life cycle.
- 15) Plastic: A material consisting of a polymer as defined in Article 3(5) of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency to which additives or other substances may have been added and which can act as the main structural component of final products, with the exception of natural polymers which are not chemically modified.
- 16) Producer:
- a) Any natural or legal person established in Denmark who, irrespective of the selling technique used, including via distance contracts, professionally manufactures or imports and places on the market in Denmark fishing gear containing plastic other than persons engaged in fishing activities as defined in Article 4(28) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council. Non-industrial producers of fishing gear containing plastic are also excluded.
  - b) Any natural or legal person established in another Member State of the European Union or in a third country who sells fishing gear containing plastic through distance contracts directly to private households or to users other than private households professionally in Denmark, other than persons engaged in fishing activities as defined in Article 4(28) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council. Non-industrial producers of fishing gear containing plastic are also excluded.
- 17) Representative: A natural or legal person who is authorised to represent a producer, cf. Section 9y(1) and (2) of the Act and is registered in accordance with Sections 4 and 5.
- 18) End-user: The last user of a fishing gear containing plastic before it becomes waste.
- 19) Separate handling: Sorting, storing, collecting, transporting, reprocessing and treating end-of-life fishing gear containing plastic.
- 20) Making available on the market: The supply of a product for distribution, consumption or use on the Danish market in the course of a commercial activity, whether in return for payment or free of charge.
- 21) End-of-life fishing gear: Any fishing gear falling within the definition of waste set out in Article 3(1) of Directive 2008/98/EC, including any separate components, substances or materials that were part of or attached to such fishing gear when it was discarded, including when it was abandoned or lost.
- 22) Other fishing gear: Fishing gear containing plastic other than commercial fishing gear.

## Chapter 2

### *Producer register*

**Section 3.** As controller, Dansk Producentansvar shall keep a digital producer register of the following:

- 1) Producers placing on the market fishing gear containing plastic, cf. Sections 4 and 5.
  - 2) Representatives of producers, cf. Section 9 y(1) of the Act, which are covered by subparagraph 1.
  - 3) Collective schemes, cf. Section 32.
- (2) All registrations in the producer register must be made digitally and in accordance with the instructions of

Dansk Producentansvar.

(3) Dansk Producentansvar must ensure that the register is publicly accessible and available free of charge on the website [www.producentansvar.dk](http://www.producentansvar.dk). On the website, Dansk Producentansvar shall refer to the national producer registers of the other EU Member States.

## Chapter 3

### *Registration of producers and representatives in the producer register*

#### *Registration obligation*

**Section 4.** A producer placing on the market fishing gear containing plastic shall register himself or his representative, cf. Section 9 y(1) of the Act, in the producer register, cf. Section 3, by 1 June 2024 at the latest.

(2) A producer who starts placing on the market fishing gear containing plastic after 1 June 2024 shall register himself or his representative, cf. Section 9 y(1) of the Act, in the producer register no later than 14 days before the placing on the market starts.

**Section 5.** A producer or his representative's registration in the producer register, cf. Section 4, shall contain the information set out in Annex 1.

(2) The registration obligation, cf. Section 4, is not fulfilled until

- 1) all information referred to in (1) has been reported comprehensively;
- 2) the fee for registration is paid, cf. Section 39(1); and
- 3) any representative has, as a representative, confirmed the registration, cf. Section 6(3).

(3) The producer may at any time register a representative in the producer register, cf. Section 4, including change of representative or termination of the authorisation.

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

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

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

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

(4) Dansk Producentansvar shall notify the producer in writing that registration has not been completed if the natural or legal person registered by the producer as a representative denies the registration or if the deadline of 7 days, cf. (3), is exceeded.

**Section 7.** At the request of a company which may be subject to the obligation to register in the producer register, cf. Section 4, Dansk Producentansvar shall decide whether:

- 1) the company is subject to the obligation to register in the producer register, cf. Section 4;
- 2) a representative, cf. Section 5(3), meets the requirements of Section 9y to be registered; and
- 3) whether a product constitutes fishing gear containing plastic, including whether it falls within the category of commercial fishing gear or other fishing gear.

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

#### *Changes in registered information*

**Section 8.** The producer shall register changes to the already registered information, cf. Section 5(1), in the producer register no later than one month after the changes have taken place.

(2) Dansk Producentansvar shall confirm the registration changes in the producer register referred to in (1) to the producer within 14 days after the registration has been made.

#### *Cessation of marketing activities*

**Section 9.** A producer who ceases to place on the market fishing gear containing plastic shall record this in the producer register no later than one month after it ceases to place on the market fishing gear containing plastic.

#### *Appointment of sales representatives in other EU Member States*

**Section 10.** A producer established in Denmark who sells fishing gear containing plastic in another EU Member State where he is not established shall appoint a representative in that Member State responsible for fulfilling the obligations of that Member State under the extended producer responsibility scheme of that Member State for fishing gear containing plastic.

(2) The appointment in accordance with (1) shall be made by written mandate.

## **Section II**

### **Commercial fishing gear**

#### Chapter 4

#### *Allocation and collection of end-of-life commercial fishing gear*

**Section 11.** A producer who has placed on the market commercial fishing gear after 31 December 2024 shall, in accordance with Section 9h(1) of the Act, proportionately to his market share and at his own expense, arrange for the take-back of the fishing gear at the end of its life and ensure that it is handled separately in accordance with Section 35.

### *Allocation of end-of-life commercial fishing gear*

**Section 12.** Dansk Producentansvar shall decide once a year on the allocation of the quantity of end-of-life commercial fishing gear that the producer must take back, cf. Section 11, including from the ports listed in Annex 2. Dansk Producentansvar calculates the allocation in accordance with the guidelines set out in Annex 3.

(2) The first allocation period shall be from 31 December 2024 to 31 August 2026. Subsequent allocation periods shall then start on 1 September each year.

(3) Dansk Producentansvar shall notify the allocation for the first allocation period referred to in (2), subparagraph 1, no later than 1 September 2024 to producers and ports, cf. Annex 2. Dansk Producentansvar then announces subsequent allocation periods each year no later than 1 June.

(4) Dansk Producentansvar publishes the allocation on Dansk Producentansvar's website [www.producentansvar.dk](http://www.producentansvar.dk).

### *Collection of allocated end-of-life commercial fishing gear*

**Section 13.** A producer shall take back the quantity of end-of-life commercial fishing gear that he is allocated by Dansk Producentansvar, cf. Section 12(1). A producer to whom a port listed in Annex 2 is allocated shall collect all end-of-life commercial fishing gear which is transferred to the producer via the port, cf. Section 14.

(2) Take-back by the producer in accordance with (1) may be done by the producer receiving or picking up end-of-life commercial fishing gear from the allocated port, cf. Section 12(1), and by the establishment and use of a take-back scheme established by the producer for commercial fishing gear that he has placed on the market.

(3) A take-back scheme for the commercial fishing gear placed on the market by the producer referred to in (2) may be carried out in the following ways:

- 1) The producer collects the end-of-life commercial fishing gear from the end-user.
- 2) The end-user delivers the end-of-life commercial fishing gear to the producer or to a location or area designated by the producer.

(4) Take-back by the producer, cf. (1), shall not be subject to remuneration from the port or the end-user.

(5) The producer shall, upon request from an end-user, inform that person on how take-back in accordance with (2) can be done.

### *Transfer of end-of-life commercial fishing gear via ports*

**Section 14.** A port listed in Annex 2 may transfer to the producer to whom a port has been allocated, cf. Section 12(1), end-of-life commercial fishing gear received at the port's reception facilities pursuant to the Order on reception facilities for waste from ships, delivery of waste from ships and port waste plans.

(2) A transfer in accordance with (1) entails that the responsibility for the handling of the waste is passed on to the producer.

**Section 15.** If a producer does not pick up the end-of-life commercial fishing gear made available by the port, cf. Section 14, that the producer has been allocated under Section 12(1), the port can have its actual, proven costs for emergency pick-up and handling of end-of-life commercial fishing gear reimbursed by directing the requirement directly to the producer. If the producer does not pay the proven expenses, the port may request from Dansk Producentansvar that the costs are covered by the guarantee provided by the producer, cf. Section 17.

#### *Cessation of activities by the producer*

**Section 16.** If a producer or collective scheme which has provided guarantees pursuant to Section 17 or Section 30(1)(4) ceases during an allocation period, cf. Section 12, Dansk Producentansvar shall distribute the allocated port(s) to the other producers. Dansk Producentansvar shall release guarantees to the other producers in accordance with Section 23(3).

(2) If a collective scheme that has not provided guarantees, but has been allocated ports on behalf of producers is dissolved during an allocation period, cf. Section 12, Dansk Producentansvar shall distribute the allocated ports to the former producers in the collective scheme according to their market share.

#### Chapter 5

#### *Guarantees for the management of end-of-life commercial fishing gear*

**Section 17.** Producers who place on the market commercial fishing gear shall, before the fishing gear is placed on the market and once a year, provide guarantees to ensure the financing of the handling of end-of-life commercial fishing gear, without prejudice to (2) and Section 20.

(2) Producers placing on the market commercial fishing gear during the period from 31 March 2024 to 31 December 2024 shall provide guarantees to ensure the financing of the handling of end-of-life commercial fishing gear by 31 December 2024. However, Dansk Producentansvar may decide that the guarantee shall be provided at an earlier stage for the producers who have been allocated quantities in the first allocation period, cf. Section 12(2), subparagraph 1.

**Section 18.** Dansk Producentansvar shall decide on the amount of the guarantee, cf. Section 17.

(2) For producers who are registered in the producer register, cf. Section 4, and already place commercial fishing gear on the market, the level of guarantee shall be determined on the basis of:

- 1) the quantities of commercial fishing gear placed on the market which the producer has reported to the producer register, cf. Sections 25 and 26; and
- 2) the known or expected costs of handling the end-of-life commercial fishing gear that producers are obliged to take back.

(3) For producers who start placing on the market commercial fishing gear and have not been allocated end-of-life commercial fishing gear, cf. Section 12, the level of guarantee shall be determined on the basis of:

- 1) the expected quantity of commercial fishing gear placed on the market in that calendar year, which the producer has reported to the producer register, cf. Section 25(1) and (3); and
- 2) the known or expected costs of handling end-of-life commercial fishing gear.

(4) For producers who have placed on the market commercial fishing gear, but have not previously complied with the registration obligation, cf. Section 4, as well as the reporting obligation, cf. Section 25, the level of guarantee shall be determined on the basis of:

- 1) the quantity of commercial fishing gear placed on the market which the producer has reported to the producer register, cf. Section 25(4);

- 2) the quantity of end-of-life commercial fishing gear taken back which the producer has reported to the producer register, cf. Section 27(1); and
- 3) the known or expected costs of handling end-of-life commercial fishing gear.

**Section 19.** Dansk Producentansvar shall decide on the time for the provision of the guarantee, cf. Section 17.

(2) The guarantee shall be provided in accordance with the instructions of Dansk Producentansvar. Producers must submit documentary evidence to Dansk Producer Responsibility demonstrating that the guarantee has been provided.

#### *Appropriate guarantee for collective schemes*

**Section 20.** Collective schemes may, on behalf of the producers included in the collective scheme, apply to Dansk Producentansvar for the producers' exemption from providing guarantees under Section 17, if the collective scheme represents an appropriate guarantee, cf. (2).

(2) Dansk Producentansvar shall decide on producers' exemption in accordance with (1), when the producers' combined market share in the collective scheme represents at least 25 per cent of the total or expected quantity of commercial fishing gear placed on the market in kilograms which is reported for all producers.

(3) It is a condition for decisions on exemption, cf. (2), that the collective scheme is liable throughout the allocation period, cf. Section 12(2), for the total obligation of all the producers who are members of the collective scheme in question.

(4) If a collective scheme in which producers are exempt from providing guarantees, does not pick up the allocated end-of-life commercial fishing gear transferred by the ports, cf. Section 14, and does not pay the proven expenses, cf. Section 15, producers in the collective scheme may not be exempted from providing guarantees in the two subsequent allocation periods.

**Section 21.** If a collective scheme where producers are exempted from providing guarantees under Section 20 is dissolved, Dansk Producentansvar shall decide in accordance with Sections 18 and 19 on the guarantee to be provided by the producers who were members of the dissolved collective scheme.

#### *Release of the guarantee to the producer*

**Section 22.** Dansk Producentansvar shall release the guarantee, cf. Section 17, to the producer when the producer has demonstrated that the allocated end-of-life commercial fishing gear has been taken back and separately handled, cf. Section 35.

(2) Dansk Producentansvar releases the guarantee for an earlier allocation period to the producer when the producer in a new allocation period has provided guarantees under Section 17, without prejudice to Section 23.

#### *Release of the guarantee to other producers, collective schemes and ports*

**Section 23.** If a producer is not a member of a collective scheme and has not collected the allocated quantities of end-of-life commercial fishing gear, cf. Section 12(1), Dansk Producentansvar may release the guarantee, cf. Section 17, in whole or in part depending on the producer's collected quantities, and distribute it proportionately to the producers and collective schemes that have collected greater quantities of end-of-life commercial fishing gear than allocated.

(2) If a producer or collective scheme does not pick up the allocated end-of-life commercial fishing gear transferred by the ports, cf. Section 14, and does not pay the proven expenses, guarantees provided pursuant to Sections 17-19 by Dansk Producentansvar to the port under Section 15 shall be released.

(3) If a producer or collective scheme which has provided guarantees ceases to operate in an allocation period, cf. Section 12(2), the guarantee shall be released proportionally by Dansk Producentansvar to the producer or collective scheme which via allocation in the allocation period takes over the obligation and picks up the remaining end-of-life commercial fishing gear.

## **Section III**

### **Other fishing gear**

#### Chapter 6

#### *Collection of other fishing gear*

**Section 24.** Producers who have placed on the market other fishing gear after 31 December 2024 shall, in accordance with Section 9h(1) of the Act, arrange, at their own expense, to take back the fishing gear at the end of its life and ensure that it is handled separately in accordance with Section 35.

(2) Take-back by a producer in accordance with (1) may be done in the following ways:

- 1) The producer collects the other end-of-life fishing gear from the end-user.
- 2) The end-user delivers the other end-of-life fishing gear to the producer or to a location or area designated by the producer.

(3) Take-back by the producer in accordance with (1) shall not be subject to remuneration from the end-user.

(4) Producers shall, if requested by an end-user, provide information on how take-back in accordance with (2) can be carried out.

## **Section IV**

### **Reporting**

#### Chapter 7

#### *Reporting*

#### *Reports on quantities placed on the market*

**Section 25.** Producers who place on the market commercial fishing gear from 31 March 2024 until 31 December 2024 shall, in connection with registration, cf. Section 4, report information to Dansk Producentansvar on the quantity of commercial fishing gear that the producer expects to place on the market in 2024.

(2) Producers who place on the market commercial fishing gear and other fishing gear shall report by 31 March 2025 and once a year by 31 March at the latest to Dansk Producentansvar information on the quantity of fishing gear containing plastic that the producer has placed on the market in the previous year.

(3) Producers who start placing on the market commercial fishing gear and other fishing gear after 31 December 2024 shall, in connection with registration, cf. Section 4, report information to Dansk Producentansvar on the expected quantity of fishing gear containing plastic placed on the market for that calendar year.

(4) If producers place on the market commercial fishing gear and other fishing gear without the quantities being reported to Dansk Producentansvar pursuant to (2), the producer shall report information on quantities of commercial fishing gear and other fishing gear placed on the market for the period when the producer has placed the fishing gear on the market, but has not complied with the reporting obligation.

(5) The reporting of quantities in accordance with (1) to (4) shall be expressed in kilograms and separately for the categories of commercial fishing gear and other fishing gear.

#### *Changes in the reporting of quantities placed on the market*

**Section 26.** A producer may make changes to reports pursuant to Section 25(2) and (4). Changes shall be reported aggregated for one calendar year together with the reports for the following calendar year. Changes may only be made in the calendar year preceding the reporting year. The changes may be due to the transfer of fishing gear containing plastic in order to be placed on the market outside Denmark or as a result of errors in previous reports.

(2) If fishing gear containing plastic is transferred to be placed on the market outside Denmark by someone other than the producer, it is a prerequisite for making the change, cf. (1), that the producer submits a declaration to Dansk Producentansvar from the company that has transferred the unused fishing gear, either in its original form or as an integral part of another fishing gear containing plastic.

(3) The reporting of quantities in accordance with (1) and (2) shall be expressed in kilograms and separately for the categories of commercial fishing gear and other fishing gear.

#### *Reports on quantities taken back*

**Section 27.** Producers shall, by 31 March 2026 and then once a year by 31 March at the latest, report information to Dansk Producentansvar on quantities of end-of-life fishing gear containing plastic, which the producer has taken back and separately waste-treated, cf. Section 35, in the previous year.

(2) Producers who place on the market commercial fishing gear shall also report to Dansk Producentansvar at the latest by 31 March 2026 and thereafter once a year at the latest by 31 March quantities of end-of-life commercial fishing gear taken back that has been recycled in the previous year.

(3) The reporting of quantities in accordance with (1) and (2) shall be indicated in kilograms and for (1) separately for the categories of commercial fishing gear and other fishing gear.

**Section 28.** Producers who, via allocation, are required to pick up end-of-life commercial fishing gear at the ports, cf. Section 12(1), shall, by 31 March 2026 at the latest and thereafter once a year by 31 March at the latest, report information to Dansk Producentansvar on the quantity of end-of-life commercial fishing gear collected from the allocated port in the previous year.

(2) The reporting of quantities in accordance with (1) shall be expressed in kilograms.

#### *General requirements for reports*

**Section 29.** Reports pursuant to Sections 25-28 shall be made digitally and in accordance with the instructions of Dansk Producentansvar.

## **Section V**

## Collective schemes

### Chapter 8

#### *Collective schemes*

**Section 30.** A collective scheme may take over the following obligations for producers:

- 1) Obligations under Section 9h(1) of the Act.
- 2) Registration and reporting of information, cf. Sections 5 and 8, and Sections 25-28.
- 3) Obligations to provide information under Section 38.
- 4) Guarantees provided to Dansk Producentansvar pursuant to Section 17 for all participants in the collective scheme.
- 5) Taking back and handling of end-of-life commercial fishing gear and other fishing gear, including allocated quantities, cf. Sections 11-13 and 15, and Sections 24 and 35.
- 6) Submission of information to Dansk Producentansvar.

(2) Where no guarantee has been provided for commercial fishing gear or the guarantee provided is insufficient and the collective scheme fails to fulfil the obligation on behalf of the producers concerned who are members of the scheme, the obligations referred to in (1) shall be fulfilled by each producer of commercial fishing gear. In that case, each producer of commercial fishing gear shall be allocated end-of-life commercial fishing gear in accordance with Sections 11 and 12.

(3) If a collective scheme provides guarantees on behalf of producers of commercial fishing gear pursuant to (1) subparagraph 4 or a producer of commercial fishing gear leaves the collective scheme before the end of an allocation period, cf. Section 12(2), the guarantees of the collective scheme shall cover the financing of the producer's remaining waste handling obligation until the end of the relevant allocation period.

**Section 31.** A collective scheme shall ensure that:

- 1) any producer of fishing gear containing plastic shall have equal access to participate in the collective scheme and shall be treated on equal terms, taking into account his market share; and
- 2) sensitive competitive information is not disclosed to other companies.

**Section 32.** In order for the obligations referred to in Section 30(1) to be transferred to the collective scheme, a collective scheme shall be established in the producer register, cf. Section 3, with an indication of the name of the scheme, address, telephone number, email address and CVR number, without prejudice to (2).

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

**Section 33.** Collective schemes shall modulate the financial contribution of producers to cover operational costs related to the handling of end-of-life fishing gear containing plastic in the collective scheme in accordance with Annex 4.

**Section 34.** Collective schemes shall publish on their website information on

- 1) ownership;
- 2) producers in the scheme;
- 3) indicative financial contribution to cover operational costs of the scheme from producers per tonne of product placed on the market, as well as parameters for any discounts; and
- 4) the selection procedure of the collective scheme for waste handling operators.

## Section VI

### Waste treatment and self-monitoring, etc.

#### Chapter 9

##### *Waste treatment*

**Section 35.** End-of-life commercial fishing gear and other fishing gear taken back must be waste-treated in accordance with the Order on waste, the Order on waste regulations, fees and operators etc. and other waste legislation.

#### Chapter 10

##### *Self-monitoring Producers' self-monitoring*

**Section 36.** Producers must carry out self-monitoring in order to ensure that:

- 1) they finance take-back as well as handling of end-of-life commercial fishing gear and other fishing gear in accordance with the requirements of Section 13, Section 24 and Section 35;
- 2) they finance the obligation to provide information to end-users of commercial fishing gear and other fishing gear in accordance with the requirements of Section 38;
- 3) the quality of the collected and reported data on commercial fishing gear and other fishing gear placed on market and collected and treated end-of-life commercial fishing gear and other fishing gear complies with the requirements of Sections 25-28; and
- 4) they comply with the requirements of Regulation No 1013/2006/EC of the European Parliament and of the Council of 14 June 2006 on shipments of waste, as amended.

(2) The producer must conduct self-monitoring in accordance with (1) at least once a year.

(3) Producers must draw up a written description of the procedure and documentary evidence for conducting self-monitoring referred to in (1).

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

(5) Producers who entrust third parties with the task of collecting and handling end-of-life fishing gear containing plastic shall use weighing notes or other documentary evidence from the third party as part of their self-monitoring of data on collected and handled end-of-life fishing gear and other fishing gear.

(6) Producers shall be exempted from the obligation of self-monitoring to the extent that the obligation is taken over by a collective scheme, cf. Section 37.

##### *Collective schemes' self-monitoring*

**Section 37.** Collective schemes must carry out self-monitoring in order to ensure:

- 1) that the contributions received from the collective scheme members cover the financing of the collected quantities which the collective scheme must handle, cf. Section 13, 24 and 35, and the obligation to provide information to end-users, cf. Section 38;
- 2) that the contributions received from the producers of the collective scheme have been modulated in accordance with Annex 4;
- 3) that the quality of the data collected and reported by the collective scheme on behalf of the producers, cf. Section 30(1)(2), is in line with the requirements of Sections 25-28; and
- 4) that the quality of the data that the collective scheme receives from producers and transmits to Dansk Producentansvar on quantities placed on the market is in line with the requirements of Sections 25 and 26.

- (2) Collective schemes must conduct self-monitoring in accordance with (1) at least once a year.
- (3) Collective schemes must draw up a written description of the procedure and documentary evidence for carrying out self-monitoring.
- (4) The description referred to in paragraph 3 shall be available to the Danish Environmental Protection Agency on request.
- (5) Collective schemes that entrust third parties with the task of collecting and handling end-of-life fishing gear containing plastic must use weighing notes or other documentary evidence from the third party as part of their self-monitoring of data on collected and handled end-of-life fishing gear and other fishing gear.

## Chapter 11

### *Information for end-users*

**Section 38.** Producers shall ensure that end-users of fishing gear containing plastic are informed of the following through sales and information material, including through instructions for use or at the point of sale:

- 1) End-of-life fishing gear containing plastic shall be collected separately.
- 2) Where and how end-users can dispose of their end-of-life fishing gear, including information on established take-back and collection schemes.
- 3) The potential impact on the environment, including the marine environment, of dumping end-of-life fishing gear containing plastic in the environment or by not using established take-back and collection schemes.

## **Section VII**

### **Fees**

## Chapter 12

### *Fees*

#### *Fee for registration, etc.*

**Section 39.** For registration in the producer register, cf. Section 4, a one-off fee of DKK 1 000 per producer shall be paid to Dansk Producentansvar. If the producer is already registered in the producer register pursuant to one of the following Orders, a one-off fee of DKK 500 shall be paid:

- 1) Order on batteries and accumulators and end-of-life batteries and accumulators.
  - 2) Order on the handling of waste in the form of motor vehicles, the collection of environmental contributions and the payment of a scrapping compensation (the Scrap Car Order).
  - 3) Order on the placing on the market of electrical and electronic equipment and the handling of such equipment waste (Order on electronic waste)
  - 4) Order on extended producer responsibility for filters for tobacco products that are single-use plastic products.
  - 5) Order on the registration and reporting of packaging.
- (2) Dansk Producentansvar may charge an hourly fee for the treatment of cases concerning guarantees cf. Section 20.
- (3) Dansk Producentansvar may also charge an hourly fee if a producer or collective scheme gives rise to extraordinary administrative procedures in connection with the guarantees.

### *Administrative fee*

**Section 40.** For the administration of the allocation scheme for end-of-life commercial fishing gear, cf. Chapter 4, producers pay an annual fee to Dansk Producentansvar. The fee shall be calculated in proportion to the quantity of commercial fishing gear placed on the market during the previous calendar year.

(2) For other administrative tasks carried out by Dansk Producentansvar under this Order, all producers of fishing gear containing plastic shall pay an annual fee. The fee shall be calculated in proportion to the quantity of fishing gear containing plastic placed on the market during the previous calendar year. However, the fee shall be calculated for the period from 31 March 2024 to 31 December 2024 in proportion to the quantity of fishing gear containing plastic expected to be placed on the market in 2024.

(3) Where a newly registered producer has not placed on the market fishing gear containing plastic in the previous calendar year, a fee shall be paid instead of the fees referred to in (1) and (2) for the quantity of fishing gear containing plastic expected to be placed on the market by that producer in that calendar year. If the quantity placed on the market differs from the expected quantity declared, the fee shall be adjusted in accordance with the quantity corresponding to the difference.

(4) The fees in accordance with paragraphs 1 and 2 together or paragraph 3 respectively shall amount to at least DKK 250 annually.

(5) Where a producer or a collective scheme gives rise to additional administrative procedures in connection with the allocation scheme, cf. (1), a separate hourly fee shall be charged.

**Section 41.** The fees, cf. Sections 39 and 40, shall correspond to the actual costs incurred by Dansk Producentansvar in connection with the performance of tasks laid down in this Order. The fees are charged by Dansk Producentansvar.

(2) The Danish Environmental Protection Agency shall determine annually the fee rates specified in Section 39(2) and (3) and Section 40(1) to (3) and (5) on the basis of the budget and the setting of the fee level by Dansk Producentansvar. Dansk Producentansvar publishes the fee rates on their website [www.producentansvar.dk](http://www.producentansvar.dk).

## **Section VIII**

### **Administrative provisions, etc.**

#### Chapter 13

#### *Dansk Producentansvar Storage of Documents*

**Section 42.** The Data Centre for Circular Economy shall ensure that documents that it has received or sent as part of administrative proceedings in connection with its handling of cases in which a decision is taken pursuant to this Order, and which have an impact on a case or other proceedings, are stored in such a way that, inter alia, in connection with supervision, request for access to documents or appeal proceedings, it is possible to identify and retrieve them. The same applies to internal documents which are in final form.

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

#### *Administrative cooperation and exchange of documents*

**Section 43.** Dansk Producentansvar shall cooperate with the Danish Environmental Protection Agency and, in that respect, exchange information and documents relevant to producers' compliance with their obligations regarding fishing gear containing plastic, in accordance with the Act and this Order.

**Section 44.** Dansk Producentansvar shall, within the framework of the data protection rules and where appropriate, cooperate with relevant authorities and producer registers in other EU Member States as well as the EU Commission and, in that respect, exchange information and documents relevant to producers' compliance with their obligations regarding fishing gear containing plastic, in accordance with the Act and this Order, including information on quantities placed on the market and taken back.

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

#### *Annual reporting obligation to the Danish Environmental Protection Agency*

**Section 45.** Dansk Producentansvar must report the following information to the Danish Environmental Protection Agency once a year and no later than 1 June:

- 1) The total quantity of commercial fishing gear and other fishing gear that producers have placed on the market in the previous calendar year and reported to Dansk Producentansvar, cf. Section 25(2) and (4) and Section 26(1).
- 2) The total quantity of end-of-life commercial fishing gear and other fishing gear that producers have taken back and separately handled in the previous calendar year and reported to Dansk Producentansvar, cf. Section 27(1).
- 3) The achieved proportion of recycling of end-of-life commercial fishing gear taken back which producers have reported to Dansk Producentansvar, cf. Section 27(2).

(2) The Danish Environmental Protection Agency may lay down guidelines for the reporting by Dansk Producentansvar.

### Chapter 14

#### *Supervision and right of appeal Supervision*

**Section 46.** The Danish Environmental Protection Agency shall supervise compliance with the provisions of this Order.

(2) The Danish Environmental Protection Agency, as a supervisory authority within the framework of the data protection rules, shall, where appropriate, cooperate with relevant authorities and producer registers in other EU Member States as well as the EU Commission and, in that respect, exchange information and documents relevant to producers' compliance with their obligations regarding fishing gear containing plastic, in accordance with the Act and this Order, including on the results of the supervision.

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

**Section 47.** The Danish Environmental Protection Agency may require a producer to inform and demonstrate

- 1) how the producer takes back end-of-life commercial fishing gear and other fishing gear in accordance with Section 13(1) to (4) and Section 24(1) to (3) from the holders of waste;
- 2) where and how the end-of-life fishing gear and other fishing gear taken back are waste-treated in accordance with Section 35; and
- 3) how the producer fulfils his obligation to provide information to end-users in accordance with Section 38.

(2) The Danish Environmental Protection Agency may also ask an economic operator for additional information and documentary evidence necessary to assess the economic operator's compliance with the rules on the take-back and handling of end-of-life fishing gear containing plastic in this Order. (3) The provision of information and documentary evidence pursuant to (1) and (2) shall be made digitally and in accordance with the instructions of the Danish Environmental Protection Agency.

### *Right of appeal*

**Section 48.** Decisions taken by the Dansk Producentansvar may be appealed to the Danish Environmental Protection Agency, cf. Section 90(3) of the Act. The time limit for appeal shall be 4 weeks from the date on which the decision is notified. The appeal must be in writing.

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

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

### Chapter 15

#### *Penalties and entry into force*

#### *Penalties*

**Section 49.** Unless a higher penalty is imposed pursuant to other legislation a fine will be imposed for those who

- 1) fail to register in accordance with Section 4 or provide false or misleading information pursuant to Section 5(1) and (2) and Section 6(3);
- 2) fail to notify changes to the information registered in Section 5(1), cf. Section 8(1);
- 3) fail to notify the cessation of being a producer of fishing gear containing plastic, cf. Section 9;
- 4) fail to appoint a representative in another EU Member State in accordance with Section 10(1), where the producer in question places on the market fishing gear containing plastic or fails to appoint the representative by written mandate, cf. Section 10(2);
- 5) fail to take back, collect or pick up allocated commercial fishing gear, including any end-of-life commercial fishing gear, that is transferred from the allocated port to the producer, cf. Section 13(1) or takes back in violation of Section 13(2) to (4);
- 6) fail to inform an end-user of commercial fishing gear on how take-back under Section 13(2) can be carried out, cf. Section 13(5);
- 7) place on the market commercial fishing gear without having provided guarantees in accordance with Sections 17 and 18 and Section 19(1) as well as in accordance with the instructions pursuant to Section 19(2), subparagraph 1;
- 8) fail to submit documentary evidence that the guarantee has been provided, cf. Section 19(2), subparagraph 2;
- 9) fail to take back end-of-life other fishing gear, cf. Section 24(1) or take back in violation of Section 24(2) and (3);
- 10) fail to inform an end-user of other fishing gear on how to take back under Section 24(2), cf. Section 24(4);
- 11) fail to report information or provide false or misleading information pursuant to Sections 25-28, or fail to report digitally and according to Dansk Producentansvar's instructions in accordance with Section 29;
- 12) as a collective scheme fail to ensure compliance with the requirements of Sections 30(1) and 31;
- 13) as a collective scheme fail to modulate producers' financial contributions in accordance with Annex 4, cf. Section 33,
- 14) as a collective scheme fail to publish information on the collective scheme's website, cf. Section 34;
- 15) fail to ensure waste treatment of end-of-life fishing gear containing plastic taken back in accordance with Section 35;
- 16) fail to carry out self-monitoring or prepare a written description of the procedure and documentary evidence for conducting self-monitoring and make it available to the supervisory authority in accordance

with the requirements of Section 36(1) to (5) and Section 37;

17) fail to provide information or provide false information to the end-users of fishing gear containing plastic, cf. Section 38; or

18) fail to comply with the supervisory authority's injunctions to present information and documentary evidence pursuant to Section 47(1) and (2), including to provide information and documentary evidence in accordance with Section 47(3).

(2) The penalty may increase to 2 years' imprisonment if the infringement was committed wilfully or through gross negligence, and said infringement:

- 1) caused damage to or endangered the environment; or
- 2) achieved or was intended to achieve a financial benefit for the party concerned or for others, including through savings.

(3) Companies etc. (legal persons) may be rendered criminally liable in accordance with the provisions in Chapter 5 of the Criminal Code.

#### *Provisions for entry into force*

**Section 50.** This Order shall enter into force on 31 December 2024, without prejudice to (2).

(2) Sections 3 and 4, 5-9, 12, 17(2), 18, 19(2), 25(1) and (5), 29, 39, 40(2) and (4), 41(1), 42 to 44, 46, 47(2) and (3), 48 and 49(1)(1) and (11), (2) and (3), of the Order shall enter into force on 31 March 2024.

*Ministry of the Environment, xxxx*

Magnus Heunicke

/ Janne Birk Nielsen

#### **Annex 1**

**Information to be provided in connection with the registration of producers or their representatives, cf.**

#### **Section 5(1).**

- 1) The company's name under which the company places on the market fishing gear containing plastic.
- 2) Address of the company (street name and number, postal code and city, country and country code), URL, telephone number and email address.
- 3) For foreign companies that are not registered in the CVR register, the company's VAT number, European VAT identification number or national VAT registration number should be provided instead of CVR number.
- 4) The company's contact person who must be employed by the company: Name, phone number and email address.
- 5) Any representative of the company in Denmark: Name, address (street name and number, postal code, city

and country), e-mail address, CVR number and telephone number. If the representative is a legal person, the name, address (street name and number, postal code and city), telephone number and email address of the representative must also be provided.

6) The sales method used, e.g. distance selling.

7) Indication of affiliation to a collective scheme.

8) Declaration that the information provided in the request for registration is correct.

To the extent that Dansk Producentansvar can retrieve the information via the CVR register, only CVR number shall be provided instead of Nos 1 and 2.

A producer of commercial fishing gear or his representative shall also indicate the port(s) listed in Annex 2 where the producer or his representative is engaged in commercial activities.

## **Annex 2**

### **List of ports for the allocation of quantities of end-of-life commercial fishing gear, cf. Section 12(1)**

The following ports are included in Dansk Producentansvar's allocation to producers of commercial fishing gear in accordance with Section 12(1):

1. Port of Skagen
2. Port of Hirtshals
3. Port of Hanstholm
4. Port of Thyborøn
5. Port of Thorsminde
6. Thorup Beach
7. Port of Hvide Sande
8. Port of Grenaa
9. Port of Strandby
10. Port of Esbjerg
11. Port of Rømø
12. Port of Østerby
13. Port of Gilleje
14. Port of Bagenkop
15. Port of Nexø
16. Port of Rønne

## **Guidelines for the calculation of the allocation of end-of-life commercial fishing gear, cf. Section 12(1)**

### **1. Market share of producers**

A producer's market share represents the producer's annual proportion of the total quantities of commercial fishing gear placed on the market in the previous calendar year which all producers have reported to Dansk Producentansvar's producer register.

#### ***1.1. Producers who start placing on the market commercial fishing gear during a calendar year***

For producers who start placing on the market commercial fishing gear during a calendar year, no market share and allocation shall be calculated in that calendar year.

In the following calendar year, the market share and allocation shall be calculated on the basis of the quantity placed on the market in the calendar year in which the placing on the market of commercial fishing gear starts. The quantity is multiplied by two.

#### ***1.2. Cessation of placing on the market in a calendar year***

Where a producer ceases to place commercial fishing gear on the market in a calendar year, no market share and allocation shall be calculated in the following calendar year.

### **2. Allocation**

Dansk Producentansvar shall allocate to the producer or the collective scheme that has taken over the producer's obligations, cf. Section 30, a quantity of end-of-life commercial fishing gear that the producer must collect, including from the ports listed in Annex 2, and then ensure waste treatment thereof in accordance with Section 35.

The allocation is made for the period specified in Section 12(2) on the basis of the market share.

At the time of the allocation, Dansk Producentansvar carries out a post-regulation that takes into account whether the quantities of end-of-life commercial fishing gear taken back by producers during the previous calendar year correspond to what they were obliged to take back. If the producer has taken back larger quantities than the allocated ones and has received compensation via released guarantees under Section 23(1), these quantities shall not be included in the post-regulation.

In addition, account shall be taken of any errors in the allocation for the previous allocation period which have been identified after the notification of the allocation of the previous period and which have not led to a change in the allocation. This applies regardless of whether the errors are due to incorrect or missing reports or other errors in the allocation, including errors found in connection with complaints.

At the time of the allocation, Dansk Producentansvar seeks to allocate the ports in Annex 2 in a geographically reasonable manner. This means that a producer shall be, as far as possible, allocated a port, cf. Section 12(1), that the producer has registered as the port(s) in which the producer has commercial activities, cf. Section 5(1) and Annex 1. If Dansk Producentansvar so decides, producers shall be obliged to pick up end-of-life commercial fishing gear from other ports in Annex 2 than those where producers engage in commercial activities.

## Criteria, method and size ratios for the modulation of contributions for fishing gear containing plastic, cf. Section 33

### 1. Commercial fishing gear

#### 1.1. Criteria

##### 1.1.1. Durability

A product meets the criterion if the product has an expected durability of at least 8 years for its intended use.

A producer can demonstrate the expected durability of a product in, for example, a product sheet or similar.

##### 1.1.2. Reusability

A product meets the criterion if it is expected that at least 10 per cent of the weight of the product (product weight is exclusive lead) can be reused at the end the whole fishing gear's life. The expected reusability of each product is based on previously proven experience with the reusability of similar products.

A producer can demonstrate the expected reusability of a product in, for example, a product sheet or similar.

##### 1.1.3. Reparability

A product meets the criterion if the product can be repaired. Repaired means that the product can be separated and the individual components of the gear are interchangeable.

A producer can demonstrate the reparability of a product in, for example, a product sheet or similar.

##### 1.1.4. Recyclability (actual recycling)

A product meets the criterion if at least 80 per cent of the product's weight consists of mono-materials that can be recycled after expected use.

For example, a producer can demonstrate the recyclability of a product through an agreement, declaration or similar from a treatment facility on the product's recyclability and expected actual recycling rate.

#### 1.2. Method and proportions of modulation:

A product shall be divided into one of the following groups according to the number of criteria (1.1.1-1.1.4) that the product meets:

- Group 1: Meets all four criteria (1.1.1-1.1.4)
- Group 2: Meets three of the criteria (1.1.1-1.1.4)
- Group 3: Meets two or fewer of the criteria (1.1.1-1.1.4)

The collective scheme provides each producer who places on the market one or more products in Group 3 with a malus (additional cost) in the form of 20 per cent of the individual producer's calculated operational costs, cf. Section 2, No 13, for waste handling of all of his products falling within Group 3.

The collective scheme uses the additional revenues from the charged malus to cover the operational costs for waste handling of Group 1 products in whole or in part.

The remaining operational costs for waste handling of Group 1 products shall be allocated according to the proportions of quantities placed on the market of that group's producers.

## **2. Other fishing gear**

### 2.1. Criteria

#### 2.1.1. Durability

A product used for the farming of fish and shellfish in marine areas (aquaculture fishing gear) fulfils the criterion if the product has an expected durability of at least 8 years for the use of the fishing gear.

Products other than the above meet the criterion if the product has an expected durability of at least 12 years for the use of the fishing gear.

A producer can demonstrate the expected durability of a product in, for example, a product sheet or similar.

#### 2.1.2. Reusability

A product that constitutes a yarn, pots, traps or hook lines made of 100 hooks (or more) for fishing meets the criterion if at least 50 per cent of the weight of the product is expected to be reusable at the end of its life.

A product used for the farming of fish and shellfish in marine areas (aquaculture fishing gear) fulfils the criterion if at least 10 per cent of the weight of the product is expected to be reusable at the end of its life.

Products other than the above meet the criterion if at least 30 per cent of the weight of the product is expected to be reusable at the end of its life.

The expected reusability of each product is based on previously proven experience with the reusability of similar products. A producer can demonstrate the expected reusability of a product in, for example, a product sheet or similar.

#### 2.1.3. Reparability

A product meets the criterion if the product can be repaired. Repaired means that the product can be separated and the individual components of the gear are interchangeable.

A producer can demonstrate the reparability of a product in, for example, a product sheet or similar.

#### 2.1.4. Recyclability (actual recycling)

A product that constitutes a yarn, pots, traps or hook lines of 100 hooks (or more) for fishing meets the criterion if at least 80 per cent of the weight of the product consists of mono-materials that can be recycled after expected use.

A product used for fish and shellfish farming in marine areas (aquaculture fishing gear) fulfils the criterion if at least 80 per cent of the weight of the product consists of mono-materials that can be recycled after expected use.

Products other than the above meet the criterion if at least 30 per cent of the weight of the product consists of mono-materials that can be recycled after expected use.

For example, a producer can demonstrate the recyclability of a product through an agreement, declaration or similar from a treatment facility on the product's recyclability and expected actual recycling rate.

## 2.2. Method and proportions of modulation:

A product shall be divided into one of the following groups according to the number of criteria (2.1.1-2.1.4) that the product meets:

- Group 1: Meets all four criteria (2.1.1-2.1.4)
- Group 2: Meets three of the criteria (2.1.1-2.1.4)
- Group 3: Meets two or fewer of the criteria (2.1.1-2.1.4)

The collective scheme provides each producer who places on the market one or more products in Group 3 with a malus (additional cost) in the form of 20 per cent of the individual producer's calculated operational costs, cf. Section 2, No 13, for waste handling of all of his products falling within Group 3.

The collective scheme uses the additional revenues from the charged malus to cover the operational costs for waste handling of Group 1 products in whole or in part.

The remaining operational costs for waste handling of Group 1 products shall be allocated according to the proportions of quantities placed on the market of that group's producers.

DRAFT