

# Statutory Order on batteries and accumulators and waste batteries and accumulators<sup>i,ii</sup>

Pursuant to section 9 u(3)-(7), section 9 v(2)-(4), section 9 w(1) para 3 and (2)-(4), section 9 x(1)-(3), section 9 y, section 9 z(2) and (3), section 9 æ, section 9 ø(1) and (4), section 44(1), section 45(2) and (6), section 51(3), section 53, section 67, section 80(1) and (2), and section 110(3) and (4) of the Danish Environmental Protection Act, cf. Consolidated Act no. 1757 of 22 December 2006, as amended by Act no. 509 of 17 June 2008 and Act no. 513 of 12 June 2009, pursuant to section 1 (2) of the Public Administration Act, cf. Consolidated Act no. 1365 of 7 December 2007 and section 1 (3) of Act on Public Access to Documents in Administrative Files no 572 of 15 December 1985, as amended by Act no. 552 of 24 June 2005, and after negotiations with the Minister for Justice, the following provisions shall be laid down:

## Scope and definitions

**1.-(1)** This Order shall apply to all types of batteries and accumulators regardless of form, volume, weight, material composition and use, cf. however section 2.

**(2)** The Order shall also apply to the collection, treatment, recycling and disposal of waste batteries and accumulators.

**(3)** The Order shall furthermore apply to registration of

- 1) producers and importers placing batteries and accumulators on the market,
- 2) municipal collection points for the pick-up by producers and importers of waste portable batteries and accumulators,
- 3) collective schemes, and
- 4) reception centres.

**(4)** The Order shall finally apply to the information duty of producers and importers of batteries and accumulators.

**(5)** Unless otherwise stated in this Order, other legislation on waste management shall also apply.

**(6)** In respect of the import and export of waste batteries and accumulators applicable legislation on import and export of waste shall apply.

**2.-(1)** The Order shall not cover batteries and accumulators used in

- 1) equipment connected with the protection of Denmark's essential security interests, arms, munitions and war material, and other products that are intended for specifically military purposes; or
- 2) equipment designed to be sent into space.

**3.-(1)** For the purpose of this Order the following definitions shall apply:

- 1) Battery or accumulator: Any source of electrical or electronic energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or consisting of one or more secondary battery cells (rechargeable).
- 2) Battery pack: Any set of batteries and accumulators that are connected together and/or encapsulated within an outer casing so as to form a complete unit that the end-user is not intended to split up or open
- 3) Treatment: As defined in the Statutory Order on waste.
- 4) Automotive battery or accumulator: Any battery or accumulator used for automotive starter, lighting or ignition power.
- 5) Disposal: As defined in the Statutory Order on waste.
- 6) Portable battery or portable accumulator: Any battery or button cell battery or any battery pack or accumulator that
  - a) is sealed,
  - b) can be hand-carried and
  - c) is neither an industrial battery or accumulator nor an automotive battery or accumulator.
- 7) Distributor: Any person who provides batteries and accumulators on a commercial basis to an end-user.
- 8) Recycling: Reprocessing in a production process of waste materials for the original purpose or for other purposes, but excluding energy recovery.
- 9) Impermeable area: Area with tight surface layer which can resist impacts from liquids without danger of leaching to soil and groundwater.
- 10) Industrial battery or accumulator: Any battery or accumulator designed for exclusively industrial or professional uses or used in any type of electric vehicle.
- 11) Button cell battery: Any small round portable battery or any small round portable accumulator whose diameter is greater than its height, for use in special devices such as hearing aids, wrist watches, small portable equipment, or back-up power.
- 12) Producer or importer: Any person in Denmark who places batteries or accumulators on the market on a commercial basis in Denmark, including such batteries or accumulators that are incorporated into equipment or vehicles. Placing on the market shall mean supplying or making available, whether in return for payment or free of charge, to a third party, including import into Danish tariff area, cf. the Danish Environmental Protection Act, section 9t para 8.
- 13) Separate management: Collection, transport, recovery and disposal of waste batteries and accumulators.
- 14) Equipment: Any kind of electrical or electronic equipment as defined in the Danish Environmental Protection Act, section 9 i(1) para 1, which is entirely or partially driven by or which may be driven by batteries or accumulators.
- 15) Waste battery or accumulator: Any battery or any accumulator, which is waste in pursuance of the Statutory Order on waste.

(2) When this Order refers to “quantities” or “kilos” reference is made to the exact weight of batteries or accumulators in kilos including electrolyte but excluding the weight of the equipment into which the battery or the accumulator is incorporated, and excluding packaging, instructions for use, manuals and similar.

## Producer register for producers and importers

**4.-(1)** Dansk Producentansvarssystem (DPA-System) shall be responsible for an electronic producer register covering:

- 1) producers and importers placing all types of batteries and accumulators on the market, cf. sections 6 and 11,
- 2) municipal collection points for the pick-up by producers and importers of waste portable batteries and accumulators, cf. section 19(1),
- 3) collective schemes, cf. section 34, and
- 4) reception centres, cf. section 12(3).

(2) The register shall be public and shall be found on the website of DPA-System, [www.dpa-system.dk](http://www.dpa-system.dk).

**5.-(1)** Producers and importers placing batteries and accumulators on the market in Denmark shall register with DPA-System cf. section 6 no later than two weeks before starting to place products on the market. Producers and importers placing portable batteries and accumulators on the market shall also register with the Danish Commerce and Companies Agency, cf. section 7.

**6.-(1)** Producers and importers of batteries and accumulators shall register electronically on the DPA-System website, [www.dpa-system.dk](http://www.dpa-system.dk). This registration shall contain the information stipulated in Annex 2.

(2) DPA-System shall confirm registration in the producer register towards the producer or the importer no later than two weeks after registration.

(3) Producers and importers shall report changes in registered information to DPA-System no later than one month after the changes have occurred.

**7.-(1)** Producers and importers of portable batteries and accumulators shall register with the Danish Commerce and Companies Agency, cf. subsection (2) below.

(2) The producer or the importer makes this registration by filling in a digital registration form on [www.virk.dk](http://www.virk.dk).

(3) The Danish Commerce and Companies Agency shall after receipt of the form register the producer or the importer and electronically transfer this information to the Danish Tax and Customs Administration.

(4) The Danish Tax and Customs Administration shall confirm registration towards the producer or the importer.

(5) Producers and importers shall report changes in registered information to the Danish Commerce and Companies Agency no later than eight days after the changes have occurred.

(6) The Danish Commerce and Companies Agency shall after receipt of changes cf. subsection (5) above electronically transfer this information to the Danish Tax and Customs Administration.

(7) The Danish Tax and Customs Administration shall electronically transfer this registration of the producer or the importer as well as changes hereto to DPA-System according to specific agreement.

**8.-(1)** If a producer or an importer ceases to be a producer or an importer of batteries and accumulators, the producer or the importer shall inform DPA-System in writing. DPA-System shall subsequently ensure deregistration of the producer or the importer.

(2) If a producer or an importer ceases to be a producer or an importer of batteries and accumulators, the producer or the importer shall furthermore deregister with the Danish Commerce and Companies Agency by using a digital form on [www.virk.dk](http://www.virk.dk).

(3) The Danish Commerce and Companies Agency shall after receipt and registration of the cease of the producer or the importer transfer this information to the Danish Tax and Customs Administration.

(4) The Danish Tax and Customs Administration shall electronically transfer this registration of the cease of the producer or the importer to DPA-System according to specific agreement.

**9.-(1)** Distributors shall not buy and sell batteries and accumulators from producers and importers who have not registered according to section 6.

**10.-(1)** DPA-System can decide whether a producer or an importer is covered by the rules on producer responsibility pursuant to this Order and is thus under the duty to register in pursuance of section 6.

## Duty of reporting

**11.-(1)** Producers and importers shall once a year no later than 31 March, and the first time no later than 31 March 2010, report information to DPA-System about quantities of industrial batteries and accumulators and automotive batteries and accumulators placed on the market in the previous calendar year distributed on the categories stipulated in Annex 3.

DPA-System can also require information about quantities of industrial batteries and accumulators and automotive batteries and accumulators expected to be placed on the market in the year in question.

**(2)** Producers and importers starting to place batteries and accumulators on the market after 1 January 2009 shall in connection with the registration cf. section 6 report information to DPA-System about quantities of batteries and accumulators distributed on portable batteries and accumulators, industrial batteries and accumulators, and automotive batteries and accumulators expected to be placed on the market in the calendar year in question.

**(3)** Corrections in reports under subsection (2) above shall be reported jointly for a calendar year together with reports for the following calendar year.

**12.-(1)** Producers and importers shall report the following information to DPA-System every year no later than 31 March, and the first time no later than 31 March 2010:

- 1) Take-back schemes established in pursuance of the Danish Environmental Protection Act section 45(6) as well as quantities of waste batteries and accumulators taken back under such schemes in the previous calendar year distributed on portable batteries and accumulators, industrial batteries and accumulators and automotive batteries and accumulators.
- 2) Agreements entered under section 23(2).
- 3) Agreements entered under sections 27 and 33 and quantities of batteries and accumulators covered by such agreement.
- 4) Quantities of waste portable batteries and accumulators picked up from the municipal collection points in the previous calendar year, cf. section 19(1), or collected elsewhere in the municipality according to agreement entered in pursuance of section 23(2).

**(2)** Producers and importers of automotive batteries and accumulators shall report addresses of reception centres established in pursuance of section 29(1) or (2) to DPA-System who shall publish them on its website. Reporting shall be effectuated no later than 31 March 2009. Producers and importers shall report any changes in reports to DPA-System no later than two weeks after the changes have occurred.

**(3)** Producers and importers of automotive batteries and accumulators starting to place automotive batteries and accumulators on the market after 1 January 2009 shall in connection with the registration cf. section 6(2) register addresses of reception centres in pursuance of section 29 to DPA-System.

**13.-(1)** Reporting in pursuance of sections 11-12 shall be done according to the directions of DPA-System as approved by the Danish Environmental Protection Agency.

**14.-(1)** DPA-System shall report annually no later than 1 June the following information to the Danish Environmental Protection Agency:

- 1) quantities of batteries and accumulators placed on the market by producers and importers in the previous calendar year,
- 2) quantities of waste batteries and accumulators taken back in the previous calendar year,
- 3) quantities of waste batteries and accumulators sent for treatment in the previous calendar year,
- 4) recycled quantities, and
- 5) rates of recycling achieved, cf. section 41.

**(2)** The Danish Environmental Protection Agency can decide the form of this reporting.

**(3)** Section 14(1) paras 1-3 shall be reported for the first time no later than 1 June 2010. Section 14(1) paras 4-5 shall be reported for the first time 1 June 2011.

**15.-(1)** DPA-System can decide whether batteries or accumulators placed on the market belong to the categories of portable, industrial, or automotive batteries or accumulators.

## Reporting and payment of portable batteries and accumulators

**16.-(1)** Producers and importers shall no later than 15 February 2010 report information electronically on [www.skat.dk](http://www.skat.dk) to the Danish Tax and Customs Administration about quantities of portable batteries and accumulators placed on the market in 2009, cf. subsections (2)-(4) below. Subsequently, the producer and the importer shall every year no later than 15 February report information to the Danish Tax and Customs Administration about quantities of portable batteries and accumulators placed on the market in the previous calendar year, distributed on the categories stipulated in Annex 3.

**(2)** Quantities placed on the market, cf. section 3(1) para 12 shall be calculated as quantities of portable batteries and accumulators that the producer or the importer:

- 1) has manufactured on a commercial basis,
- 2) has imported from abroad,
- 3) has had in stock at the start of the calendar year, or
- 4) has entered into the stock as returned goods cf. subsection (3) para 5 below.

**(3)** The producer or the importer can in the statement reduce quantities of portable batteries and accumulators placed on the market with:

- 1) products for own consumption,
- 2) products subject to export out of the country,
- 3) products reprocessed into industrial batteries and accumulators,
- 4) products lost with the producer or the importer or during transport due to fire or similar,

- 5) products returned to the producer or the importer if the price of the product including payment under section 9 u(2) of the Danish Environmental Protection Act is refunded to the purchaser, and
- 6) stock level of the producer or the importer of portable batteries or accumulators at the end of the calendar year.
- (4) The producer or the importer can furthermore in the statement reduce quantities of portable batteries and accumulators placed on the market with the quantity of portable batteries and accumulators sold to another company and that this other company has exported out of the country or reprocessed into industrial batteries or accumulators.
- (5) Reductions pursuant to subsection (4) above are conditional upon a presentation by the producer or the importer of a declaration from the company having exported the portable batteries and accumulators out of the country or having reprocessed them into industrial batteries or accumulators. This declaration shall contain information about CVR number (Central Business Registration Number) of the company, its name and address, quantity and type of batteries exported or reprocessed, invoice number and date of resale or reprocessing, as well as date and number of purchase invoice. The declaration shall be kept as part of the accounts records.
- (6) For reductions pursuant to subsection (3) para 2 and subsection (4) above it is a precondition that portable batteries and accumulators exported out of the country or reprocessed into industrial batteries or accumulators are new and unused.
- (7) The producer or the importer shall keep accounts as the basis of the statement according to subsections (2)-(4) above. Accounts shall be kept as part of the general business accounts.
- (8) The Danish Tax and Customs Administration shall every year and no later than 15 March as needed electronically transfer reported information under subsection (1) above to DPA-System.

**17.-(1)** Producers and importers of portable batteries and accumulators shall finance the municipal collection of waste portable batteries and accumulators as well as costs arising from levy and disbursement of payments, including establishment of systems, maintenance, operation and administration of levy and disbursement of payments, cf. the Danish Environmental Protection Act section 9 u(2) para 1.

(2) Payments of the quantities of portable batteries and accumulators that the producer or the importer has placed on the market in the previous calendar year, cf. section 16, shall be calculated on the basis of the amount stipulated in the Danish Environmental Protection Act section 9 u(2). Levy and payment by producers and importers of the amount shall be effectuated digitally on [www.skat.dk](http://www.skat.dk) once a year and no later than 15 February.

(3) The rate in force at any time shall appear from the Danish Environmental Protection Agency's website, [www.mst.dk](http://www.mst.dk), no later than 1 January of the calendar year in which the portable batteries and accumulators are placed on the market.

(4) Levy is done by the Danish Tax and Customs Administration in pursuance of the rules on taxes in section 2(1), (3), (4), (7) and (9), and sections 3-8 of the Act on Levy of Taxes and Charges etc.

### Collection of waste portable batteries and accumulators

**18.-(1)** The local council shall ensure the establishment of easily accessible collection schemes for waste portable batteries and accumulators in the vicinity of citizens in due respect of population density. This may be ensured, for instance, through kerbside collection or through the placing of battery boxes.

(2) Any person can deliver waste portable batteries and accumulators to the distributors of portable batteries and accumulators offering to receive such waste batteries. Distributors must not request payment for reception of waste portable batteries and accumulators.

(3) Distributors receiving waste portable batteries and accumulators under subsection (2) above shall use the collection schemes established under subsection (1) above or under section 45(6) of the Danish Environmental Protection Act.

(4) Any end-user shall use the collection schemes established by the local council or by distributors, cf. subsections (1) and (2) above or established by producers and importers pursuant to section 45(6) of the Danish Environmental Protection Act.

**19.-(1)** The local council shall establish collection points where producers and importers shall pick up waste portable batteries and accumulators. Such collection points shall be registered electronically with DPA-System according to the directions of DPA-System. These collection points shall be easily accessible for vehicles for loading and unloading the collected waste portable batteries and accumulators.

(2) The local council shall establish collection points in connection with sites where waste electrical and electronic equipment is collected cf. the Statutory Order on management of waste electrical and electronic equipment.

(3) Producers and importers of portable batteries and accumulators shall supply collection equipment for the municipal collection points. The local councils shall use the equipment supplied by producers and importers.

**20.-(1)** Companies producing and importing portable batteries and accumulators for own consumption cf. section 16(3) para 1 shall be responsible for separate management of such batteries and accumulators.

(2) Companies taking back defect portable batteries and accumulators shall be responsible for separate management of such batteries and accumulators.

### Allocation scheme for waste portable batteries and accumulators

**21.-(1)** Producers and importers of portable batteries and accumulators shall take back in proportion to their respective share of the market, cf. the Danish Environmental Protection Act section 9 u(1) a share of waste portable batteries and accumulators and at their own expense organize separate management of these, cf. sections 40 and 41.

**(2)** The market share shall constitute the producer's or the importer's annual share of total reported quantities of portable batteries and accumulators placed on the market in the previous calendar year, cf. section 16. For the calendar year 2009, however, the market share shall constitute the producer's or the importer's annual expected quantity of portable batteries and accumulators placed on the market for the calendar year 2009, cf. section 11(1).

**(3)** For producers and importers entering the market before 31 March of a calendar year, the producer's or the importer's market share shall constitute the annual expected quantity of portable batteries and accumulators placed on the market for that calendar year, cf. section 11(3).

**(4)** For producers and importers entering the market after 31 March of a calendar year, no market share is calculated for the current calendar year. The producer's or the importer's market share in the following calendar year shall then constitute the producer's or the importer's annual market share in pursuance of subsection (2) above, multiplied by a factor 2.

**(5)** For producers and importers leaving the market in a calendar year the market share of the relevant calendar year shall be calculated as stipulated in subsection (2) above. For the following calendar year no market share shall be calculated.

**22.-(1)** DPA-System shall allocate to producers and importers or to a collective scheme representing the producer or the importer, cf. section 34(1) a quantity, cf. section 21, and, if required, one or more municipal collection points, cf. section 19, from where the producer or the importer shall pick up waste portable batteries and accumulators from the municipal collection schemes and organize their separate management. This allocation shall be done for a specific period based on the market share, cf. section 21(2)-(5).

**(2)** In the allocation DPA-System shall seek to allocate collection points in a geographically sensible manner. If DPA-System so decides, producers and importers are under the duty to pick up allocated waste portable batteries and accumulators from the entire country.

**(3)** DPA-System shall notify the allocation of waste portable batteries and accumulators to producers and importers or the collective schemes and publish the allocation on its website.

**(4)** In the allocation in pursuance of subsection (1) above quantities of waste portable batteries and accumulators taken back by the producer or the importer in pursuance of the Danish Environmental Protection Act section 45(6) in the previous calendar year and reported in pursuance of section 12(1) para 1 shall be deducted.

**(5)** In the allocation in pursuance of subsection (1) above DPA-System shall make a post-adjustment that takes into consideration whether quantities taken back by producers and importers in the previous calendar year correspond to what they were obliged to take back.

**(6)** In the allocation in pursuance of subsection (1) above DPA-System shall make a post-adjustment that takes into consideration any mistakes in the allocation of the previous allocation period which were found after notification of allocation for the previous period and which did not lead to changes in the allocation cf. subsection (7) below. This shall be done whether the mistakes are due to incorrect or non-reporting or other mistakes in the allocation, including mistakes ascertained in connection with complaints.

**(7)** If mistakes are ascertained in the allocation after its notification but before the end of the allocation period, the allocation may be changed in exceptional cases, if DPA-System finds that the mistake has significant financial implications.

**23.-(1)** Producers and importers shall pick up allocated quantities of waste portable batteries and accumulators, cf. section 22 from the collection points, cf. section 19(1) in accordance with the terms and conditions stipulated in Annex 1, cf. however subsection (2) below.

**(2)** The local council and relevant producers and importers of portable batteries and accumulators or collective schemes, cf. section 34(4) can enter agreements about other terms for pick-up of allocated waste portable batteries and accumulators than those stipulated in subsection (1) above, including deadlines for pick-up from the collection points and extraordinary pick-up of allocated waste portable batteries and accumulators from other sites than the collection points.

**(3)** Agreements entered under subsection (2) shall become void if they contradict the allocation in pursuance of section 22(1).

**24.-(1)** If allocated waste portable batteries and accumulators are not picked up in accordance with the deadlines determined according to section 23(1) or (2) DPA-System can have a third party carry out the assignment at the expense of the producer or the importer. DPA-System shall charge an amount corresponding to the expense caused by the take-back and separate management of those waste portable batteries and accumulators that the producer or the importer should have taken back and managed separately as well as associated costs of administration.

## Waste industrial batteries and accumulators

**25.-(1)** Producers and importers of industrial batteries and accumulators shall, cf. the Danish Environmental Protection Act section 9 v(1), take back and manage separately any waste industrial battery or accumulator irrespective of its chemical composition and origin when they place a new industrial battery or accumulator on the market. Producers and importers shall also take back and manage separately waste industrial batteries or accumulators from the end-users if the producer or the importer has placed the industrial battery or the accumulator on the market.

**(2)** Distributors of industrial batteries and accumulators may take back waste industrial batteries or accumulators from end-users.

**(3)** Distributors receiving waste industrial batteries or accumulators under subsection (2) above shall use the schemes stipulated in subsection (1) above or subsection (4) below.

**(4)** Waste industrial batteries or accumulators from private households that are not delivered to producers or importers in pursuance of subsection (1) above by the end-users or a distributor shall be assigned by the local council to management according to the rules of the Statutory Order on waste.

**(5)** Waste industrial batteries or accumulators from professional users that are not delivered to producers or importers in pursuance of subsection (1) above by the end-users or a distributor shall be delivered to a registered recycling facility or an approved and registered company collecting source-separated recyclable industrial waste according to the rules of the Statutory Order on waste.

**(6)** Any end-user shall be obliged to use the schemes established in pursuance of subsections (1), (2), (4) or (5) above.

**26.-(1)** Producers and importers of industrial batteries and accumulators shall ensure that the battery or the accumulator is accompanied or marked with an information stating who is the producer or the importer of the battery or the accumulator in Denmark, allowing end-users or distributors access to this information. This duty may be complied with through reference to the producer's or the importer's website containing this information.

**(2)** Distributors of industrial batteries or accumulators shall submit information to the end-users about who is the producer or the importer of the industrial battery or the accumulator.

**27.-(1)** Producers and importers and users of industrial batteries and accumulators, irrespective of section 24, can enter agreements to the effect that the end-user finances take-back and separate management of waste industrial batteries and accumulators, cf. section 9 v(5) of the Danish Environmental Protection Act.

## Waste automotive batteries and accumulators

**28.-(1)** Producers and importers of automotive batteries and accumulators shall, cf. the Danish Environmental Protection Act section 9 w(1), take back and manage separately at their own expense and in proportion to their market share waste automotive batteries and accumulators. Producers and importers shall establish schemes for take-back in the vicinity of end-users unless take-back is ensured in connection with the schemes stipulated in the Danish Environmental Protection Act section 9 q(1) and in the Statutory Order on management of waste in the form of motor vehicles and derived waste fractions.

**29.-(1)** A collective scheme having taken over duties under the Danish Environmental Protection Act section 9 w(1) in pursuance of section 34(1) para 1 from producers and importers of automotive batteries and accumulators shall ensure the following:

- 1) establishment of reception centres no more than 25 km from the centre of cities with more than 20,000 inhabitants, and
- 2) possibility for all end-users of waste automotive batteries or accumulators to deliver such batteries and accumulators to a reception centre within a distance of no more than 50 km.

**(2)** Producers and importers of automotive batteries and accumulators not having affiliated to a collective scheme shall ensure that end-users of waste automotive batteries and accumulators can deliver such batteries and accumulators

- 1) to any distributor selling automotive batteries and accumulators manufactured or imported by the producer or the importer, or
- 2) to a reception centre no more than 50 km from the point of sale.

**30.-(1)** The local council can establish collection schemes for waste automotive batteries and accumulators from private households.

**(2)** Local councils receiving waste automotive batteries or accumulators under subsection (1) above shall deliver these to producers and importers in pursuance of section 28 or to a collector of automotive batteries and accumulators approved under section 33 of the Danish Environmental Protection Act.

**31.-(1)** Distributors of automotive batteries and accumulators and scrap dealers, recycling companies and car breakers can take back waste automotive batteries and accumulators from end-users.

**(2)** Distributors of automotive batteries and accumulators and scrap dealers, recycling companies and car breakers that take back waste automotive batteries and accumulators under subsection (1) above shall use the schemes established in pursuance of sections 14 or 16 or use a collector of automotive batteries and accumulators approved under section 33 of the Danish Environmental Protection Act.

**32.-(1)** All end-users shall use the schemes established in pursuance of sections 28-31, cf. however subsection (2) below.

**(2)** End-users of automotive batteries and accumulators from professional vehicles can deliver waste automotive batteries and accumulators to a collector of automotive batteries and accumulators approved under section 33 of the Danish Environmental Protection Act.

**(3)** Producers and importers and users of automotive batteries and accumulators from professional vehicles can enter agreements to the effect that the end-users finance take back and separate management of waste automotive batteries and accumulators, cf. the Danish Environmental Protection Act section 9 w(5).

**33.-(1)** Producers and importers of automotive batteries and accumulators shall ensure that the battery or the accumulator is accompanied or marked with an information stating who is the producer or the importer of the battery or the accumulator in Denmark, allowing end-users or distributors access to this information. This duty may be complied with through reference to the producer's or the importer's website containing this information.

**(2)** Distributors of automotive batteries or accumulators shall submit information to the end-users about who is the producer or the importer of the industrial battery or the accumulator.

### Collective schemes

**34.-(1)** A collective scheme can take over the following duties from producers and importers:

1) Duties in pursuance of the Danish Environmental Protection Act section 9 u(1), section 9 v(1), section 9 w(1), and section 9 x(2), cf. section 9 z(1).

2) Registration and reporting of information, cf. section 6, sections 11-13 and section 43.

3) Duties of information in pursuance of sections 37-38.

**(2)** A collective scheme shall register producers or importers under section 6 separately and report information pursuant to section 11 per producer or importer.

**(3)** If the collective scheme does not comply with the duty on behalf of its member producers and importers the duties stipulated in subsection (1) paras 1-3 above shall be complied with by each individual producer or importer. In this case each producer and importer of portable batteries and accumulators shall be allocated take-back of waste portable batteries and accumulators in compliance with section 22(1).

**(4)** A collective scheme can enter agreements with the local council under section 23(2).

**(5)** A collective scheme shall inform its member producers and importers to the effect that reporting duties towards DPA-System in pursuance of sections 11-12 of this Order shall be complied with annually.

**35.-(1)** A collective scheme shall ensure that each producer or importer has equal access to participation in the collective scheme, under due consideration of the market share of the producer or the importer.

**36.-(1)** To allow for duties stipulated in section 34(1) to be transferred to a collective scheme, this scheme must be registered in the producer register with name, address, telephone number, and e-mail address of the scheme.

### Duty of information

**37.-(1)** Producers, importers and distributors shall ensure that end-users of batteries and accumulators are informed of the following in sales and information material, including instruction manuals or at the point of sale:

1) potential impacts on the environment and human health of substances used in batteries and accumulators,

2) expediency of not disposing of waste batteries and accumulators together with unseparated household waste and of participating in separate collection schemes to facilitate treatment and recycling,

3) the collection and recycling schemes at the disposal of end-users,

4) the role of end-users in connection with recycling of waste batteries and accumulators, and

5) the meaning of the crossed-out wheeled bin symbol and the chemical symbols of Hg, Cd and Pb, cf. The Statutory Order on the import and sale as well as export of batteries and accumulators, section 6(1) and (2).

**38.-(1)** Producers and importers of portable batteries and accumulators shall organize public information campaigns about the collection, treatment and recycling of waste portable batteries and accumulators, cf. section 9 x(2) of the Danish Environmental Protection Act.

**(2)** The duty in pursuance of subsection (1) above shall be complied with as follows, cf. however subsection (3) below:

1) Producers or importers placing quantities not exceeding 1000 kg of portable batteries/accumulators on the market annually shall as a minimum organize public information campaigns with an information value corresponding to the production of A4 pamphlets that can be handed out to distributors selling the portable batteries or accumulators of the producer or the importer.

2) Producers or importers placing quantities between 1,000 and 10,000 kg of portable batteries/accumulators on the market shall, in addition to the duty stipulated under para 1 as a minimum organize public information campaigns with an information value corresponding to an annual A3 advertisement in a national newspaper or similar.

3) Producers or importers placing quantities exceeding 10,000 kg of portable batteries/accumulators on the market shall, in addition to the duties stipulated under paras 1 and 2 for each fraction of 10,000 kg of marketed portable batteries or accumulators organize public information campaigns with an information value corresponding to an annual half-page advertisement in a national newspaper or similar.

**(3)** The Danish Environmental Protection Agency may grant exemption from subsection (2) above if producers and importers placing together at least 1,000,000 kg of portable batteries and accumulators on the market have entered an agreement about a joint campaign and about the extent and nature of the campaign materials to be produced during a calendar year. This exemption can be granted if the Danish Environmental Protection Agency finds that the agreed campaign has at least the same information value as the duties of affected producers and importers under subsection (2) above.

## Removal of waste batteries and accumulators

**39.-(1)** Equipment into which batteries and accumulators are incorporated shall be constructed in a way that waste batteries and accumulators can be readily removed. The battery or the accumulator shall be removable either during the useful life of the equipment if this life is longer than that of the battery or the accumulator or no later than at the end of the useful life of the equipment.

**(2)** Equipment into which batteries and accumulators are incorporated shall be accompanied by a guideline describing how to remove the battery or the accumulator safely, including whether or not the battery or the accumulator can be removed by the end-user or must be removed by a professional, and describing dangers, if any, during removal of the battery or accumulator in other ways than the one described in the guideline.

**(3)** The rules stipulated in subsections (1) and (2) above shall not apply when, for safety, performance, medical or data integrity reasons, continuity of power supply is necessary and requires a permanent connection between the appliance and the battery or accumulator.

**(4)** The rules stipulated in subsections (1) and (2) above shall not apply when for specific types of equipment or products other rules decide how to remove batteries and accumulators or that batteries and accumulators must not be removable.

## Separate management and recycling

**40.-(1)** Producers and importers and any person holding waste batteries and accumulators shall manage these products in an environmentally appropriate way allowing for compliance with the requirements for treatment, cf. subsections (2)-(4) below.

**(2)** Any person treating waste batteries and accumulators shall establish schemes for treatment and recycling using best available technique.

**(3)** Recycling or other recovery of waste batteries and accumulators shall at least comprise removal of all liquids.

**(4)** Treatment and any storage, including temporary storage at treatment facilities shall take place either on an impermeable surface and suitable weather-proof cover or in suitable containers with a lid.

**41.-(1)** Producers and importers and any person treating collected waste batteries and accumulators shall ensure that recycling processes for the treatment of waste batteries and accumulators as from 26 September 2010 at least achieve the following recycling efficiencies:

- 1) recycling of at least 65 % by average weight of lead acid batteries and accumulators, including recycling of the lead content to the highest degree that is technically feasible while avoiding excessive costs;
- 2) recycling of at least 75 % by average weight of nickel cadmium batteries and accumulators, including recycling of the cadmium content to the highest degree that is technically feasible while avoiding excessive costs; and
- 3) recycling of at least 50 % by average weight of other waste batteries and accumulators.

**42.-(1)** It is illegal to dispose of waste batteries and accumulators by landfill or incineration. Residues from batteries and accumulators having been subject to both treatment and recycling in compliance with sections 40-41 can, however, be disposed of by landfill or incineration in pursuance of current rules.

**43.-(1)** Producers and importers shall each year and no later than 31 March, and 31 March 2011 for the first time regarding items 3 and 4 below, report the following to DPA-System:

- 1) Which treatment facilities have treated waste batteries and accumulators.
- 2) Quantities of waste batteries and accumulators sent for treatment, distributed on treatment facilities.
- 3) Recycling rates for the different treatment facilities.
- 4) Recycled quantities distributed on the different treatment facilities.

**(2)** Reporting in pursuance of subsection (1) above shall be distributed on the following types, cf. section 41:

- 1) lead acid batteries and accumulators,
- 2) nickel cadmium batteries and accumulators, and
- 3) other waste batteries and accumulators.

**(3)** At the request of the Danish Environmental Protection Agency and DPA-System producers and importers shall present documentation for information reported cf. subsections (1) and (2) above.

## Fees

**44.-(1)** For registration in the producer register, cf. section 6, a one-off fee of DKK 1,000 per producer or importer is paid to DPA-System. If the producer or the importer is already registered in the producer register under the Statutory Order on management of waste electrical and electronic equipment or the Statutory Order on management of waste in the form of motor vehicles and derived waste fractions a fee of DKK 500 shall be paid.

**(2)** For administration of the allocation scheme cf. section 22, producers and importers of portable batteries and accumulators shall pay an annual fee. The fee shall be calculated in relation to the quantity of portable batteries and accumulators placed on the market in the previous calendar year, cf. however subsection (3) below. If a new registered

producer or importer has not placed batteries and accumulators on the market in the previous calendar year, an annual fee shall be calculated in relation to the quantities of portable batteries and accumulators expected to be placed on the market by this producer or importer in the calendar year in question. If the quantity placed on the market deviates from the expected quantity the fee shall be adjusted in the following calendar year.

**(3)** For administration of the allocation scheme, cf. section 22, for the calendar year 2009 producers and importers of portable batteries and accumulators shall pay an annual fee calculated in relation to quantities expected to be placed on the market for the calendar year 2009. If the quantity placed on the market deviates from the expected quantity the fee shall be adjusted in 2010 with the difference.

**(4)** For other administrative tasks carried out by DPA-System under this Order all producers and importers shall pay an annual fee. The fee shall be calculated in relation to the quantities of batteries and accumulators placed on the market in the previous calendar year. If a new registered producer or importer has not placed batteries and accumulators on the market in the previous calendar year, an annual fee shall be paid for quantities of batteries and accumulators expected to be placed on the market by this producer or importer in the calendar year in question. If the quantity placed on the market deviates from the expected quantity the fee shall be adjusted subsequently with the difference.

**(5)** For other administrative tasks carried out by DPA-System under this Order all producers and importers shall pay an annual fee for the calendar year 2009. This fee shall be calculated in relation to the quantities of batteries and accumulators placed on the market in the calendar year 2009. If the quantity placed on the market deviates from the expected quantity the fee shall be adjusted in 2010 with the difference.

**(6)** The fees stipulated in subsections (2)-(5) above shall amount to at least DKK 250 per year.

**(7)** If a producer, an importer or a collective scheme gives reason to extraordinary administration in connection with the allocation scheme, cf. subsection (2) above a separate fee in relation to hours spent shall be levied.

**45.-(1)** Fees shall correspond to actual costs borne by DPA-System in connection with tasks carried out under this Order.

**(2)** Fees shall be levied by DPA-System.

**(3)** The Danish Environmental Protection Agency shall determine the fee rates stipulated in section 44(2)-(4) and (7), based on budget and recommendation submitted by DPA-System regarding fee rate. DPA-System shall publish fee rates on its website.

## Supervision and appeals

**46.-(1)** The Danish Environmental Protection Agency shall supervise compliance with the provisions in this Order.

**(2)** However, the local council shall supervise compliance with section 18(3) and (4), section 25(3)-(6), section 31(2), section 32 and sections 40-42.

**(3)** The Danish Tax and Customs Administration shall supervise reporting, payment and levy, cf. sections 16-17 and it shall assume regulatory administration pursuant to section 110 a(1) of the Danish Environmental Protection Act.

**47.-(1)** Appeals may be made against decisions made by DPA-System to the Danish Environmental Protection Agency cf. the Danish Environmental Protection Act section 9 ø(3).

**(2)** The rules of the Public Administration Act and the Act on Public Access to Documents in Administrative Files shall apply to the cases in which DPA-System makes decisions pursuant to this Order.

**(3)** Decisions made by the Danish Environmental Protection Agency under section 38(3) may not be brought before any other administrative authority.

**(4)** Decisions made by the Danish Tax and Customs Administration pursuant to this Order may be brought before the National Tax Tribunal according to the rules of section 11 of the Tax Administration Act.

## Penalties

**48.-(1)** Unless a more severe penalty is applicable under other legislation, any person who:

1) places batteries and accumulators on the market without having registered under sections 5-7,

2) buys or sells batteries and accumulators in violation of section 9,

3) fails to report information or supplies incorrect or misleading information in pursuance of sections 11-13,

4) fails to report information or supplies incorrect or misleading information to the Danish Tax and Customs Administration under section 16,

5) fails to use collection or assignment schemes in pursuance of section 18(3) and (4), section 25(3)-(6), section 31(2), and section 32,

6) fails to supply collection equipment to the local councils, cf. section 19(3),

7) fails to ensure separate management, cf. section 20,

8) fails to pick up allocated waste portable batteries and accumulators under section 22, or fails to comply with terms and conditions for pick-up under section 23,

9) fails to take back and ensure separate management, cf. section 25(1), and section 28,

- 10) fails to have industrial batteries and accumulators accompanied or marked by information about producer or importer, cf. section 26(1),
  - 11) fails to submit information about who is the producer or the importer under section 26(2), and section 33(2),
  - 12) fails to establish reception centres in compliance with section 29,
  - 13) fails to submit information in pursuance of section 33(1), section 34(5), and section 37,
  - 14) fails to comply with the duties stipulated in section 35,
  - 15) fails to organize public information campaigns pursuant to section 38,
  - 16) constructs equipment in violation of section 39(1),
  - 17) fails to have equipment into which batteries and accumulators are incorporated accompanied by a guideline, cf. section 39(2),
  - 18) manages waste batteries and accumulators in violation of section 40,
  - 19) does not achieve the recycling efficiencies of section 41,
  - 20) disposes of waste batteries and accumulators by landfill or incineration, cf. section 42, or
  - 21) fails to comply with the information duty of section 43.
- shall be subject to a fine.

(2) The penalty may be increased to a prison sentence of up to 2 years, where it is found that the breach was committed deliberately or as a result of gross negligence, and where, in the course of the breach:

- 1) the environment has been adversely affected or exposed to danger
- 2) the person concerned has obtained or sought, for himself or others, financial gain, including by way of savings.

(3) Companies and others (legal persons) may be held criminally liable under the provisions of Chapter 5 of the Criminal Code.

### Transitional provisions and entry into force

**49.-(1)** This Order shall enter into force on 1 January 2010.

(2) Statutory Order no. 1217 of 11 December 2008 on batteries and accumulators and waste batteries and accumulators shall be repealed with the exception of section 20(1). Penalties for violation of section 20(1) shall be according to rules in force hitherto.

(3) DPA-System shall be obliged to transfer data electronically about producers and importers of portable batteries and accumulators that have registered as per 31 December 2009 in the producer register according to the rules of Statutory Order no. 1217 of 11 December 2008 to the Danish Tax and Customs Administration no later than 31 December 2009.

*Ministry of the Environment, 7 December 2009*

Troels Lund Poulsen

/ Claus Torp

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## Annex 1

### **Terms and conditions for pick-up of waste portable batteries and accumulators from municipal collection points, cf. section 23(1).**

#### **1. Collection points:**

The local councils shall establish collection points, cf. section 19. The local councils shall report the following information to DPA-System concerning the collection points:

- 1) address,
- 2) contact information (person, telephone number, e-mail or fax number),
- 3) period for pick-up of waste batteries and accumulators, and
- 4) any special issues concerning access to keys etc.

The local councils shall report this information no later than 31 March 2009. Information shall be updated immediately when changes occur.

## **2. Terms of pick-up:**

### **2.1. Deadlines**

Producers or importers shall pick up collected waste portable batteries and accumulators, when the local councils as a minimum have collected 1,000 kg, though with a minimum of once every six months.

The local council or the collection point shall request by fax or e-mail the producer or the importer or the collective scheme, cf. section 34 to organise pick-up when 1,000 kg of waste portable batteries and accumulators have been collected. Pick-up shall then be effectuated no later than three weekdays (Monday thru Friday between 9 am and 4 pm) after receipt of the request.

Batteries and accumulators collected by the local council shall be delivered to producers and importers including any plastic bags or other packaging in which the batteries or the accumulators have been collected.

### **2.2. Non pick-up**

If the waste portable batteries and accumulators are not collected within the deadline the local council or the collection point shall inform DPA-System accordingly by fax or e-mail.

## **3. Equipment etc.**

### **3.1. Equipment:**

Producers and importers shall supply equipment to the municipal collection points, cf. section 19(3). Upon pick-up of waste portable batteries and accumulators the filled equipment is replaced with empty equipment, or the equipment is emptied at the collection points.

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## **Annex 2**

### **Information to be submitted in connection with registration of producers and importers, cf. section 6**

- 1) Name of the producer or the importer.
- 2) Address of the producer or the importer: street and street number, postal code and city.
- 3) CVR number (Central Business Registration Number). Items 1 and 2 shall not be stated when DPA-System can retrieve this information from the CVR register.
- 4) Telephone number and, if required, fax number, website or e-mail address. This information shall only be stated if DPA-System cannot retrieve this information from the CVR register.
- 5) Contact person in company: name, telephone number, fax number or e-mail address. This information shall only be stated if DPA-System cannot retrieve this information from the CVR register.
- 6) European or national VAT number.
- 7) URL address.
- 8) Brand under which the producer or the importer places his batteries and accumulators on the market.
- 9) Statement of which of following types of batteries and accumulators the producer or the importer places on the market: portable batteries and accumulators, industrial batteries and accumulators and automotive batteries and accumulators.
- 10) Information about how to comply with producer responsibility, including whether the company is affiliated to a collective scheme or has established individual collection scheme for portable batteries and accumulators, industrial batteries and accumulators and automotive batteries and accumulators.
- 11) Date of registration.
- 12) Signature confirming that the stated information is correct.

## Annex 3

### Information to be submitted in connection with reporting to DPA-System or the Danish Tax and Customs Administration, cf. sections 11 and 16.

Quantity in kilos
<b>Portable batteries and accumulators</b>
Button cells (Zinc / Mercury Oxide / Silver Oxide)
Lead acid
Nickel Cadmium
Other
<b>Automotive batteries and accumulators</b>
Lead acid
Nickel Cadmium
Other
<b>Industrial batteries and accumulators</b>
Lead acid
Nickel Cadmium
Other

<sup>i</sup> This Statutory Order contains provisions implementing parts of Directive 2006/66/EEC of 6 September 2006 on batteries and accumulators and waste batteries and accumulators as well as repeal of Directive 91/157/EEC, Official Journal of the European Union 2006, L 266, p. 1, and Commission Decision 2008/763/EC of 29 September 2008 establishing, pursuant to Directive 2006/66/EC of the European Parliament and of the Council, a common methodology for the calculation of annual sales of portable batteries and accumulators to end-users, Official Journal of the European Union 2008, L 262, p. 39, and Commission Decision 2009/603/EC of 5 August 2009 establishing requirements for registration of producers of batteries and accumulators in accordance with Directive 2006/66/EC, Official Journal of the European Union 2009, L 206, p. 13.

<sup>ii</sup> While this translation was carried out by a professional translation agency, the text is to be regarded as an unofficial translation. Only the Danish document has legal validity.