

Executive Order on batteries and accumulators and waste batteries and accumulators ¹⁾

In pursuance of § 9 u, paras. 3-5, § 9 v, paras. 2-4, § 9 w, paras. 1, sub-para. 3, and paras. 2-4, § 9 x, paras. 1-3, § 9 y, § 9 z, paras. 2 and 3, § 9 æ, § 9 ø, paras. 1 and 4, § 44, para. 1, § 45, paras. 2 and 6, § 51, para. 3, § 67, § 80, paras. 1 and 2, and § 110, paras. 3 and 4 of the Law on Environmental Protection, cf. Executive Order No. 1757 of 22. December 2006, as amended by Law No. 509 of 17 June 2008, in pursuance of § 1, para. 2 of the Administration Law, cf. Executive Order No. 1365 of 7 December 2007, and in pursuance of § 1, para. 3 of Law No. 572 of 15 December 1985 on publicity in administration (the Publicity Law), as amended by Law No. 552 of 24 June 2005, and after discussion with the Minister of Justice, the following is laid down:

Field of application and definitions

§ 1. This Executive Order applies to all types of batteries and accumulators, irrespective of their form, volume, weight, material composition and use.

Para. 2. The Executive Order applies to the collection, treatment, recycling and disposal of waste batteries and accumulators.

Para. 3. This Executive Order further applies to the registration of and to the obligation of producers and importers of batteries and accumulators to inform.

Para. 4. Unless the contrary follows from this Executive Order, the other legislation on waste treatment shall apply.

Para. 5. The regulations on import and export of waste in force at any time shall apply to the import and export of waste batteries and accumulators.

§ 2. The Executive Order does not cover batteries and accumulators used in

- 1) equipment connected with the protection of essential Danish security interests, arms, munitions and other equipment, with the exception of products that are not intended specifically military purposes. or
- 2) equipment designed to be sent into space.

§ 3. In this Executive Order the following shall be understood to mean:

- 1) Battery or accumulator: Any source of electrical energy generated by direct conversion of chemical energy, and consisting of one or more primary battery cells that cannot be recharged, or of one or more secondary battery cells that can be recharged.
- 2) Battery pack: Any set of batteries or accumulators that are connected together, encapsulated or connected together and encapsulated within an outer casing so as to form a complete unit that the end-user cannot split up or open.
- 3) Portable battery or portable accumulator: Any battery or button cell or any battery pack or accumulator, that
 - a) is sealed,
 - b) can be hand-carried and
 - c) is not an industrial battery or an industrial accumulator or an automotive battery or an automotive accumulator.

- 4) Button cell: Any small round portable battery or any small round portable accumulator, whose diameter is greater than its height, for use in special equipment, including hearing aids, watches, small portable equipment and back-up power.
- 5) Automotive battery or automotive accumulator: Any battery or any accumulator that supplies power for starter motors, lights and ignition equipment.
- 6) Industrial battery or industrial accumulator: Any battery or any accumulator, designed for exclusively industrial or professional uses or used in any type of electric vehicle.
- 7) Waste battery or accumulator: Any battery, which is waste within the meaning of the Executive Order on waste.
- 8) Recycling: Reprocessing in a production process of waste materials for their original purpose or for other purposes, but excluding energy recovery.
- 9) Disposal: One of the permitted operations provided for in the Executive Order on waste, Appendix 6 A.
- 10) Treatment: Any activity carried out on waste batteries and accumulators that takes place after they have been handed over to a facility for sorting, preparation for recycling or preparation for disposal.
- 11) Separate treatment: Sorting, storage, collection, transport, reprocessing and treatment of waste batteries and accumulators.
- 12) Appliance: any kind of electrical or electronic equipment as defined in the Environmental Protection Law § 9 i, para. 1, No. 1, which is fully or partly powered by or can be powered by batteries or accumulators.
- 13) Producer or importer: Any person in Denmark that places batteries or accumulators on the market on a professional basis for the first time, including if they are incorporated into appliances or vehicles in Denmark. Placing on the market means handing over or making available to a third party in return for payment or otherwise, including import into the customs territory of Denmark
- 14) Distributor: Any person that provides batteries and accumulators on a professional basis to an end-user.

Para. 2. Where the terms "quantity" or "kg" are used in these Executive Orders, they shall mean the exact weight of batteries or accumulators in kg, including electrolyte, but excluding the weight of the appliance in which the battery or accumulator is contained, packaging, instructions for use, instructions, manuals and the like.

Collection of waste portable batteries and accumulators

§ 4. The local authority shall ensure that easily accessible collection schemes are set up for waste portable batteries and accumulators close to local inhabitants, taking population density into consideration. This may be done, for example, by collection from the household or by setting up battery bins.

Para. 2. Any person may hand over waste portable batteries and accumulators to distributors of portable batteries and accumulators that offer to accept them. Distributors may not request payment for accepting waste portable batteries and accumulators.

Para. 3. Distributors that accept waste portable batteries and accumulators in accordance with para. 3 shall be obliged to use collection schemes drawn up in accordance with para. 1 or with the Environmental Protection Law § 45, para. 5

Para. 4. Every end-user shall be obliged to use collection schemes set up by the local authority or by distributors, cf. paras. 1 and 2, or by producers and importers in accordance with the Environmental Protection Law § 45, para. 5.

§ 5. The local authority shall establish collection points for the removal by producers and importers of waste portable batteries and accumulators and to register these with the Danish Producer Liability System in accordance with the instructions of the Danish Producer Liability System. The collection points shall be easily accessible to vehicles that can load and unload the collected waste portable batteries and accumulators.

Para. 2. The local authority shall set up collection points at which waste electrical and electronic equipment is removed, cf. Executive Order on the treatment of waste electrical and electronic equipment.

Para. 3. Producers and importers of portable batteries and accumulators shall supply collection containers to the local authorities' collection points. The local authorities shall be obliged to use the containers supplied by producers and importers.

Allocation scheme for waste portable batteries and accumulators

§ 6. Producers and importers of portable batteries and accumulators shall take back, cf. the Environmental Protection Law § 9 u, para. 1, a proportional share of waste portable batteries and accumulators in proportion to their market share and arrange separate treatment thereof for their own account, cf. §§ 36 and 37.

Para. 2. The market share shall consist of the producer's or the importer's annual share of the total reported quantities of portable batteries and accumulators placed on the market in the preceding year, cf. § 23, para. 1, sub-para. 2. For the 2009 calendar year the market share shall, however, amount to the annual quantity of portable batteries and accumulators expected to be placed on the market by the producer or the importer for the 2009 calendar year, cf. § 23, para. 1, sub-para. 1.

Para. 3. For producers and importers entering the market in the course of a calendar year, the producer's or the importer's market share shall amount to the annual quantity of portable batteries or accumulators expected to be placed on the market in the year in question, cf. § 23, para. 2.

Para. 4. For producers and importers entering the market after 31 March of a calendar year, no market share shall be calculated for the calendar year in progress. The producer's or importer's market share in the subsequent calendar year shall then amount to the producer's or importer's annual share in accordance with para. 2, multiplied by two.

Para. 5. For producers and importers leaving the market during a calendar year, the market share for the year in question shall be calculated as stated in para. 2. No market share shall be calculated for the following year.

§ 7. The Danish Producer Liability System shall allocate to producers and importers or a collective scheme representing producers or importers, cf. § 30, para. 1, the local authority collection points, cf. § 5, from which the producer or importer shall remove waste portable batteries and accumulators from the local authority collection schemes and arrange separate treatment. The allocation shall take place for a more specifically determined period on the basis of the market share, cf. § 6, paras. 2-5.

Para. 2. In the allocation under para. 1 the quantity of waste portable batteries and accumulators that the producer or importer has taken back in accordance with the

Environmental Protection Law § 45, para. 5 in the preceding calendar year and which has been reported in accordance with § 26, para. 1, No. 1. shall be deducted.

Para. 3. In the allocation under para. 1 a subsequent adjustment shall be carried out which takes into account whether the quantities that producers and importers have taken back in the preceding calendar year correspond to what they were obliged to take back.

Para. 4. In the allocation under para. 1 a subsequent adjustment shall be carried out which takes into account any errors in allocation in the preceding allocation period discovered after the notification of the allocation for the preceding allocation period and which have not led to a second allocation, cf. para. 7. This shall apply whether the errors were due to erroneous reporting or failure to report or to other errors in the allocation, including errors discovered in connection with complaints.

Para. 5. In the allocation, the Danish Producer Liability System shall seek to allocate geographically reasonable collection points. If the Danish Producer Liability System so decides, producers and importers shall be obliged to collect allocated waste portable batteries anywhere in the country.

Para. 6. The Danish Producer Liability System shall notify the allocation of waste portable batteries and accumulators to producers and importers or collective schemes and shall publish the allocation on its website.

Para. 7. If errors are discovered in the allocation after it has been notified, but before the end of the allocation period, the allocation may exceptionally be amended if the error has a serious financial effect.

§ 8. Producers and importers shall remove allocated quantities of waste portable batteries and accumulators, cf. § 7, from the collection points, cf. § 5, para. 1, in accordance with the conditions set out in Appendix 1, but see para. 2.

Para. 2. The local authority and the relevant producers and importers of portable batteries and accumulators or collective schemes, cf. § 30, para. 4, may enter into agreements for the collection of allocated waste portable batteries and accumulators on conditions other than those set out in para. 1, including time limits for removal from the collection points and any extraordinary removal of allocated waste portable batteries and accumulators from places other than the collection points.

Para. 3. Agreements entered into under para. 2 shall lapse if they conflict with the allocation in accordance with § 7, para. 1.

§ 9. Where the allocated waste portable batteries and accumulators are not removed in accordance with the time limits laid down under § 8, para. 1 or 2, the Danish Producer Liability System may have a third party carry out the task for the account of the producer or importer. The Danish Producer Liability System shall charge an amount corresponding to the costs of taking back and the separate treatment of the waste portable batteries and accumulators that the producer or importer should have arranged to be taken back and treated separately, plus the administration costs associated therewith.

Waste industrial batteries and accumulators

§ 10. Producers and importers of industrial batteries and accumulators shall, cf. the Environmental Protection Law § 9 v, para. 1, take back and treat a waste industrial battery or a waste industrial accumulator separately, irrespective of its chemical

composition and origin when it places a new industrial battery or a new industrial accumulator on the market. Producers and importers shall be similarly obliged to take back from the end-user and treat separately waste industrial batteries or waste industrial accumulators, if the producer or importer has placed the industrial battery or accumulator on the market.

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

Para. 3. Distributors that accept waste industrial batteries or accumulators under para. 2 shall be obliged to use schemes as set out in para. 1 or 4.

Para. 4. Waste industrial batteries or accumulators not delivered to producers or importers in accordance with para. 1 by end-users or distributors shall be allocated to the local authority for treatment under the regulations in the Executive Order on waste.

Para. 5. Every end-user shall be obliged to use the schemes set up in accordance with para. 1, 2 or 4.

§ 11. Producers and importers of industrial batteries and accumulators shall ensure that the battery or the accumulator is accompanied by or marked with information as to who is the producer or importer of the battery or accumulator in Denmark, so that end-users or distributors can have access to this information. This obligation may be fulfilled by a reference to a website on which it appears.

Para. 2. Distributors of industrial batteries or accumulators shall be obliged to pass on information as to who is the producer or importer of the industrial battery or the accumulator to the end-users.

§ 12. Producers and importers and users of industrial batteries and accumulators may, notwithstanding § 10, enter into agreements that the end-users shall finance the taking-back and separate treatment of waste industrial batteries and accumulators, cf. the Environmental Protection Law § 9 v, para. 5.

Waste automotive batteries and accumulators

§ 13. Producers and importers of automotive batteries and accumulators shall, for their own account, cf. the Environmental Protection Law § 9 w, para. 1, arrange the taking-back and separate treatment of waste automotive batteries and accumulators in proportion to their market share. Producers and importers shall set up schemes for taking-back close to the end-users, unless the taking-back takes place in connection with the schemes set out in the Environmental Protection Law § 9 q, para. 1, and in the Executive Order on the treatment of waste in the form of motor vehicles and waste parts thereof.

§ 14. A collective scheme, which, in accordance with § 30, para. 1, No. 1, has transferred the obligation from producers and importers of automotive batteries and accumulators in accordance with the Environmental Protection Law § 9 w, para. 1, shall ensure that:

- 1) acceptance points are established at the most 25 km from the centre of towns with more than 20,000 inhabitants, and
- 2) that all end-users of waste automotive batteries or accumulators can deliver them to an acceptance point within a distance of at most 50 km.

Para. 2. Producers and importers of automotive batteries and accumulators not participating in a collective scheme shall be obliged to ensure that end-users of waste automotive batteries and accumulators can deliver them

- 1) to any distributor that sells automotive batteries and accumulators manufactured or imported by the producer or importer, or
- 2) to an acceptance point at most 50 km from the point of sale.

§ 15. The local authority may set up collection schemes for waste automotive batteries and accumulators.

Para. 2. Local authorities that accept waste automotive batteries or accumulators under para. 1, shall deliver them to producers and importers in accordance with § 13 or to a collector of automotive batteries and accumulators approved under the Environmental Protection Law § 33.

§ 16. Distributors of automotive batteries and accumulators and scrap, recycling and motor vehicle breaking firms may take back waste automotive batteries and accumulators from end-users.

Para. 2. Distributors of automotive batteries and accumulators and scrap, recycling and motor vehicle breaking firms that accept waste automotive batteries and accumulators under para. 1 shall be obliged to use schemes set up in accordance with §§ 13 or 15, or a collector of automotive batteries and accumulators approved under the Environmental Protection Law § 33.

§ 17. Every end-user shall be obliged to use schemes set up in accordance with §§ 13 or 15, but cf. para. 2.

Para. 2. End-users of automotive batteries and accumulators from commercial vehicles may deliver waste automotive batteries and accumulators to a collector of automotive batteries and accumulators approved under the Environmental Protection Law § 33.

§ 18. Producers and importers and users of automotive batteries and accumulators from commercial vehicles may enter into agreements that the end-users shall finance the taking-back and separate treatment of waste automotive batteries and accumulators, cf. the Environmental Protection Law § 9 w, para. 5.

Registration of producers and importers

§ 19. The Danish Producer Liability System shall set up and operate a producer register for producers and importers of all types of batteries and accumulators.

§ 20. Producers and importers shall have an obligation to have themselves registered with the Danish Producer Liability System in the producer register referred to in § 19 by 31 March 2009 at the latest.

Para. 2. Producers and importers that commence to place batteries and accumulators on the market in Denmark after 1 January 2009 shall apply for registration at the latest 14 days before placing on the market begins, but see the time limits in para. 1.

Para. 3. The application for registration shall contain the information set out in Appendix 2.

Para. 4. The obligation to register, cf. para. 1 shall not be fulfilled until all the information cf. para. 3, is reported in full.

Para. 5. The Danish Producer Liability System shall confirm registration to firms at the latest 14 days after the obligation to register has been fulfilled, cf. para. 4.

§ 21. Distributors may not take and deal in batteries and accumulators from producers and importers that are not registered in accordance with § 20. Registration shall appear on the Danish Producer Liability System's website.

§ 22. The Danish Producer Liability System may decide whether a producer or importer is covered by the regulations on producer liability under this Executive Order and must therefore be registered in accordance with § 20.

Obligation to report

§ 23. Producers and importers shall inform the Danish Producer Liability System, by 31 March 2009 at the latest, of the quantities of batteries and accumulators, split into the categories set out in Appendix 3, expected to be placed on the market in 2009. Thereafter producers and importers shall inform the Danish Producer Liability System every year, by 31 March at the latest and for the first time by 31 March 2010, of the quantities of batteries and accumulators, split into the categories set out in Appendix 3 placed on the market in the preceding calendar year. The Danish Producer Liability System may further require to be informed of the quantity of batteries and accumulators expected to be placed on the market in the year in question.

Para. 2. Producers and importers that begin to place batteries and accumulators on the market after 1 January 2009 shall inform the Danish Producer Liability System, in connection with registration, cf. § 20, para. 2, of the quantities of batteries and accumulators, split into the categories set out in Appendix 3, expected to be placed on the market in the year in question.

Para. 3. Changes in relation to the reports in accordance with paras. 1 and 2 shall be reported to the producer register at the latest 14 days after the change has been discovered.

§ 24. Reporting of quantities of batteries and accumulators placed on the market in accordance with § 23, para. 1 shall be certified by the producer's or the importer's auditor. Any changes in reports in accordance with § 23, para. 1, cf. § 23, para. 3 shall be certified in total for a calendar year together with the reports for the following year by the producer's or the importer's auditor.

Para. 2. Producers and importers with an annual turnover of a maximum of 500,000 kr. for batteries and accumulators shall, however, be exempted from the requirement in para. 1 if the producer or the importer documents its turnover to the Danish Producer Liability System by sending in the annual accounts or a declaration by the management.

§ 25. Every year, by 31 March at the latest and for the first time on 31 March 2010, producers and importers shall inform the Danish Producer Liability System of the quantities of waste portable, industrial and automotive batteries and accumulators taken back and treated separately in the preceding calendar year and which firms have treated the waste batteries and accumulators.

Para. 2. Every year, by 31 March at the latest, and for the first time on 31 March 2010, producers and importers of portable batteries and accumulators shall inform the Danish Producer Liability System of the quantities of waste portable batteries and accumulators removed from the local authority collection points in the preceding calendar year, cf. § 5, para. 1, or removed from other places in the local authority area in accordance with agreements entered into under § 8, para. 2.

§ 26. Every year, by 31 March at the latest and for the first time on 31 March 2010, producers and importers shall inform the Danish Producer Liability System of:

- 1) Taking-back schemes set up in accordance with the Environmental Protection Law § 45, para. 5, and the quantity of waste batteries and accumulators taken back via such schemes in the previous calendar year.
- 2) Agreements entered into under § 8, para. 2.
- 3) Agreements entered into under §§ 12 and 18 and the quantity of batteries and accumulators covered by the agreement.

Para. 2. Producers and importers of automotive batteries and accumulators shall report the addresses of acceptance points set up in accordance with § 14, para. 1 or 2, to the Danish Producer Liability System, which shall publish them on its website. The report shall be made by 31 March 2009 at the latest. Any changes to the reports shall be notified to the Danish Producer Liability System as soon as possible.

Para. 3. Producers and importers of automotive batteries and accumulators that begin to place automotive batteries and accumulators on the market after 1 January 2009 shall report acceptance points that have not been reported beforehand under para. 2 to the Danish Producer Liability System, in connection with registration, cf. § 20, para. 2.

§ 27. Reports in accordance with §§ 23-26 shall be made in accordance with the instructions of the Danish Producer Liability System approved by the Environmental Protection Agency.

§ 28. Every year, by 1 June at the latest and for the first time by 1 June 2010, the Danish Producer Liability System shall inform the Environmental Protection Agency of the quantities of batteries and accumulators that producers and importers have placed on the market in the preceding calendar year, the quantities of waste batteries and accumulators taken back and treated separately in the preceding calendar year, and the percentage recycling achieved, cf. § 37. The report shall be in a form laid down by the Environmental Protection Agency.

§ 29. The Danish Producer Liability System may decide whether batteries or accumulators placed on the market belong to the categories of portable, industrial or automotive batteries or accumulators.

Collective schemes

§ 30. A collective scheme may take over the following obligations from producers and importers:

- 1) Obligations in accordance with the Environmental Protection Law § 9 u, para. 1, § 9 v, para. 1, § 9 w, para. 1, and § 9 x, para. 2, cf. § 9 z, para. 1.
- 2) Registration and reporting of information, cf. §§ 20 and 23-26.
- 3) Obligations to provide information in accordance with §§ 33 and 34.

Para. 2. A collective scheme shall register producers or importers under § 20 individually and report information under § 23 for each producer or importer.

Para. 3. If the collective scheme fails to fulfil the obligation on behalf of the producers and importers that are members of the scheme, the obligations set out in para. 1, Nos. 1-3, shall be fulfilled by the individual producer or importer. In such case waste portable batteries shall be allocated to each producer and importer of portable batteries and accumulators in accordance with § 7, para. 1.

Para. 4. A collective scheme may enter into agreements with the local authority under § 8, para. 2.

Para. 5. A collective scheme shall inform producers and importers that are members of the scheme that the reporting obligations to the Danish Producer Liability System in accordance with §§ 23, 25 and 26 under this Executive Order must be complied with annually.

§ 31. A collective scheme shall ensure that each producer or importer shall have easy access to participation in the collective scheme, and this shall include taking the producer's or the importer's market share into consideration.

§ 32. In order that the obligations set out in § 30, para. 1 may be transferred to the collective scheme, the collective scheme shall be entered in the producer register, stating the name, address, telephone number and e-mail address of the scheme.

Obligation to provide information

§ 33. Producers, importers and distributors shall inform end-users of batteries and accumulators of the following in sales and information literature, including in instructions or at the point of sale:

- 1) the potential effects on the environment and human health of the substances used in batteries and accumulators,
- 2) the desirability of not disposing of waste batteries and accumulators together with unsorted domestic waste, and of participating in the separate collection schemes, so as to facilitate treatment and recycling
- 3) the collection and recycling schemes available to them,
- 4) the role played by end-users in connection with the recycling of waste batteries and accumulators, and
- 5) the meaning of the symbol showing a crossed-out wheeled bin and the chemical symbols Hg, Cd and Pb, cf. Executive Order on the import and sale and the export of batteries and accumulators § 6, paras. 1 and 2.

§ 34. Producers and importers of portable batteries and accumulators shall arrange public information campaigns concerning collection, treatment and recycling of waste portable batteries and accumulators, cf. the Environmental Protection Law § 9 x, para. 2.

Para. 2. The obligation in accordance with para. 1 shall be fulfilled in the following manner, but see para. 3:

- 1) Producers or importers that place less than 1,000 kg of portable or accumulators on the market annually, shall, as a minimum, arrange public information campaigns with an information value corresponding to the production of A4 leaflets, which shall

be supplied at all times at the distributors selling the producer's or the importer's portable batteries or accumulators.

2) Producers or importers that place more than 1,000 kg but less than 10,000 kg of portable batteries or accumulators on the market shall, as a minimum, arrange public information campaigns with an information value corresponding to the insertion of an advertisement in a daily paper with national circulation or the like, corresponding to a full page (A3) once a year, in addition to the obligation in No. 1.

3) Producers or importers, that place more than 10.000 kg of portable batteries or accumulators on the market shall, for each 10,000 kg of portable batteries or accumulators commenced to be put on the market, arrange public information campaigns with an information value corresponding to the insertion of an advertisement in a daily paper with national circulation or the like, corresponding to a half page once a year, in addition to the obligations in Nos. 1 and 2.

Para. 3. The Environmental Protection Agency may permit para. 2 to be deviated from, if producers and importers that put at least 1,000,000 kg. of portable batteries and importers on the market have entered into agreements for a joint campaign and concerning the extent and nature of the campaign material that is to be produced in the course of a calendar year, if the Environmental Protection Agency considers that the joint campaign agreed has at least the same information value as that covered by the producers' and importers' obligations under para. 2.

Removal of waste batteries and accumulators

§ 35. Appliances into which batteries and accumulators are incorporated shall be constructed in such a way that waste batteries and accumulators can easily be removed. The battery or the accumulator shall be able to be removed either during the lifetime of the equipment, if the lifetime of the equipment is longer than that of the battery or the accumulator, or at the latest when the lifetime of the equipment is over.

Para. 2. Appliances into which batteries and accumulators are incorporated shall be accompanied by instructions describing how the battery or the accumulator can be removed safely, including whether the battery or the accumulator can be removed by the end-users or must be removed by a professional and whether it is dangerous to remove the battery or the accumulator in a way other than that stated in the instructions.

Para. 3. The regulations in paras. 1 and 2 shall not apply when a continuous supply of electricity is necessary for reasons of safety or efficiency or on medical grounds or in order to store data and a continuous connection between the equipment and the battery or the accumulator is therefore imperative.

Para. 4. The regulations in paras. 1 and 2 shall not apply if regulations on how batteries and accumulators can be removed or that the battery or accumulator shall not be removable have been laid down for special types of equipment or products.

Separate treatment and recycling

§ 36. It shall be the duty of producers and importers and of any person in possession of waste batteries and accumulators to handle them properly in environmental terms, so that requirements for treatment, cf. paras. 2-5, can be complied with.

Para. 2. Any person that treats waste batteries and accumulators shall set up schemes for the treatment and recycling, using the best available techniques.

Para. 3. Recycling or other utilisation of waste batteries and accumulators shall include, at least, the removal of all fluids and acids.

Para. 4. Treatment and any storage, including interim storage, at the treatment firm shall take place either in sites with impermeable surfaces and suitable weatherproof covering or in suitable containers with lids.

§ 37 It shall be the duty of producers and importers and of any person treating collected waste batteries and accumulators to ensure that recycling processes for the treatment of waste batteries and accumulators achieve the following effective recycling rates as a minimum:

- 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 without the costs becoming disproportionately great,
- 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 without the costs becoming disproportionately great, and
- 3) recycling of at least 50 % by average weight of other waste batteries and accumulators.

§ 38. The disposal of waste batteries and accumulators in landfills or by incineration is prohibited. Residual products of batteries and accumulators that have undergone both treatment and recycling in accordance with §§ 36 and 37 may, however, be disposed of in landfills or by incineration in accordance with the regulations in force.

§ 39. Every year, at the latest by 31 March and for the first time by 31 March 2010, a person that undertakes the recycling of waste batteries and accumulators collected in Denmark professionally shall be obliged to report the recycling percentage, cf. § 37, in the preceding calendar year, and to produce documentation thereof to the Danish Producer Liability System.

Para. 2. In the case of export of waste batteries and accumulators collected in Denmark, the person that exports the waste batteries and accumulators shall be obliged to report the recycling percentage, cf. § 37, in the preceding calendar year at the plant to which the waste batteries and accumulators are exported.

Para. 3. In the case of export of waste batteries and accumulators for treatment in countries outside the Community, the person that exports the waste batteries and accumulators shall produce documentation of the recycling percentage to the Danish Producer Liability System, in addition to the requirement in para. 2.

Para. 4. The report in accordance with paras. 1-3 shall show which types of waste batteries and accumulators are concerned, together with the quantities.

Fees

§ 40. A single fee of 1,000 kr. per producer or importer shall be paid for registration in the producer register, cf. § 20, paras. 1 and 2. If the producer or the importer is already registered in the producer register in accordance with the Executive Order on the handling of waste electrical and electronic equipment or the Executive Order on the handling of waste in the form of motor-propelled vehicles and waste parts thereof, a fee of 500 kr shall be paid.

Para. 2. Producers and importers of portable batteries and accumulators shall pay an annual fee for the administration of the allocation scheme. The fee shall be calculated in proportion to the quantity of portable batteries and accumulators put on the market in the preceding calendar year, but see para. 3. If a newly-registered producer or importer has not placed batteries and accumulators on the market in the preceding calendar year, an annual fee shall be calculated in proportion to the quantity of portable batteries and accumulators expected to be placed on the market by the producer or importer concerned in the calendar year concerned. If the quantity placed on the market varies from the expected quantity reported, the fee shall be adjusted in the subsequent calendar year by the amount that corresponds to the difference.

Para. 3. Producers and importers of portable batteries and accumulators shall pay an annual fee for the administration of the allocation scheme, cf. § 7, for the calendar year 2009, which shall be calculated in proportion to the quantities of portable batteries and accumulators expected to be placed on the market by the producer or importer for the calendar year 2009. If the quantity placed on the market varies from the expected quantity reported, the fee shall be adjusted in 2010 by the amount that corresponds to the difference.

Para. 4. All producers or importers shall pay an annual fee for other administrative tasks carried out by the Danish Producer Liability System in accordance with this Executive Order. The fee shall be calculated in proportion to the quantity of batteries and accumulators placed on the market in the preceding calendar year. If a newly-registered producer or importer has not placed batteries and accumulators on the market in the preceding calendar year, an annual fee shall be paid for the quantity of batteries and accumulators expected to be placed on the market by the producer or importer concerned in the calendar year concerned. If the quantity placed on the market varies from the expected quantity reported, the fee shall be adjusted by the amount that corresponds to the difference.

Para. 5. The fees referred to in paras. 2-4 shall amount in total to a minimum of 250 kr. annually.

Para. 6. If a producer or an importer or a collective scheme gives rise to additional administration in connection with the allocation scheme, cf. para. 2, a special fee shall be charged for the time expended.

§ 41. The fees shall correspond to the actual costs that the Danish Producer Liability System incurs in connection with the performance of the tasks under this Executive Order.

Para. 2. The fees shall be charged by the Danish Producer Liability System.

Para. 3. The Environmental Protection Agency shall determine annually the fee rates referred to in § 40, paras. 2-4 and 6 on the basis of budgets and recommendations on the amount of fees from the Danish Producer Liability System. The Danish Producer Liability System shall publish the fee rates on its website.

Para. 4. The fees referred to in § 40, paras. 1 and 5, shall be adjusted annually on 1 January and for the first time on 1 January 2010 on the basis of the latest published prices and wages index in the Financial Administration Guidelines of the Ministry of Finance.

Supervision and complaints

§ 42. The Environmental Protection Agency shall supervise the provisions of the Executive Order.

Para. 2. The local authority, however, shall supervise § 4, paras. 3 and 4, § 10, paras. 3-5, § 16, para. 2, § 17 and §§ 36-38.

§ 43. Decisions made by the Danish Producer Liability System may be referred to the Environmental Protection Agency, cf. the Environmental Protection Law § 9 ø, para. 3.

Para. 2. The regulations in the Administration Law and the Publicity Law shall apply to matters on which decisions are made by the Danish Producer Liability System in pursuance of this Executive Order.

Para. 3. The decisions of the Environmental Protection Agency under § 34, para. 3, may not be referred to another administrative authority.

Penalty provisions

§ 44. Unless a greater penalty is prescribed under other legislation, a person shall be punished by a fine if he:

- 1) fails to use collection or information schemes in accordance with § 4, paras. 3 and 4, § 10, paras. 3-5, § 16, para. 2, and § 17,
- 2) Fails to remove allocated waste portable batteries and accumulators under § 7, para. 1, or fails to comply with the conditions laid down for the removal under § 8,
- 3) fails to have industrial batteries and accumulators accompanied by or marked with information as to who is the producer or importer, cf. § 11, para. 1,
- 4) fails to pass on information as to who is the producer or importer under § 11, para. 2,
- 5) fails to set up acceptance points in accordance with § 14,
- 6) Places batteries and accumulators on the market without having itself registered under § 20, para. 1 or 2,
- 7) removes or treats batteries and accumulators contrary to § 21,
- 8) fails to inform or gives incorrect or misleading information in accordance with §§ 23-26,
- 9) fails to provide information in accordance with § 33, para. 1,
- 10) fails to arrange public information campaigns in accordance with § 34, paras. 2 and 3,
- 11) constructs equipment contrary to § 35, para. 1,
- 12) fails to have appliances into which batteries and accumulators are incorporated accompanied by instructions, cf. § 35, para. 2,
- 13) handles waste batteries and accumulators contrary to § 36,
- 14) does not meet the recycling efficiency rates in § 37,
- 15) disposes of waste batteries and accumulators in landfills or by incineration, cf. § 38, or
- 16) fails to fulfil the obligations to inform in § 39.

Para. 2. The penalty may be increased to imprisonment for up to 2 years if the offence was committed deliberately or through gross negligence and if, through the offence, :

- 1) damage is caused to the environment or a danger thereof is created or

2) a financial advantage is obtained or intended for the person concerned himself or for others, including through savings.

Para. 3. Companies etc. (legal persons) may incur criminal liability under the regulations in Chapter 5 of the Penal Code.

Effective date and transitional provisions

§ 45. The Executive Order shall come into force on 1 January 2009, but see para. 2.

Para. 2. § 21 shall not apply until 31. March 2009, and §§ 24 and 37 shall not apply until 1 January 2010.

Para. 3. Executive Order No. 1639 of 13 December 2006 on fees and reports concerning lead accumulators and Executive Order No. 1638 of 13 December 2006 on subsidies for collection and recycling of lead accumulators are repealed, but see para. 4.

Para. 4. Executive Order No. 1638 of 13. December 2006 on subsidies for collection and recycling of lead accumulators shall continue to apply to applications made to Returbat before 1 January 2009.

Para. 5. The local authority shall have drawn up regulations for the collection schemes referred to in § 4, para. 1, in accordance with the Executive Order on waste, by 1 September 2009 at the latest.

Ministry of the Environment, 11 December 2008

Troels Lund Poulsen

/ Claus Torp

Appendix 1

Conditions for the removal collection of waste portable batteries and accumulators from local authority collection points, cf. § 8, para. 1.

The conditions only cover waste portable batteries and accumulators collected by local authorities from 1 January 2009. Waste batteries and accumulators collected before that date shall be dealt with by the local authorities.

1. Collection points:

The local authorities shall set up collection points, cf. § 5. The local authorities shall inform the Danish Producer Liability System of the collection points, stating:

1. the address,
2. contact information (person, telephone, e-mail or fax),
3. the times at which removal of waste batteries and accumulators can take place, and
4. any special circumstances concerning issue of keys etc.

The local authorities shall supply the information by 31 March 2009 at the latest. The information shall be updated immediately if changes occur to that supplied.

2. Collection conditions:

2.1. Time limits:

Producers and importers shall remove waste portable batteries and accumulators collected when the local authority has collected at least 1,000 kg, but half-yearly as a minimum.

The local authority or the collection point shall send a request by fax or e-mail to the producer or importer or the collective scheme, cf. § 30, to arrange removal when 1,000 kg of waste portable batteries and accumulators have been collected. Removal shall then take place at the latest 3 working days (Monday - Friday between 09:00 and 16:00 9-16) after receipt of the request.

The batteries and accumulators that the local authority has collected shall be removed to the producers and importers inclusive of any plastic bags and other packaging that the batteries or the accumulators have been collected in.

2.2. Failure to remove:

Where the waste portable batteries and accumulators are not removed in accordance with the time limit laid down the local authority or the collection point concerned shall inform the Danish Producer Liability System thereof by fax or e-mail.

3. Containers etc.

3.1. Containers:

Producers and importers shall supply containers to the local authority collection points, cf. § 5, para. 3. When waste portable batteries and accumulators are removed, the full containers shall be exchanged for empty containers, or the container shall be emptied at the collection points.

Appendix 2

Information that must be supplied in connection with registration of producers and importers, cf. § 20

1. The name of the producer or of the importer together with the brand name under which the producer or importer places its batteries and accumulators on the market.
The address of the producer or of the importer : street name and number, post code and town,
2. URL address, telephone number and, in the stated cases, fax number or e-mail address.
3. CVR[*]-nr. (Nos. 1 and 2 shall not be given when the Danish Producer Liability System can obtain the information via the CVR register).
4. Contact person for the producer or the importer: name, telephone number, fax number or e-mail address.
5. Statement of which types of batteries and accumulators the producer or the importer puts on the market: portable batteries and accumulators, industrial batteries and accumulators and automotive batteries and accumulators.
6. Information on how it is proposed to fulfil the producer liability: whether the producer or the importer has joined a collective scheme or has set up an individual scheme as regards portable batteries and accumulators, industrial batteries and accumulators and automotive batteries and accumulators.
7. Date of the application for registration.
8. Signature of the person certifying that the information given is correct.

[*] *Central Business Register*

Appendix 3

**Information that must be supplied in connection with the Danish
Producer liability System, cf. § 23.**

	Quantity in kg
Portable batteries and accumulators	
Non-rechargeable batteries:	
Alkaline / Pyrolusite batteries (Zinc-carbon)	
Lithium	
Button cells (Zinc / Mercury Oxide/ Silver Oxide)	
Other	
Rechargeable batteries:	
Nickel-Cadmium	
Nickel- Metal Hydride	
Lead	
Lithium Ion/Lithium Polymer	
Other	
Automotive batteries and accumulators	
Lead Acid	
Nickel-Cadmium	
Other	
Industrial batteries and accumulators	
Lead Acid	
Nickel-Cadmium	
Other	

Official notes

¹⁾ The Executive Order contains provisions implementing parts of Directive 2006/66/E of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC, (European Journal 2006 L 266, page 1).