

Law amending the Law on Environmental Protection and repealing the Law on reimbursement in connection with the collection of hermetically-sealed nickel-cadmium accumulators (closed nickel-cadmium batteries) ¹⁾

(Liability of producers and importer for spent batteries and accumulators etc.)

WE, MARGRETHE THE SECOND, By the Grace of God Queen of Denmark, proclaim:

The Folketing has resolved and We by Our assent confirm the following law:

§ 1

The following amendments are made to the Law concerning Environmental Protection, cf Executive Order No. 1757 of 22 December 2006, as amended most recently by § 1 of Law No. 173 of 12 March 2008:

1. In *footnote 1 to the Title of the law* "and Directive 2003/108/EC of 8 December 2003 amending Directive 2002/96/EC on waste electrical and electronic equipment (WEEE), (EU-Journal 2003 No. L 345, page 106)." is amended to: ", and Directive 2003/108/EC of 8 December 2003 amending Directive 2002/96/EC on waste electrical and electronic equipment (WEEE), (European Journal 2003 No. L 345, page 106) and parts of Directive 2006/66/EC 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 No. L 266, page 1)."

2. § 9 i, *paragraph 1, no. 2*, is worded thus:

"2) Producer and importer: Any person who

- a) manufactures and deals in electrical or electronic equipment in Denmark under his own trade mark,
- b) re-sells equipment manufactured by other suppliers under his own trade mark in Denmark, but not if the producer's trade mark is shown on the equipment,
- c) imports electrical or electronic equipment into Denmark for re-sale or
- d) supplies electrical or electronic equipment from another EU member state directly to households in Denmark by means of distance selling."

3. § 9 j, *para. 2*, is deleted.

Para. 3 henceforth becomes para. 2.

4. In § 9 j the following is inserted as *para. 3*:

"*Para. 3.* Danish exporters that supply electrical or electronic equipment directly to households in another EU member state by means of distance selling shall comply with the regulations of the EU member state concerned on the implementation of the Directive on waste electrical and electronic equipment (WEEE), including compliance with the obligations to take back and treat separately waste electrical and electronic equipment in the EU member state concerned."

5. § 9 k, *para. 1, sub-para. 2.*, is deleted.

6. In § 9 k, para. 3, sub-para. 2., § 9 l, para. 2, which becomes para. 3, § 9 m, para. 2, § 9 n, para. 4, and § 9 r, para. 2, "§ 9 t" is amended to: "§ 9 æ".

7. § 9 l, para. 1, sub-para. 2., is deleted.

8. In § 9 / the following is inserted as a new paragraph after para. 1 :

"Para. 2. The Minister of the Environment shall lay down regulations on how the market share is to be determined, including how the market share is calculated on the basis of the quantities recorded in the producer register referred to in § 9 æ."

Paras. 2 and 3 henceforth become paras. 3 and 4.

9. In § 9 n, para. 3, "§ 9 j, para. 2" is amended to "§ 9 z, para. 1".

10. In § 9 n, para. 4, "§ 9 l, paras. 2 and 3" are amended to "§ 9 l, paras. 3 and 4".

11. § 9 n, para. 5, is deleted.

Paras. 6 and 7 henceforth become paras. 5 and 6.

12. § 9 n, para. 6, which becomes para. 5, is worded thus:

"Para. 5. Information in pursuance of paras. 1-4 may be required to be given in a specified form."

13. § 9 q, para. 1, sub-para. 2., is deleted.

14. § 9 q, para. 2, is worded thus:

"Para. 2. The Minister of the Environment shall lay down regulations on how the market share shall be determined, including how the market share shall be calculated on the basis of the quantities recorded in the producer register referred to in § 9 æ."

15. § 9 q, para. 4, is deleted.

Paras. 5 and 6 henceforth become paras. 4 and 5.

16. In § 9 s, para. 1, sub-para. 2, "§ 9 q, para. 2" is amended to "§ 9 z, para. 1".

17. § 9 s, para. 2, is worded thus:

»Para. 2. The Minister of the Environment may lay down regulations on the obligation of producers and importers to provide and issue information and documentation on the regulations on taking-back laid down for use in checking compliance with the regulations in § 9 q, para. 1, and the regulations laid down in pursuance of § 9 q, paras. 3 and 4, and § 9 æ."

18. § 9 s, para. 3, sub-para. 1. is deleted.

19. §§ 9 t-9 v are deleted, and the following is inserted in their place:

"§ 9 t. In §§ 9 u-9 z 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, with the exclusion of batteries and accumulators that are used in

- a) equipment connected with the protection of essential Danish security interests, arms, munitions and other equipment, with the exception of products that are not manufactured for specific military purposes, or
 - b) equipment, designed to be sent into space.
- 2) Battery pack: Any set of batteries or accumulators that are connected together, encapsulated or connected together and encapsulated 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 regulations laid down in pursuance to § 44.
- 8) Producer and 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.

§ 9 u. Producers and importers of portable batteries and accumulators must arrange, for their own account, for the taking-back and separate treatment of waste portable batteries and accumulators in proportion to their market share.

Para. 2. Producers and importers of portable batteries and accumulators must finance local authority collection of portable batteries and accumulators. The cost of collection shall amount to 2.70 kr. per kg of portable batteries and accumulators placed on the market. The amount shall be adjusted annually on 1 January, in accordance with prices and wages, by the rate of the general prices and wages index determined by the Ministry of Finance. The adjusted amounts shall be rounded upwards to the next whole number of øre.

Para. 3. The Minister of the Environment shall lay down regulations on how the market share cf. para. 1, shall be determined, including how the market share shall be calculated on the basis of the quantities recorded in the producer register referred to in § 9 æ.

Para. 4. The Minister of the Environment may lay down regulations for an allocation scheme for waste portable batteries and accumulators, including time limits for removal and regulations on when the private organisation, cf. § 9 ø, may have a third party carry out the task for the account of the producer or importer.

Para. 5. The Minister of the Environment may lay down regulations that producers and importers must report on how they have fulfilled their obligation under para. 1, and

regulations that the report must be submitted to the Minister or to the producer register referred to in § 9. The information may be required to be provided in a specific form.

Para. 6 The Minister of the Environment may lay down regulations that producers and importers may be exempted from the requirement in para. 1, if the producer or importer places small quantities of portable batteries and accumulators on the market in Denmark in comparison with the size of the Danish market.

Para. 7. The Minister of the Environment may lay down regulations on how the payment from producers and importers, cf. para. 2, shall be distributed amongst the local authorities, including that the distribution may take place in accordance with agreements between a legal entity of producers and importers and the local authorities.

§ 9 v. Producers and importers of industrial batteries and accumulators shall take a waste industrial battery or a waste industrial accumulator back and treat it separately, irrespective of its chemical composition and origin, when they place a new industrial battery or a new industrial accumulator on the market. Producers and importers shall only be obliged to take industrial batteries or accumulators back from the end-user and treat them specially if the producer or importer has placed the industrial battery or accumulator on the market, but see para. 3.

Para. 2. The Minister of the Environment may lay down regulations on taking back industrial batteries and accumulators, cf. para. 1, including regulations on the possibility of the end-user receiving information about who is the producer or importer of an industrial battery or an industrial accumulator.

Para. 3. The Minister of the Environment may lay down regulations that industrial batteries and accumulators that can be hand-carried shall be included in the allocation arrangement for portable batteries and accumulators, cf. § 9 u, para. 4.

Para. 4. The Minister of the Environment may lay down regulations that producers and importers shall report on how they have fulfilled their obligation under para. 1, and regulations that that the report must be submitted to the Minister or to the producer register referred to in § 9. The information may be required to be provided in a specific form.

Para. 5. Producers and importers and users of industrial batteries and accumulators may enter into agreements that the end-users shall finance the taking-back and separate treatment.

§ 9 w. Producers and importers of automotive batteries and accumulators must arrange, for their own account, for the taking-back and special treatment of waste automotive batteries and accumulators in proportion to their market share. Producers and importers shall set up arrangements for collection close to the end-users, unless collection takes place in connection with the arrangements referred to in § 9 q, para. 1. The Minister of the Environment shall lay down regulations on the geographical distribution of collection points.

Para. 2. The Minister of the Environment shall lay down regulations on how the market share cf. para. 1, shall be determined, including how the market share shall be calculated on the basis of the quantities recorded in the producer register referred to in § 9 æ.

Para. 3. The Minister of the Environment may lay down regulations for an allocation scheme for waste automotive batteries and accumulators, including on the geographical distribution between producers and importers, the time limits for removal and

regulations on when the private organisation, cf. § 9 ø, may have a third party carry out the task for the account of the producer or importer.

Para. 4. The Minister of the Environment may lay down regulations that producers and importers shall report on how they have fulfilled their obligation under para. 1, and regulations that the report must be submitted to the Minister or to the producer register referred to in § 9. The information may be required to be provided in a specific form.

Para. 5. Producers, importers and users of automotive batteries and accumulators in commercial vehicles may enter into agreements that the end-users shall finance the taking-back and separate treatment.

§ 9 x. The Minister of the Environment shall lay down regulations on the obligation of producers, importers and dealers to inform end-users of batteries and accumulators of the potential effects on the environment and human health of the substances used in batteries and accumulators, the desirability of not disposing of waste batteries and accumulators together with unsorted domestic waste, but of participating in the separate collection schemes, the collection and recycling schemes available to the end-users, and the end-users' role in connection with the recycling of batteries and accumulators. The Minister of the Environment may further lay down regulations on the obligation of producers, importers and dealers to provide information about the meaning of the marking applied in connection with placing batteries and accumulators on the market. The information may be required to be provided in a specific form.

Para. 2. Producers and importers of portable batteries and accumulators shall arrange public information campaigns. The Minister of the Environment shall lay down more detailed regulations on this matter, including regulations on content and extent.

Para. 3. The Minister of the Environment shall lay down regulations that appliances, in which batteries and accumulators are incorporated or contained, shall be accompanied by instructions showing how they can be disposed of safely, and on the necessary nature of the incorporated battery or of the incorporated accumulator. The Minister shall likewise lay down regulations on exemptions from this obligation to provide instructions.

Para. 4. When new portable batteries and accumulators are sold. the end-users must not be made individually aware of the costs of collection, treatment and recycling of waste portable batteries and accumulators.

§ 9 y. The Minister of the Environment may lay down regulations on the obligation of producers and importers to supply information about the quantity, type and chemical composition of batteries and accumulators placed on the market, taken back, recycled or utilised, the quantity of waste taken back that is exported and information about whether the obligation under § 9 u, para. 1, § 9 v, para. 1, § 9 w, para. 1, and § 9 x, para. 2, has been transferred to others.

Para. 2. The Minister of the Environment may lay down regulations on the obligation of producers and importers to provide and issue information of any kind about collection schemes set up for use in checking compliance with the regulations in § 9 u, para. 1, § 9 v, para. 1, § 9 w, para. 1, and § 9 x, para. 2, and regulations issued in pursuance of § 9 u, para. 5, § 9 v, para. 5, § 9 w, para. 4, and § 9 x.

Para. 3. Information in pursuance of paras. 1 and 2 may be required to be provided in a specific form.

§ 9 z. The obligations under § 9 j, para. 1, § 9 q, para. 1, § 9 u, para. 1, § 9 v, para. 1, § 9 w, para. 1, and § 9 x, para. 2, may be fulfilled by participation in a collective scheme.

Para. 2. The Minister of the Environment may lay down regulations, under which the duties to inform under § 9 n, paras. 1-4, § 9 s, paras. 1 and 2, § 9 x, para. 1, and § 9 y, paras. 1 and 2, can be fulfilled wholly or in part by participation in a collective scheme, if producers and importers agree such a scheme.

Para. 3. The Minister of the Environment may lay down regulations for the collective schemes, including

- 1) that all producers and importers must have equal access to participation in a collective scheme, and
- 2) the organisation of the collective scheme.

Para. 4. Insofar as collective schemes for electrical and electronic equipment are concerned, the Minister of the Environment may lay down regulations

- 1) that the collective scheme provides adequate security, cf. § 9 k, para. 1, on behalf of producers and importers participating in the collective scheme, and
- 2) that producers and importers can avoid providing security, cf. § 9 k, para. 1, by participating instead in a collective scheme that represents adequate security.

Para. 5. Insofar as collective schemes for waste motor-propelled vehicles are concerned, the Minister of the Environment may lay down regulations

- 1) setting up an adequate number of acceptance points in a collective scheme, so as to ensure that the owner or keeper of a waste private car or van can deliver it to an acceptance point within a reasonable geographical distance, and
- 2) that a collective scheme shall ensure that approved waste handlers shall have access to treat vehicles as waste on transparent and non-discriminatory conditions.

§ 9 æ. The Minister of the Environment shall lay down regulations on the setting up and operation of registers of producers and importers, that producers and importers as defined in § 9 i, para. 1, No. 2, § 9 p, No. 4, and § 9 t, No. 8, shall be obliged to enrol in the register, and on their obligation to supply information thereto.

Para. 2. The Minister of the Environment may lay down regulations on what information shall be passed on by the producer register, including what information from the producer register shall be given to the Minister.

§ 9 ø. The Minister of the Environment may delegate powers to a private organisation, cf. para. 2, to

- 1) administer allocation schemes under § 9 j, para. 3, § 9 r, para. 1, § 9 u, para. 4, and § 9 w, para. 3,
- 2) assess whether the obligation under § 9 j, para. 1, § 9 l, para. 1, § 9 q, para. 1, § 9 u, para. 1, § 9 v, para. 1, § 9 w, para. 1, and § 9 x, para. 2, has been fulfilled, including obliging a producer or importer as defined in § 9 i, para. 1, nr. 2, § 9 p, nr. 4, and § 9 t, No. 8, that has not taken back the allocated waste in the form of electrical or electronic equipment, waste private cars and vans, waste portable batteries or accumulators or waste batteries or accumulators, to remove the waste from another producer's or importer's collection point or place of business or the like,
- 3) assess whether adequate security has been given and to have disposal thereof, cf. § 9 k, para. 1, and § 9 z, para. 4, nr. 1,
- 4) assess whether a collective scheme represents adequate security, cf. § 9 z, para. 4, No. 2,
- 5) assess whether the geographical location of a collective scheme's acceptance points are in accordance with the regulations issued in pursuance of § 9 z, para. 5, No. 1,

6) set up and operate a producer register, including deciding on which producers and importers as defined in § 9 i, para. 1, No. 2, § 9 p, No. 4, and § 9 t, No. 8, are covered thereby, cf. § 9 æ, which appliances belong to the categories of electrical and electronic equipment, cf. § 9 i, para. 1, No. 1, and which types of batteries, cf. § 9 t, Nos. 3, 5 and 6, shall be recorded as having been placed on the market by the individual producer or importer,

7) obtain information under the regulations issued in pursuance of § 9 n, paras. 2-4, § 9 s, paras. 1 and 2, and § 9 y, paras. 1-3, and

8) give orders under § 9 å.

Para. 2. The Minister of the Environment shall appoint the Chairman of the Board of the organisation. The Minister shall appoint the rest of the Board on the recommendation of organisations representing interests or the sector in the field selected by the Minister. The Minister shall moreover approve rules and guidelines for the operation and administration of the organisation.

Para. 3. Appeals may be made to the Minister of the Environment against decisions made by a private organisation in accordance with para. 1.

Para. 4. The Minister of the Environment may lay down regulations on fees to cover, wholly or in part, the costs of the private organisation in administration and control, cf. para. 1.

§ 9 å The Minister of the Environment may make orders in respect of the fulfilment of obligations in accordance with § 9 j, para. 1, § 9 l, para. 1, § 9 q, para. 1, § 9 u, para. 1, § 9 v, para. 1, § 9 w, para. 1, and § 9 x, para. 2."

20. *§ 45, para. 5,* is worded thus:

"Para. 5. Producers and importers of electrical and electronic equipment, cf. § 9 i, and producers and importers of batteries and accumulators, cf. § 9 t, shall, notwithstanding para. 4, be entitled, individually or collectively, to set up schemes for taking back waste electrical and electronic equipment from private households and waste portable batteries and accumulators in accordance with the regulations issued in pursuance of § 44."

21. I *§ 51* The following shall be inserted after para. 2 as a new paragraph:

"Para. 3. The Minister of the Environment may lay down regulations that appliances that contain batteries and accumulators shall be constructed in such a manner that waste batteries and accumulators can easily be removed, and rules on the prohibition of placing on the market appliances where batteries and accumulators cannot be easily removed. The Minister may likewise lay down regulations on exemptions from this provision."

Paras. 3 and 4 shall henceforth become paras. 4 and 5.

22. I *§ 51, para. 3,* which becomes para. 4, "para. 1 and para. 2" is amended to: "paras. 1-3".

§ 2

Para. 1. The law shall come into force on 15 June 2008, but see 2.

Para. 2. § 9 u, paras. 1 and 2, § 9 v, para. 1, § 9 w, para. 1, and § 9 x, para. 2, in the Environmental Protection Law as worded in § 1, No. 19 of this law, shall apply from 1 January 2009.

§ 3

Para. 1. The Law on compensation in connection with collection of hermetically sealed nickel-cadmium accumulators (closed nickel-cadmium batteries), cf. Executive Order No. 547 of 30 May 2000, shall be repealed on 1 January 2009.

Para. 2. The law shall therefore apply to applications sent to the Environmental Protection Agency before 1. January 2009.

Given at Christiansborg Palace, 17 June 2008

MARGRETHE R.