

**While this translation was carried out by a professional translation agency, the text is to be regarded as an unofficial translation based on the latest official Act no. 385 of 25 May 2005. Only the Danish document has legal validity.**

**GlobalDenmark Translations, August 2005**

Act no. 385 of 25 May 2005

Act amending the Environmental Protection Act<sup>1)</sup>  
(Producer liability for electronic waste, etc.)

We, Margrethe II, by the grace of God Queen of Denmark hereby make known: the Folketing has adopted and We with Our consent hereby enact the following Act:

**1.-** The following amendments shall be made to the Danish Environmental Protection Act, cf. Consolidated Act no. 753 of 25 August 2001, as amended by, inter alia, Act no. 475 of 7 June 2001, Act no. 260 of 8 May 2002, and most recently by section 1 of Act no. 1373 of 20 December 2004:

**1.** The following shall be inserted as a footnote to the title of the Act:

"1) This Act contains provisions implementing parts of European Parliament and Council Directive 2002/96/EC on waste from electrical and electronic equipment (WEEE), Official Journal of the European Union 2003 L 37, p. 24, and Directive 2003/108/EC amending Directive 2002/96/EC on waste from electrical and electronic equipment (WEEE), Official Journal of the European Union 2003 L 345, p. 106."

**2.** After section 9 h, the following shall be inserted:

" **9 i.-(1)** In sections 9 j-9 q, the following definitions shall apply:

- 1) Electrical and electronic equipment (EEE): Equipment which is dependent on electric currents or electromagnetic fields in order to work properly, and equipment for the generation, transfer and measurement of electric currents and electromagnetic fields designed for use with a voltage rating not exceeding 1,000 volts for alternating current or 1,500 volts for direct current, except equipment connected with the protection of essential security interests, arms, munitions and war material, except where such equipment has not been produced for specifically military purposes. The Minister for the Environment shall establish a list of categories of equipment covered by this definition.
- 2) Producers and importers: Any person who
  - a. produces and distributes EEE under its own trademark,
  - b. under its own trademark redistributes equipment produced by other suppliers, but a redistributor shall not, however, be regarded as a producer if the producer's trademark is indicated on the equipment, or
  - c. commercially imports EEE into Denmark.
- 3) Waste electrical and electronic equipment (WEEE) from private households: WEEE from private households and trade, industry, institutions and other sources when the waste, because of its nature and volume, is comparable with this type of waste from private households, cf. however subsection (2).

**(2)** The Minister may decide that WEEE from private households, cf. subsection (1), no. 3, is to include waste from trade, industry, institutions and other sources, even though it may not be comparable to this type of waste from private households because of the volume of waste.

**9 j.-(1)** Producers and importers shall, at their own expense, arrange for WEEE placed on the market by the producer or importer after 31 December 2005 to be taken back and recycled or managed in specified manners, unless other regulations have been laid down pursuant to section 44 and section 45(2). This

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obligation may also be met through taking back and recycling or management in specified manners of the same volume of corresponding equipment placed on the market in Denmark by other producers or importers.

(2) The obligation under subsection (1) may be met through participation in a collective scheme.

(3) The Minister for the Environment may lay down regulations regarding an allocation system for WEEE from private households covered by subsection (1) and section 9 l(1) including regarding the geographical distribution among producers and importers, time limits for collection, and exchange of containers in connection with collection of the allocated waste, etc.

**9 k.-(1)** For equipment placed on the market for use by private households after 31 December 2005, the Minister for the Environment may lay down regulations stipulating that producers or importers are to be required to prove to the Minister or the person authorised by the Minister in this respect that an appropriate financial guarantee has been provided for future waste management expenses. Provision may also be made to the effect that producers and importers may omit to provide such guarantee by participating in a collective scheme representing appropriate guarantee instead.

(2) The Minister may lay down regulations stipulating who is to be allowed to control the financial guarantee and the circumstances under which such control may be effected.

(3) For equipment which is sold for use by traders after 31 December 2005, the Minister may lay down provisions stipulating that producers and importers may make an agreement with the buyer that the latter is to take over the obligation under section 9 j as regards the equipment they buy. It is a precondition for exemption from the obligation mentioned in section 9 j that the agreement is registered in the producer register mentioned in section 9 n.

**9 l.-(1)** For WEEE from private households which is delivered for waste management on or after 1 January 2006 and which is placed on the market before this date, producers and importers shall, at their own expense, arrange for the WEEE to be taken back and recycled or managed in specified manners proportionately to their market share, unless other regulations have been laid down pursuant to section 44 and section 45(2). The market share shall be determined on the basis of the volumes registered in the producer register mentioned in section 9 n.

(2) The Minister for the Environment may lay down regulations stipulating that producers and importers are to account for the way in which they have met their obligation under subsection (1) and regulations stipulating that said account is to be submitted to the Minister, the person authorised by the Minister in this respect or the producer register mentioned in section 9 n.

(3) The Minister may lay down regulations stipulating that the Minister or the person authorised by the Minister in this respect may, in special cases, grant exemptions from the obligation to arrange for EEE to be taken back and recycled or managed in specified manners at own expense.

**9 m.** The Minister for the Environment may lay down regulations stipulating that dealers are to be obliged to, at their own expense and on a one-to-one basis, in connection with the sale of EEE to receive and store waste of similar EEE.

**9 n.-(1)** The Minister for the Environment may lay down regulations regarding the establishment of a producer register, regarding the obligation of producers and importers to register, and regarding their obligation to provide information to the register.

(2) The Minister may lay down regulations stipulating that distributors and dealers may not receive and sell

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equipment from producers and importers that have disregarded the obligation to register under regulations laid down pursuant to subsection (1).

(3) The Minister may lay down regulations regarding the producer register's processing and divulging of information, including regarding information the producer register is to be required to submit to the Minister or another public authority, and stipulating that information is only to be divulged in a specific form.

**9 o.-(1)** The Minister for the Environment may lay down regulations regarding the duty of producers, importers and dealers to inform users of EEE in private households of special take-back of WEEE, current take-back schemes, the user's role in respect of recovery, potential effects on the environment and human health of the presence of hazardous substances in the product, and the significance of the labelling attached to the product in connection with the marketing of EEE.

(2) The Minister may lay down regulations stipulating that producers and importers are to provide special information as regards reuse and treatment for treatment enterprises for each new type of EEE placed on the market within one year of the date equipment is first placed on the market. The Minister may lay down regulations regarding the duty of producers and importers to ensure labelling of products.

(3) The Minister may lay down regulations regarding the duty of producers and importers to provide information on volumes and categories of EEE marketed, taken back, recycled or recovered; on the volumes of waste taken back that have been exported; and stating when the obligation, cf. section 9 j(2) has been transferred to others.

(4) The Minister may lay down regulations regarding the duty of producers and importers to produce and submit information and documentation of any type about take-back schemes established for the purpose of checking compliance with the regulations of section 9 j, section 9 l(1) and regulations laid down pursuant to section 9 k, section 9 l(2) and (3), section 9 n and section 9 o.

(5) The Minister may lay down regulations stipulating that exporters outside Denmark that supply EEE directly to private households in Denmark via distance or internet selling shall provide for waste management. The Minister may also lay down regulations on the duty of exporters outside Denmark to be in the producer register and to document how the obligation under section 9 j and section 9 l(1) has been complied with and on the volumes and categories of EEE on the market in Denmark.

(6) The Minister may lay down regulations according to which the duty to submit information under subsections (1)-(5) rests with the collective scheme if producers and importers are affiliated with such a scheme, cf. section 9 j. Information under subsections (1)-(5) may be requested to be submitted in a specific form.

(7) The buyers may only be made separately aware of the costs of take-back and recycling or management in specified manners in connection with sales of new EEE to private households, if the information pertains to the costs of the management of waste from products for private households placed on the market no later than 31 December 2005. Such information may only be submitted in the period until 13 February 2011, for large household appliances until 13 February 2013, however.

**9 p.-(1)** The Minister for the Environment may delegate to a private organisation approved by the Minister the authority to

- 1) assess whether the obligation under section 9 j and section 9 l(1) has been met,
- 2) assess whether an appropriate financial guarantee has been provided and manage such guarantee, cf. section 9 k(1)

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- 3) assess whether a collective scheme represents an appropriate guarantee, cf. section 9 k(1)
- 4) establish and operate a producer register, cf. section 9 n, and
- 5) obtain information under section 9 o(2)-(5).

(2) The Minister shall appoint the board of directors of the organisation mentioned in subsection (1) upon recommendation from producers, importers and industrial organisations in the area. The Minister shall also approve articles of association and guidelines for the operation and administration of the organisation.

(3) Decisions made by the private organisation may be appealed to the Minister or the person authorised in this respect by the Minister.

(4) The Minister may lay down regulations regarding charges for full or partial coverage of costs of administration and checks incurred by the private organisation approved by the Minister, cf. subsection (1).

**9 q.-(1)** The Minister for the Environment may issue orders with a view to compliance with obligations under section 9 j and section 9 l(1) and issue orders and bans regarding compliance with regulations laid down pursuant to section 9 k, section 9 l(2) and (3), and sections 9 m-9 o.

(2) Decisions under subsection (1) may not be appealed to other administrative authorities.

**9 r.-(1)** The Minister for the Environment may lay down regulations stipulating that municipal waste treatment sites approved for treatment of WEEE and in operation before 1 January 2005 are still to be permitted to be operated by the local council.

(2) The Minister may lay down the more detailed conditions for the operation of the treatment sites mentioned in subsection (1), including conditions for organisation as regards corporate form and independent presentation of accounts."

3. In section 45, the following shall be inserted as new subsections after subsection (4):

"(5) Producers and importers of EEE, cf. section 9 i shall, notwithstanding subsection (4), be entitled to establish take-back schemes for WEEE from private households individually or collectively in accordance with regulations issued under section 44.

(6) The Minister may lay down regulations regarding the obligation of citizens, landowners and enterprises to use a take-back scheme established under subsection (5)."

Subsection (5) shall hereafter become subsection (7).

4. In section 51, the following shall be inserted as a new subsection after subsection (1):

"(2) The Minister may lay down regulations stipulating that producers and importers may not market specific types of EEE, cf. section 9 i, which, due to specific constructions or manufacturing processes, cannot be reused, unless such specific constructions or manufacturing processes primarily provide advantages, eg. with a view to environmental protection or safety requirements."

Subsections (2) and (3) shall hereafter become subsections (3) and (4).

5. In section 51(2), which becomes subsection (3), "and (2)" shall be inserted after "subsection (1)" in the 1st clause.

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6. In section 110(1), no. 2, "orders under section 9 q and" shall be inserted after "including".

7. In section 110(3), "section 45(2) and (3)" shall be amended to: "section 45(2), (3) and (6)".

2.-(1) This Act shall enter into force on 1 June 2005.

(2) The Minister for the Environment may lay down regulations granting full or partial exemption from the obligation in section 9 j(1) of the Environmental Protection Act as regards EEE placed on the market in the period between 1 January 2006 and 31 March 2006.

(3) The Minister for the Environment may lay down regulations granting full or partial exemption from the obligation in section 9 l(1) of the Environmental Protection Act as regards EEE delivered for waste management in the period between 1 January 2006 and 31 March 2006.

(4) The Minister for the Environment may lay down regulations granting full or partial exemption from the ban in section 9 o(7), 1st clause of the Environmental Protection Act as regards EEE placed on the market in the period between 1 January 2006 and 31 March 2006.

(5) The Minister for the Environment may lay down regulations stipulating that municipal sites approved for treatment of WEEE and in operation before 1 January 2005 may still be operated by the local council until 31 December 2006.

Fredensborg Slot, 25 May 2005

Under Our Royal Hand and Seal

MARGRETHE R.

/Connie Hedegaard

Official notes

<sup>1)</sup> This Act contains provisions implementing parts of European Parliament and Council Directive 2002/96/EC on waste from electrical and electronic equipment (WEEE) (Official Journal 2003 L 37, p. 24), and Directive 2003/108/EC amending Directive 2002/96/EC on waste from electrical and electronic equipment (WEEE) (Official Journal 2003 L 345, p. 106).

[Links to EC directives, cf. note 1](#)

[Directive 2002/96/EC](#) Celex no. 32002L0096

[Directive 2003/108/EC](#) Celex no. 32003L0108