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Background and purpose of the WEEE Directive

Dansk Producentansvar, June 2022

DPA is short for Dansk Producentansvar (Danish Producer Responsibility). DPA oversees administrative tasks associated with the rules on producer responsibility under the Danish environmental law regarding waste from electrical and electronic equipment, end-of-life batteries and accumulators, and end-of-life vehicles.

The producer responsibility for these waste types has authority in the Danish Environmental Protection Act. This Act translates into three Statutory Orders for the different waste types: the WEEE Order, the Battery Order, and the End-of-life Vehicles Order (the current statutory texts can be found on www.producentansvar.dk).

The Danish Statutory Orders take offset in three EU directives for the same waste types: the so-called WEEE Directive, the Batteries Directive, and the ELV Directive. Also, these directives with exact titles and dates can be found on www.producentansvar.dk.

Producer responsibility rests on the principle that each producer or importer assumes responsibility for collection and management of WEEE, waste batteries, and end-of-life vehicles to the effect that products becoming waste are managed in an environmentally correct manner, with the highest possible utilisation of resources contained in such products.

Producers and importers are in the following referred to as producers as the rules applying to both types are the same.

In general, the following abbreviations are used: WEEE for waste electrical and electronic equipment, BAT for batteries and accumulators, and ELV for end-of-life vehicles.

This document describes the background and purpose of the EU WEEE Directive which led to the introduction of the producer responsibility for electrical and electronic equipment in Denmark in April 2006.

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Background

With the purpose of preventing and reducing waste from electrical and electronic equipment (EE-equipment) and promoting reuse and recycling in order to reduce resource consumption, the EU Commission already back in 1998 prepared the first draft directive minimising the environmental burden caused by end-of-life electronics. This directive was finally adopted in 2002. It is drafted according to the producer responsibility model: producers – and importers – must take responsibility for their products, also in the environmental treatment stage. In addition to seeking to prevent waste arisings and optimise resource use in the product development, the directive contains targets regarding take-back and recovery of EE equipment at the end of its useful life.

The WEEE Directive (Waste Electrical and Electronic Equipment) sets up common EU rules on the management of WEEE. The rules take offset in considerations for the environment and resources and aim to limit the quantity of end-of-life electrical equipment for disposal. On the one hand, the objective is to invite producers to produce environment-friendly products and on the other hand to increase reuse, recycling, and other forms of recovery. Thus, the WEEE Directive has focus on product design, quantities placed on the market, and disposal of EE equipment. The WEEE Directive was revised in 2012; among others, the requirements for collection of end-of-life equipment have been enhanced.

The WEEE Directive is supported by the RoHS Directive (Restriction of the Use of Certain Hazardous Substances) limiting or banning the use of a number of harmful substances contained in EE equipment.

Purpose of the WEEE Directive

EE equipment contains a large number of substances of concern with a detrimental impact if released to the ambient environment. These substances are in particular heavy metals – such as mercury, lead, cadmium and chromium – as well as halogenated substances – such as CFC, brominated flame retardants, PCB and PVC. In a desire to protect the environment against these substances, requirements have been made for the phasing out and substitution of substances of high concern in equipment, including for the treatment of end-of-life equipment. A number of the objectives of the WEEE Directive are thus supported by the RoHS Directive, which bans the use of a number of the undesired substances (lead, cadmium, mercury, hexavalent chromium, polybrominated biphenyls and polybrominated diphenyl ethers). EE equipment also contains a large number of valuable materials that should be recycled for their resource value in connection with the manufacture of new equipment. The directive is to ensure that these materials are not lost in the waste management, but are used in the manufacture of new equipment.

Thus, the directive reflects the desire that resource consumption is reduced through more reuse and optimisation of recycling of the secondary raw materials contained in WEEE. In addition, a significant reduction of the amounts of waste that used to be incinerated or landfilled is attained. Thus, it must be ensured that the treatment of end-of-life equipment takes place under controlled conditions. It should also be prevented that WEEE is exported illegally to parts of the world where it cannot be ensured that the treatment takes place in an environmentally safe and resource saving manner.

In the past, there was no economic incentive for producers to optimise design and manufacture electrical equipment in view of the subsequent environmental treatment. Nor was there any legislation that imposed a responsibility on the producer for treatment of the equipment at the end of the useful life. This is due to the fact that collection and treatment of WEEE from private households mainly took place by the public authorities and were financed through taxes. For waste from businesses there were in the past no surveys of quantities of EEE on the market. Nor was there any monitoring of the extent of problems relating to unsafe management. Therefore, the directive introduced a number of provisions making it possible to monitor the quantities of equipment placed on the market as well as waste streams between companies.

Electrical and electronic equipment is manufactured and sold in constantly increasing quantities. The useful life of products constantly becomes shorter and the price level for many of the products are decreasing; in combination this means that quantities of end-of-life electrical and electronic equipment increase immensely.

Due to all these issues, the EU Commission has declared that WEEE is a priority waste stream calling for special efforts.

Producer responsibility as a way to attain the common environmental targets

The EU Commission has chosen to apply a so-called "producer responsibility" as the way to attain the targets in the WEEE Directive. The general principle of the producer responsibility is that "the polluter pays". This means that producers and importers of electrical equipment in all Member States are responsible for taking back and environmentally treat a proportionate share of the electrical equipment they place on the market at the end of its useful life. The producer will incorporate the associated costs in the price of the electrical equipment, so in the end the end-user of the equipment (consumers and businesses) will pay the costs.

The producer responsibility for electronic products reflects a change in our waste management system. Management of WEEE used to be undertaken by the local authorities, but now the producers are responsible for the equipment from its manufacture to the disposal stage. The producer responsibility system must attain the objectives of the directive through its implementation in the national framework legislation. The national law sets a number of requirements for the producer, and in combination with the stimulation of the market mechanisms, these are expected to lead to a higher focus on the environmental aspects. The purpose is to encourage producers to develop and design equipment promoting the phasing out and substitution of undesired substances and facilitating the dismantling of the equipment in view of optimised reuse, recycling and recovery processes. Furthermore, the purpose is to continuously optimise collection methods (take-back logistics) to reduce transport emissions and to optimise the methods applied in the WEEE treatment. This creates environmental improvements for society and financial incentives for the producers in the form of lower transportation costs and benefits from the sale and recycling of secondary materials.

Non-distortion of competition

A significant element of the WEEE Directive is that the implementation does not create a distortion of competition in each Member States or between them. This means, among others that no producer evades his obligations to attain a competitive advantage. Therefore, the national authorities must identify producers evading their obligations - the so-called freeriders - to have them comply with their obligations on an equal footing with other producers.

To ensure that the objectives of the directive are attained and that the law is complied with it is important to continuously monitor and survey that all producers comply with their obligations in a way not distorting competition. Therefore, all Member States have established national registers in which producers must register and regularly report quantities. In this way, it is possible to monitor quantities of EEE placed on the market and the resulting WEEE.

In Denmark the register is administered by Dansk Producentansvar(DPA)(the Danish Producer Responsibility). The practical management of WEEE from private households is assumed by the local authorities that collect WEEE from their citizens. Furthermore, organisations have been established - so-called collective schemes that assume pickup and treatment of the WEEE on behalf of the producers. Producers with equipment for professional use must individually establish collection schemes that permit the take-back of waste equipment from the professional users; they must also enter into agreements with treatment facilities to treat the collected WEEE.

Legal basis

In 2003 the first WEEE Directive was adopted (EC/96/2003). This directive was amended in 2012 (2012/19/EU). First part of the amended directive was implemented in Danish law on 14 February 2014. Second part of it was implemented on 15 August 2018.

The directive is a so-called minimum directive. This means that a Member State may include a number of specific national provisions in connection with its implementation of the directive and thus adapt the directive provisions to the specific national conditions. However, this must be done in a way not in contradiction to the directive's objectives.

The European WEEE Directive has been implemented through an amendment of the Danish Environmental Protection Act (amendment no. 385 amending the Danish Environmental Protection Act of 25 May 2005). The practical implications of the Act no. 130 of 6 February 2014 have subsequently been revised in the Consolidated Act 2017-06-23 no. 966 cf. Statutory Order 2018-02-08 no. 148 on placing of electrical and electronic equipment on the market and management of waste electrical and electronic equipment (the WEEE Order).

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