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Transfer of take-back duty for WEEE and BAT

Dansk Producentansvar, August 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.

Duties placed on producers of electrical equipment and batteries cover arrangement at their own expense of separate management, i.e. take-back and recycling of WEEE and/or waste batteries that the producer has placed on the market.

The WEEE Order allows producers placing electrical and electronic equipment on the market for professional use to agree with the purchaser of equipment that the latter takes over duties placed on the producer relating to take-back and recycling.

The Battery Order allows producers placing industrial and automotive batteries on the market to agree with the end-user of batteries that the latter takes over duties placed on the producer in relation to collection and environmental treatment of the end-of-life batteries.

In terms of reporting, such agreement is referred to as transfer of responsibility. Details on how to enter such agreements and how specifically to organise compliance with take-back duties are not described in the two Orders. It is up to the parties to find the most suitable solution. You can find more details on suggested contents of such agreements below.

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How to organise transfer of responsibility

- The agreement is always made between the registered company (the producer) and one other party (the purchaser).
- The agreement should be a formal agreement between two parties and thus not merely a general reference to current rules appearing, for instance, from a website. The agreement must appear explicitly from exchange of documents such as confirmed terms of sale and delivery, invoice text, separate order confirmation, separate written agreement or similar.
- Agreements on separate management of business WEEE and/or waste automotive and industrial batteries not entered with the registered company are common business agreements not covered by the rules on transfer of responsibility for WEEE and waste batteries.

A transfer of responsibility can for example be described by the following:

- The company to which the responsibility has been transferred
- The items covered by this transfer (product items, product codes, serial numbers or similar for which responsibility has been transferred)
- Number of kilos for which responsibility has been transferred
- Reference to statutory provisions relating to this transfer of responsibility

Documentation

The producer transferring responsibility must be in a position to document all isolated transfers of responsibility, for example through invoices, order confirmations etc. The company keeps this documentation, which should not be submitted to DPA.

Situations where documentation may be needed:

- Supervision by supervisory authority
- Cases where purchaser seeks to push back responsibility to the registered producer and where the latter has transferred responsibility

It follows from the above that it is not possible to state an exact period during which documentation must be kept since the take-back responsibility remains in force as long as the product exists.

Proposed contents of agreement

Economic obligations

The agreement concerns transfer of a statutory obligation entailing a cost. Therefore, it is important that the company taking over responsibility is fully familiar with the implications of the obligation. One way of informing the purchaser about the transferred responsibility is to refer to current legislation.

Separate management of business WEEE and waste automotive and industrial batteries

As an item under the producer responsibility, the company must ensure that business WEEE and/or waste automotive and industrial batteries are treated at environmentally approved facilities. In addition, regarding WEEE there are minimum requirements for recovery, reuse and recycling that must be complied with. Waste batteries are subject to minimum requirements for recycling.

Duty of registration in connection with transfer of responsibility

The producer is subject to duty of registration. The company or the user having taken over responsibility for take-back and treatment is not subject to duty of registration for products under this agreement. Thus, every year no later than 31 March, the producer must report to DPA how large a volume of equipment is subject to transfer of responsibility. Reporting of data is done electronically through the DPA website.

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