

**THE FULL TEXT
OF ACT
no. 185/2001 Coll.,
on Waste and the Amendment of Some Other Acts**

(final amendment: Act no. 383/2008 Coll.)

The Parliament has adopted the following Act of the Czech Republic:

**Division 3
Batteries and Accumulators**

Section 30

(1) In accordance with European Community legislation 30b, the provisions of this Division of the Act sets forth the obligations of the producers, distributors, final vendors and operators of systems of batteries or accumulators and processors of batteries or accumulators that have become waste, and lays down requirements for placing batteries and accumulators on the market and requirements for the collection, separate collection, treatment, recovery and disposal of waste batteries and accumulators.

(2) The provisions of this Division of the Act apply to all types of batteries and accumulators, with the exception of batteries and accumulators used

- a) in facilities that are involved in the protection of the vital security interests of the Member States, in weapons, ammunition and military material, apart from products that are not exclusively intended for military use, or
- b) in equipment destined to be sent into space.

**Section 31
heading omitted**

For the purposes of this Division of the Act,

- a) battery or accumulator means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or consisting of one or more secondary battery cells (rechargeable); batteries and accumulators are further divided into groups of portable batteries or accumulators, industrial batteries or accumulators and automotive batteries or accumulators,
- b) portable battery or accumulator means any battery, button cell, battery pack or accumulator that is hermetically sealed and can be hand-carried, provided these are not also industrial batteries or accumulators or automotive batteries or accumulators,
- c) industrial battery or accumulator means any battery or accumulator designed for exclusively industrial or professional uses or used in any type of electrical vehicle,

d) automotive battery or accumulator means any battery or accumulator used for automotive starter, lighting or ignition power and any battery or accumulator used for the same purpose in other products, provided these are not also industrial batteries or accumulators,

e) battery pack means any set of batteries or accumulators that are connected together and/or encapsulated within an outer casing so as to form a complete unit that the end-user is not intended to split up or open,

f) button cell means any small round portable battery or accumulator whose diameter is greater than its height and which is used for special purposes such as hearing aids, watches, small portable equipment and back-up power,

g) waste battery or accumulator means any battery or accumulator which is waste pursuant to Section 3,

h) treatment means any activity carried out on waste batteries and accumulators after they have been handed over to a facility for sorting, preparation for recycling or preparation for disposal,

i) producer means a legal entity or natural person authorised to conduct business that, irrespective of the selling technique used, places batteries or accumulators, including batteries or accumulators incorporated into vehicles, electrical appliances or other products, or included with them, on the market for the first time in the Czech Republic on a professional basis,

j) final vendor means a legal entity or natural person authorised to conduct business that supplies end-users with batteries or accumulators on a professional basis, including batteries or accumulators incorporated into vehicles, electrical appliances or other products, or included with them,

k) cordless power tool means any hand-held appliance powered by a battery or accumulator and intended for maintenance, construction or gardening activities,

l) take-back means the collection of used portable batteries or accumulators or automotive batteries or accumulators from the end-user free of charge at a location designated for this by the producer,

m) take-back point means a location designated by the producer of portable batteries or accumulators or automotive batteries or accumulators, where used portable or automotive batteries or accumulators are handed over,

n) separate collection means the collection of waste batteries or accumulators, with the exception of portable batteries or accumulators, from end-users for the purpose of their treatment,

o) collection rate means the percentage obtained by multiplying the total weight of used portable batteries or accumulators collected by a producer in a given calendar years by the number of years during which, within the framework of a three year period ending on the given year, it has been placing portable batteries or accumulators on the market, divided by the total weight of portable batteries or accumulators placed on the market in the Czech

Republic by their producer in a given calendar year and in the previous two calendar years, provided these were not sent outside the territory of the Czech Republic,

p) end-user means a legal entity or natural person that uses batteries or accumulators before the end of their lifetime, prior to handing them over at a collection point or for separate take-back.

Conditions for Placing Batteries or Accumulators on the Market or Bringing them into Circulation

Section 31a

(1) It is prohibited to place on the market or to bring into circulation

a) all batteries or accumulators that contain more than 0.0005% of mercury by weight, whether or not these are incorporated into electrical appliances or other products, with the exception of button cells where the mercury content does not exceed 2% by weight, and

b) portable batteries or accumulators that contain more than 0.002% of cadmium by weight, including batteries and accumulators incorporated into electrical appliances or other products.

(2) The prohibition set out in paragraph 1 (b) shall not apply to portable batteries and accumulators intended for use in

a) emergency and alarm systems, including emergency lighting,

b) medical equipment, or

c) cordless power tools.

(3) Producers of electrical appliances or other products that require the incorporation of batteries or accumulators shall be obliged to ensure that these products have been designed to facilitate the easy and safe removal of spent or waste batteries or accumulators. Producers shall be obliged to attach a user guide to electrical appliances or other products in which batteries or accumulators are incorporated, explaining how to remove the batteries or accumulators safely, including information on the type of batteries or accumulators incorporated. Producers, distributors and final vendors shall be obliged to ensure that this user guide is provided together with the product.

(4) The obligations set forth in paragraph 3 shall not apply to producers of electrical appliances or other products who must, for safety, performance, medical or data integrity reasons, ensure continuity of power supply, requiring a permanent connection between the electrical appliance or other product and the battery or accumulator.

Section 31b

(1) Producers shall be obliged to submit technical documentation to the inspection body on request to prove compliance with the conditions set forth in Section 31a paragraph 1.

(2) Distributors of batteries or accumulators, including batteries or accumulators incorporated in electrical appliances or other products, shall be obliged on request to submit technical documentation to the inspection body to prove compliance with the conditions set forth in Section 31a paragraph 1.

(3) A person who imports batteries or accumulators shall be obliged to prove compliance with the conditions set forth in Section 31a paragraph 1 to the customs authority.

(4) The Ministry shall issue a Decree stipulating the method of proving compliance with the conditions laid down by the customs authority in accordance with paragraph 3.

Section 31c Labelling Batteries or Accumulators

(1) Producers shall be obliged to ensure that

- a) batteries, accumulators and battery packs are marked with a symbol for the purposes of separate collection and take-back,
- b) portable batteries or accumulators and automotive batteries or accumulators are accompanied by clear, legible and indelible information on their power and
- c) batteries, accumulators and button cells containing over 0.0005% of mercury by weight, over 0.002% of cadmium by weight or over 0.004% of lead by weight are marked with the chemical symbol for that metal.

(2) The Ministry shall issue a Decree setting forth details of markings for batteries and accumulators.

Section 31d Information Obligations concerning Take-back and Separate Collection

(1) Producers shall be obliged, at their own expense, to provide the end user with written information

- a) on the method of ensuring take-back or separate collection; for this purpose producers shall publish a current list of take-back points and separate collection points containing at least the name of the location and its address, in a manner accessible to the end user,
- b) on potential negative effects on the environment and human health of the substances used in batteries and accumulators and
- c) on the meaning of the symbol for separate collection or take-back and on the meaning of the symbols pursuant to Section 31c paragraph 1 (c).

(2) A person in a location where a producer has established a separate collection or take-back point, shall be obliged, at the cost of the producer, to ensure that the separate collection or take-back point is clearly and visibly marked as such for the end-user.

(3) The final vendor, in a location where a producer has not established a collection point and who sells batteries or accumulators placed on the market by that producer, shall be obliged to post information in a visible place concerning the possibility of discarding batteries and accumulators at their sales points or concerning locations where batteries or accumulators may be placed for collection on the territory of the municipality, urban neighbourhood or city district in relation to the sales point. Should no collection point exist on their territory, they must provide information on a collection point in the nearest municipality, urban neighbourhood or city district to their sales point.

Section 31e **List of Producers of Batteries and Accumulators**

(1) The list of producers of batteries and accumulators (hereinafter referred to as the “List of Producers“) is a public list held by the Ministry. Every producer is obliged to submit an application for registration in the List of Producers.

(2) The application for registration in the List of Producers shall be submitted to the Ministry within 60 days of the day the batteries or accumulators, including batteries or accumulators incorporated in vehicles, electrical appliances or other products, or accompanying them, were first placed on the market shall be

a) in two paper counterparts and, at the same time, in electronic form, or

b) in electronic form marked by an electronic label based on a qualified certification system issued by an accredited supplier of certification services or signed with a recognised electronic signature in accordance with a special legal regulation 30c).

(3) The application for registration in the List of Producers shall include

a) in the case of a natural person, the name, or names, and surname or company, permanent residence, place of business, identification number, if one has been allocated, and a copy of the business certificate; if the natural person is also entered in the commercial register, a copy of an extract from the Commercial Register no more than 3 months old is required,

b) in the case of a legal entity, the company or name, legal form, head office, identification number, if one has been allocated, and an extract from the Commercial Register no more than 3 months old, provided it has been entered in the Register,

c) the group of batteries or accumulators the producer places on the market,

d) the brand name of batteries or accumulators assigned to individual groups of batteries or accumulators,

e) the method of complying with the producer’s obligations pursuant to Section 31k paragraph 1 (a) or (b) and

f) a description of the method of ensuring take-back, separate collection, treatment, recovery of waste batteries or accumulators and of providing information to end-users.

(4) The Ministry shall enter the producer into the List of Producers within 30 days of receipt of the application containing all the particulars listed in paragraph 3, and within at the latest 30 days of making the entry, shall publish it on the Ministry bulletin board.

(5) If the application for registration does not contain all the particulars listed in paragraph 3 the Ministry shall invite the producer to supplement or amend the application within a deadline that the Ministry shall also determine and that may not be shorter than 15 working days, while at the same time informing it as to how this is to be accomplished.

(6) A producer that is obliged to submit an application for registration in the List of Producers shall be obliged to inform the Ministry of any changes in the information provided pursuant to paragraph 3 within 30 days of their arising. The same deadline applies to its obligation to inform the Ministry that the reasons for its entry in the List of Producer no longer exist.

(7) On the basis of information provided pursuant to paragraph 6, or on the basis of its own research, the Ministry shall amend the entry in the List of Producers or remove the entry from the List of Producers.

(8) The Ministry shall publish the updated List of Producers on the public administration website in the following scope

- a) name, or names, and surname or company, in the case of a natural person; company or name, in the case of a legal entity,
- b) identification number, if one has been allocated,
- c) the brand name of the batteries or accumulators the producer places on the market,
- d) the group of batteries or accumulators the producer places on the market,
- e) the method of compliance with the producer's obligations set forth in Section 31k, including details of the legal entity authorised to operate a collective system pursuant to Section 31l, through whose agency it complies with its obligations,
- f) information on compliance with its obligation to issue an annual report and
- g) the level of take-back achieved in the case of a producer of portable batteries or accumulators.

(9) A distributor of batteries or accumulators, including batteries or accumulators incorporated into vehicles, electrical appliances or accompanying them, that are not provided by producers registered with the List of Producers or by producers registered in the List of Producers, or by producers that comply with their obligations through a collective system pursuant to Section 31k paragraph 1 (c), shall have the rights and obligations of a producer as laid down in this part of the Act.

(10) Provided the producer complies with all its obligations by means of the collection system pursuant to Section 31k paragraph 1 (c), the obligation set forth in paragraph shall not apply. Any information concerning the products that comply with its obligations through the

system operators pursuant to Section 31k paragraph 1 (c), that the Ministry discloses from persons authorised to operate the collective system in accordance with Section 31l, in accordance with paragraph 8.

(11) The Ministry shall issue a Decree providing a model for the application for registration in the List of Producers.

Section 31f Annual Report

(1) Producers shall be obliged

a) to draw up an annual report on the method of complying with the obligations laid down in this part of the Act (hereinafter referred to as the “annual report on batteries and accumulators”) for the previous calendar year in the scope set forth in an implementing legal regulation and to submit this report to the Ministry in paper and electronic form following the transmission standard for data on waste by March 31st,

b) to keep annual reports on batteries and accumulators for a minimum of 5 years,

c) as requested by the inspection body, to provide evidence to support the accuracy and completeness of data contained in the annual report on batteries and accumulators.

(2) The Ministry shall issue a Decree stipulating the scope and contents of the annual report on batteries and accumulators.

Section 31g Requirements Pertaining to the Take-back of Spent Portable Batteries or Accumulators

(1) Producers of portable batteries and accumulators shall be obliged to ensure

a) the take-back of portable batteries and accumulators from end-users at their own expense, regardless of the brandname, regardless of the date on which they were placed on the market and without imposing any obligation to purchase new batteries or accumulators,

b) a minimum collection rate for portable batteries and accumulators,

c) the issue of a guarantee prior to placing portable batteries and accumulators on the market, demonstrating that financial provision has been made for the waste management of portable batteries and accumulators. This guarantee must be sufficient to cover the financing of the collection, treatment, recovery and disposal of portable batteries or accumulators that have been handed in within the framework of the take-back system established and operated in accordance with Section 31k. Producers shall provide a guarantee in the form of an escrow account or through insurance under the conditions stipulated in a Decree. The producer shall provide information on the balance of the escrow account and expenditure therefrom or on the amount covered by insurance for the preceding year in the annual report. Funds placed in the escrow account may only be used with the consent of the Ministry and to provide financing for the take-back, treatment, recovery and disposal of portable batteries and accumulators. These funds may not be the subject of any settlement or the execution of a compulsory order and neither may they be included as part of the producer’s assets. Producers that comply with

their obligations in accordance with Section 31k paragraph 1 (c), shall not provide this guarantee.

(2) For the purpose of complying with the obligations set forth in paragraph 1, producers shall be obliged

a) to establish collection points in each municipality, urban neighbourhood or city district having over 1,500 inhabitants and in which the portable batteries or accumulators they place on the market are sold; the number of inhabitants shall be calculated on the basis of the statement of population numbers in the Czech Republic, drawn up by the Czech Statistical Office to 1 January of that calendar year,

b) to conclude an agreement covering the use of the municipal waste collection and sorting system established by the municipality with every municipality that expresses an interest therein and in which the portable batteries or accumulators it places on the market are sold, under conditions that are similar to those existing in the other municipalities,

c) to establish, at their own expense and under conditions similar to those set by other final vendors a take-back point at each point of sale of a final vendor of portable batteries or accumulators, who performs one of the economic activities listed in Annex 10 to this Act, and where portable batteries or accumulators offered on the market by producers as a permanent item of sales stock, if so requested by this final vendor, and

d) to establish, at their own expense and under conditions similar to those set by other final vendors a take-back point at each point of sale of a final vendor of portable batteries or accumulators, where portable batteries placed on the market by the producers are sold and where at least 2,000 units or at least 50 kg of portable batteries or accumulators were brought into circulation, if so requested by this final vendor.

(3) Final vendors of portable batteries or accumulators shall be obliged to collect portable batteries and accumulators from end-users at the point of sale during opening hours, at their own expense, this collection being free of charge, regardless of the brandname, regardless of the date on which they were placed on the market and without imposing any obligation to purchase new batteries or accumulators,

a) as concerns points of sale for final vendors, whose economic activities are listed in Annex no. 10 k to this Act and where portable batteries or accumulators are offered as a permanent item of sales stock,

b) provided this enables final vendors to collect used portable batteries or accumulators and no take-back point has been established there, or

c) provided they fail to comply with the obligation to provide information pursuant to Section 31d paragraph 3.

(4) The collection requirements for portable batteries or accumulators pursuant to the first sentence of paragraph 3 above also apply to other persons who have provided the producer with a take-back point. Until such time as a take-back point has been established at the outlet of a final vendor pursuant to paragraph 3 (a), and a final vendor pursuant to

paragraph 3 (b) and (c), shall be obliged to hand over the collected portable batteries or accumulators only at the take-back point.

(5) Each end-user shall only deposit spent portable batteries or accumulators with the final vendor at the take-back point, or at a place contractually designated for this purpose pursuant to paragraph 2 (b). Portable batteries or accumulators must only be handed over from the take-back point to a person authorised for the treatment or material reuse of waste batteries or accumulators pursuant to Section 31j.

(6) End users may not be informed of the separate costs for the take-back of portable batteries or accumulators, their treatment and recovery and the provision of information when purchasing new portable batteries or accumulators.

(7) Portable batteries or accumulators become waste on being handed over to a person authorised for the treatment or material recovery of waste batteries or accumulators.

Section 31h

Requirements for the take-back of spent automotive batteries or accumulators

(1) Producers of automotive batteries and accumulators shall be obliged to ensure the take-back of automotive batteries and accumulators from end-users at their own expense, regardless of the brandname, regardless of the date on which they were placed on the market and without imposing any obligation to purchase new batteries or accumulators,

(2) For the purpose of complying with the obligations set forth in paragraph 1, producers shall be obliged to establish collection points in each municipality, urban neighbourhood or city district where the automotive batteries or accumulators they place on the market are sold. In order to comply with this obligation, producers shall use the municipal waste collection and sorting system established by this municipality on the basis of a written agreement with the municipality.

(3) End-users shall only hand over spent automotive batteries or accumulators at the take-back point, or to a person authorised to handle them pursuant to this Act. Automotive batteries or accumulators must only be handed over from the take-back point to a person authorised for the treatment or material recovery of waste batteries or accumulators pursuant to Section 31j.

(4) The take-back point for spent automotive batteries or accumulators shall comply with the technical requirements set forth by the Ministry in a Decree.

(5) Automotive batteries or accumulators become waste on being handed over to a person authorised for the treatment or material recovery of waste batteries or accumulators.

Section 31i

Requirements for the take-back of spent industrial batteries or accumulators

(1) Producers of industrial batteries or accumulators shall be obliged, at their own expense, to ensure the separate collection of industrial batteries or accumulators of the same type and purpose as those they have placed on the market, regardless of their chemical composition, regardless of the date on which they were placed on the market and without

imposing any obligation to purchase new batteries or accumulators. Producers of industrial batteries or accumulators shall comply with this obligation at their own expense or by concluding an agreement with the end users regarding the means of financing thereof.

(2) End-users shall only hand over spent industrial batteries or accumulators that are not taken back to a person authorised to handle them pursuant to this Act. Industrial batteries or accumulators must only be handed over from the take-back point to a person authorised for the treatment or material recovery of waste batteries or accumulators pursuant to Section 31j.

Section 31j **The treatment and recovery of waste batteries or accumulators**

(1) Producers shall be obliged, at their own expense, to ensure the treatment and recovery of waste batteries or accumulators using the best available techniques (31s) in facilities that comply with the conditions set forth in paragraphs 2 and 3.

(2) A processor of waste batteries or accumulators shall be obliged

- a) to extract all liquids and acids from waste batteries or accumulators,
- b) to store batteries or accumulators on impermeable surfaces with an impermeable cover or in suitable containers during treatment and any storage in treatment facilities, and
- c) to provide evidence that exemptions have been granted for the incineration of portable batteries or accumulators.

(3) Producers shall be obliged to ensure that the facility pursuant to paragraph 1 achieves minimum efficiency levels in recovery processes

- a) 65% of average weight for lead batteries or accumulators, including the most effective possible level of recovery, that is technically practicable without incurring excessive costs,
- b) 75% of average weight for nickel-cadmium batteries or accumulators, including the most effective possible level of recovery, that is technically practicable without incurring excessive costs, and
- c) 50% of average for other spent batteries or accumulators.

(4) Batteries and accumulators shall not be stored in standard landfills. In cases where their electrochemical type or brandname can be identified prior to their treatment, industrial batteries or accumulators, automotive batteries or accumulators and portable batteries or accumulators shall not be disposed of by incineration. This prohibition shall not apply to portable batteries or accumulators taken off the market on the basis of a special legal regulation (30d) or to portable batteries containing lithium metal. Waste from batteries or accumulators that has been formed by treatment and recovery pursuant to this Act, may be disposed of by storing it in the correct group of landfills or by incineration.

(5) If waste batteries or accumulators are transported across borders for the purpose of treatment or recovery, in accordance with European Community regulations (39) and in accordance with Part Nine of this Act, compliance with the obligations and efficiency levels

pursuant to paragraph 3 shall only be accepted provided there is sufficient evidence to show that the recovery process took place under conditions that are equivalent to the requirements set forth in this Act. For the purpose of cross-border transport and export, batteries and accumulators that have been taken back for treatment and recovery shall be regarded as waste.

(6) The Ministry shall issue a Decree stipulating the rules for calculating the efficiency of recovery processes.

Section 31k

Methods of compliance with the obligations on producers of batteries and accumulators

(1) Producers may comply with their obligations as regards the take-back, separate collection, the treatment and recovery of waste batteries or accumulators, the provision of information and the issue of an annual report on batteries and accumulators

- a) following an individual system, independently, paying for their own organisation and technical needs,
- b) following a joint system together with another producer or producers on the basis of a written agreement; the contractual parties have joint and several liability for compliance with the obligations of take-back, separate collection, the treatment and recovery of waste batteries or accumulators, or
- c) following a collective system, by concluding an agreement to comply with their obligations as regards the take-back of portable batteries or accumulators, the treatment and recovery of waste portable batteries or accumulators pursuant to this part of Act (hereinafter referred to the “agreement on joint compliance”) with a legal entity authorised to operate a collective system pursuant to Section 31l (hereinafter referred to as the “system operator”).

(2) Producers of electrical appliances that have batteries or accumulators incorporated into or included with them, and which are represented by a legal entity pursuant to Section 37h paragraph 1 (c) to ensure compliance with their obligations pursuant to part eight of this Title of the Act, shall ensure compliance with all the obligations set forth in this part of the Act, in accordance with paragraph 1, in the same way as producers of batteries or accumulators. If portable batteries or accumulators that are incorporated or included, producers shall be obliged to conclude an agreement pursuant to paragraph 1 (c).

Section 31l

System Operator

(1) A system operator may only be a joint-stock company or a limited company that has received a permit from the Ministry to operate a collective system pursuant to Section 31m.

(2) If the system operator is a joint-stock company it may only issue ordinary shares, in the form of named registered shares. Shares and trade shares may only be subscribed by depositing money.

(3) Only battery or accumulator producers may be partners of a system operator.

(4) Profits made by a system operator shall not be divided between the partners. System operators may not reduce their fixed capital for any other purpose than to cover their losses or to comply with the obligations set forth in the legislation and shall not increase their fixed capital in any provisory manner.

(5) System operators shall not be members of the statutory bodies of any other legal entities, neither shall they participate in any other business activities.

(6) Apart from activities related to ensuring compliance with the obligations of producers of batteries or accumulators set forth in this part of the Act, system operators shall not perform any activity other than advisory activities relating preventing the production of waste batteries or accumulators and labelling batteries or accumulators, or research work, lecturing, educational or promotional activities in the area of the take-back of batteries or accumulators or the separate collection of waste batteries or accumulators and the management of waste batteries and accumulators.

(7) System operators shall not enter into an agreement which, in view of its nature, objective or risk, they would not enter into when exercising due care as a responsible manager with another natural person or legal entity, shall not allow obligations to arise towards this legal entity or natural person and shall not transfer assets thereto without consideration, with a legal entity or a natural person with whom they have a special relationship pursuant to paragraph 8.

(8) The following legal entities or natural persons are assumed to have a special relationship with the system operator

a) a statutory body and members of a statutory body of the system operator, members of the supervisory board and management-level staff of the system operator who can be dismissed by a statutory body in accordance with labour law regulations 30e),

b) members of statutory bodies of legal entities that are partners of the system operator,

c) persons close 30f) to those persons listed under (a) and (b),

d) legal entities in which certain of the persons listed in (a) or (b) have a direct or indirect share in the authorised capital that exceeds 33%,

e) partners of the system operator that are legal entities, as well as any legal entities controlled by them.

(9) The system operator may not enter into any agreement other than an agreement pursuant to paragraph 6 or an agreement pursuant to Section 31n paragraph 1 with a partner of the system operator, with a legal entity operated thereby, nor with a person controlling any of the partners of the system operator.

(10) The system operator shall enter into a contract with the legal entities that ensure compliance for producers of electrical appliances with the obligations pursuant to Part Eight of this Title of the Act, in accordance with Section 37h paragraph 1 (c), the subject thereof being collaboration with the system operator in ensuring compliance with the obligations of producers of electrical appliances with batteries or accumulators incorporated or included,

that have been drawn up for the take-back of spent batteries or accumulators and for their treatment and recovery, including the provision of information to end users and the drafting of an annual report. The system operator shall establish the conditions for concluding an agreement with all the parties individually and shall conclude this agreement with each legal entity ensuring compliance with the obligations pursuant to part eight of this Title of the Act, in accordance with Section 37h paragraph 1 (c), that expresses an interest in concluding an agreement and that has no outstanding liabilities towards the operator.

(11) The share of the capital or of the voting rights of the system operator held by an individual partner or partners acting together shall not exceed 33%. Should this occur, this partner, or these partners, shall inform the Ministry of this fact without delay and shall reduce their share to below the 33% level within at the latest 6 months of the day this level was exceeded.

(12) A partner of a system operator may not conduct business in the waste management sector, unless it manages waste other than waste batteries or accumulators, nor may it conduct business in the interest of other persons whose scope of business is waste management or any other activity directly related to waste management. This also applies to members of the system operator's statutory body, members of the supervisory board and management-level staff of the system operator who can be dismissed by a statutory body in accordance with labour law regulations 30e).

Section 31m **Issuance of a Permit to Operate a Collective System**

(1) The Ministry shall issue a permit for the operation of a collective system in response to an application by a person (hereinafter referred to as the "applicant"), providing evidence of compliance with the conditions applying to system operators as set forth in this Act.

(2) An application for the issuance of a permit to operate a collective system shall be submitted to the Ministry in paper form in two counterparts and, at the same time in electronic form. The application shall contain the company name, its legal form, the address of the head office, the applicant's registration number if one has been assigned and a list of all partners, giving their share of the authorised capital and of the voting rights, or a list of all the applicant's shareholders, including their share of the authorised capital. The following shall be attached to the application

a) the Memorandum of Association or Deed of Incorporation if the applicant is a limited liability company, or the Articles of Association if the applicant is a joint-stock company,

b) the applicant's extract from the Commercial Register and an extract showing the emission of the applicant's registered shares, no older than 7 days, if the applicant is a public limited company,

c) the applicant's last annual report, if this exists,

d) a written affirmation by the applicant confirming compliance with the conditions set forth in Section 311 paragraphs 5, 6, 7 and 9 and by the partners confirming compliance with the conditions set forth in Section 311 paragraphs 3, 11 and 12,

e) a sample agreement

1. on joint performance,
2. on acceptance of the obligations of a producer of electrical appliances which have batteries or accumulators incorporated in them or included with them, concluded in accordance with Section 311 paragraph 10,
3. on the establishment of a take-back point for batteries and accumulators, and
4. on the use of a system of collection and sorting established by a municipality in the event that the joint performance of the producer's obligations entail cooperation with municipalities,

f) a description of the method of ensuring joint performance, including in particular

1. a description of the technical, organisational and financial measures adopted to ensure the joint performance of producers regarding the take-back of spent batteries or accumulators, and the treatment and recovery of waste batteries and accumulators,
2. an agreement concluded with companies and facilities ensuring the recovery of waste batteries or accumulators,
3. a description of the method of providing information to end-users and final vendors,
4. a description of the method of record keeping pursuant to Section 310,
5. a detailed description of the estimated financial support required to ensure joint performance of the obligations ensuing to producers of batteries or accumulators during the individual years for which the permit is granted,
6. a detailed description of the method and frequency of operational checks for the collective system,
7. the estimated number of agreements on joint performance and the estimated number of batteries or accumulators to be managed through joint performance during the first three years of the authorised period to operate a collective system, and
8. the estimated volume of waste batteries or accumulators that will undergo treatment and recovery during the first three years of the authorised period to operate a collective system.

(3) A list of permits to operate a collective system that have been issued, indicating their period of validity and any decisions for the cancellation thereof, as well as the content of these permits and decisions, with the exception of information that comprises a trade secret or which is covered by the Act on the protection of personal data will be published on the public administration website by the Ministry.

(4) Only the applicant shall participate in the proceedings to issue a permit to operate or to extend the operation of a collective system.

(5) The Ministry shall issue a Decree regulating the form and content of the application for the issuance of a permit to operate a collective system.

Obligations Pertaining to System Operators

(1) System operators shall ensure the joint performance of producers' obligations on the basis of an agreement on joint performance concluded with individual producers of batteries or accumulators. System operator shall stipulate the conditions of these agreements in the same way for each producer to ensure that no one type of battery or accumulator is given unjustified preferential or detrimental treatment under competitive market conditions.

(2) System operators shall be obliged to enter into an agreement on joint performance with anyone who expresses an interest in entering into such agreement and who has no outstanding liabilities in favour of the system operator, with regard to all batteries and accumulators placed on the market or brought into circulation for which they are authorised to ensure joint performance of the obligations of a producer.

(3) System operators shall ensure the operation and financing of the take-back, treatment, recovery and disposal of portable batteries or accumulators and information campaigns through contributions from producers who have concluded an agreement on joint performance with the operator at the moment the relevant costs arise. The contributions are set by the operator to reflect the market share held by individual producers.

(4) In the event it can be shown that the battery or accumulator will not become waste on the territory of the Czech Republic, a system operator shall return the contribution received for the management of this battery or accumulator to the person who can show that, after placing the battery or accumulator on the market in the Czech Republic, it was taken out or transported to another Member State.

(5) System operators may not release information concerning the volume of batteries or accumulators placed on the market by individual producers of batteries or accumulators with whom they have concluded an agreement pursuant to paragraph 1 to any third parties, although they may provide this information to the competent administrative authority.

(6) System operators shall be obliged to ensure that an auditor

a) verifies the accuracy and completeness of financial statements and annual reports issued by the system operator,

b) verifies the accuracy and completeness of records kept on persons who have concluded an agreement with the system operator pursuant to paragraph 1, and records of battery and accumulator volumes within the scope stipulated for the purpose of the annual report pursuant to Section 31f paragraph 1 (a),

c) drafts an inspection report pursuant to sub-paragraphs (a) and (b).

(7) System operators shall be obliged to ensure the verification and drafting of reports pursuant to paragraph 6 for each year they have a permit to operate a collective system; system operators shall be obliged to submit a written inspection report to the Ministry at the latest within six months of the end of the verification period. The verification of facts pursuant to paragraph 6 may not be carried out for the system operator by an auditor with whom it has a special relationship pursuant to Section 311 paragraph 8. This also applies to natural persons performing auditing activities in the name of the auditor.

(8) The Ministry shall issue a Decree regulating the requirements for financing of the management of portable batteries and accumulators.

Section 31o

(1) System operators shall be obliged to keep records of

a) producers with whom they have concluded an agreement on joint performance pursuant to Section 31k paragraph 1 (c), including those producers for whom this joint performance is based on an agreement pursuant to Section 31l paragraph 10 with persons ensuring compliance with the obligations set forth in Section 37h paragraph 1 (c), in the scope set forth in Section 31e paragraph 3 (a) to (d) and in the implementing legal regulation, and

b) the volume of batteries or accumulators and the volume of waste from batteries or accumulators covered by the agreements on joint performance they have concluded, the flow of batteries or accumulators that have been taken back from the take-back point or the separate collection point until their treatment has been completed and the method of their recovery, in the scope stipulated for drawing up the annual report on batteries and accumulators.

(2) System operators shall be obliged

a) to provide the Ministry, upon request, with the information set forth in paragraph 1 (a) and (b),

b) to report to the Ministry information from its records on producers with whom they have concluded an agreement on joint performance, including producers they represent through a legal entity that ensures compliance with the obligations of producers of electrical appliances pursuant to Section 37h paragraph 1 (c) on the basis of an agreement pursuant to Section 31l paragraph 10, in the scope set forth in Section 31e paragraph 8 (a) to (d), including their names, within 30 days of concluding this agreement or the day on which they become aware of these facts, in electronic form and following transmission standards applicable to data on waste,

c) to draft an annual report on batteries and accumulators for the previous calendar year in the scope stipulated in the implementing legal regulation and to send this report by March 31st to the Ministry in two paper counterparts and in electronic form, following transmission standards applicable to data on waste.

(3) System operators shall be obliged to use information campaigns to inform end users of

a) any potential adverse effects substances used in the batteries and accumulators might have on the environment and on human health,

b) the method of ensuring the take-back or separate collection and the treatment and recovery of batteries or accumulators, including the publication of an updated list of collection points, and

c) the meaning of the symbols used for separate collection or take-back and the meaning of the labels pursuant to Section 31c paragraph 1 (c).

(4) The Ministry shall issue a Decree stipulating the scope of the records.

Section 31p
Supervision of the Activities of System Operators

(1) The Ministry shall supervise the activities of system operators.

(2) Should the Ministry find the activities of system operators to be deficient, it may, depending on the seriousness and nature of the deficiency discovered,

- a) oblige the system operator to make good the deficiency within a fixed period of time,
- b) instruct the inspectorate to commence proceedings to impose a fine on the system operator.

Section 31r

Decision to Revoke a Permit to Operate a Collective System

(1) The Ministry may decide to revoke a permit to operate a collective system if

- a) it was issued on the basis of false information contained in the application or in the documents attached to the application, or if the system operator subsequently failed to comply with the conditions for the issuance thereof,
- b) the system operator failed to make good the deficiency pursuant to Section 31p paragraph 2 (a) within the deadline set or
- c) the system operator breached any of the obligations set forth in this Act.

(2) Should the system operator decide to terminate operations, it is obliged to inform the Ministry thereof without delay. On the basis of this information, the Ministry shall issue a decision to revoke the permit to operate a collective system at the earliest 30 days after the system operator had shown that it had informed those battery or accumulator producers with which it had concluded an agreement pursuant to Section 31k paragraph 1 (c), the municipality with which the system operator had concluded an agreement pursuant to Section 31g paragraph 2 (b) and other persons for whom the system operator carries out the take-back and the treatment and recovery of waste batteries or accumulators of its decision to terminate its activities 6 months prior to that date.

(3) Only the system operator shall participate in the proceedings to revoke a permit to operate a collective system.

PART TEN

SANCTIONS

TITLE I

FINES IMPOSED ON NATURAL PERSONS AUTHORISED TO CONDUCT BUSINESS AND LEGAL ENTITIES

Section 66

(3) A fine of up to 10,000,000 CZK shall be imposed by the Inspectorate on a natural person authorised to conduct business or a legal entity, who

g) fails to ensure the take-back of used products designated for take-back or fails to comply with some other obligation relating to take-back,

(4) A fine of up to 50,000,000 CZK shall be imposed by the Inspectorate on a natural person authorised to conduct business or a legal entity, who

f) fails to comply with the obligations specified in this Act when managing selected products or waste or facilities pursuant to Part Four above,

i) provides joint performance of the obligations of a producer, for which a permit to operate a collective system pursuant to Section 311 is required, without such a permit, or without a permit to operate a collective system offers to conclude an agreement with a third party, the scope of which is an activity the performance of which requires a permit, or

j) as a system operator pursuant to Section 311, is in breach of an obligation that is imposed on system operators by this Act.

Section 76 The Inspectorate

(1) The Inspectorate

i) may prohibit the placement on the market or the bringing into circulation of batteries or accumulators that do not comply with the requirements stipulated in Part Four, Title II, Division 3 until they have been made good or suspend the placement of such batteries or accumulators on the market or from being brought into circulation; at the same time, where there is a risk of damage to human health or the environment or where this has already occurred, it may instruct producers of batteries or accumulators that do not comply with the requirements stipulated in Part Four, Title II, Division 3, to remove such batteries or accumulators from the market,

Section 76a Czech Trade Inspectorate

The Czech Trade Inspectorate verifies compliance with obligations relating to placing batteries and accumulators on the market or bringing them into circulation, their labelling and the provision of a take-back system for the producer and final vendor; these persons shall be obliged on request to demonstrate the manner of ensuring the take-back of products.

Section 77 Customs Authorities

(1) Customs Authorities 46)

a) inspect the domestic and cross-border transport of waste,

b) inspect the import of batteries or accumulators from states which are not European Union Member States,

(17) The Customs Authorities shall not release the goods into the proposed customs regime according to a special legal regulation, 47) if

d) the ban set forth in Section 31 paragraph 5 on the labelling of batteries or accumulators according to Section 31 paragraph 2 has not been adhered to during the importation of batteries and accumulators from states that are not European Union Member States.

(18) The Customs Authorities may request expert assistance from the Inspectorate during inspections performed according to the previous paragraphs.

(19) Should any doubts exist as to whether the transported goods are waste, the Customs Authorities shall request a decision from the locally competent regional authority for the location where the inspection was carried out.

(20) If the Customs Authority decides not to release the waste into the proposed customs regime pursuant to paragraph 13, the legal entities and natural persons shall be obliged immediately to return the waste to the state which is not a European Union Member State. The Customs Authority shall immediately inform the Ministry of the non-release of the goods into the proposed customs regime pursuant to paragraph 13.

(21) The Ministry of Finance shall provide the Ministry with information from its records and information systems concerning waste which has been exported from the Czech Republic to states which are not European Union Member States, or which has been imported into the Czech Republic from these states and concerning batteries and accumulators which have been imported into the Czech Republic from states which are not European Union Member States.

(22) The Ministry shall provide the General Customs Directorate with instructions to carry out inspections pursuant to special legal regulations.

(23) Fines imposed by the Inspectorate and forfeit bonds shall constitute income for the State Environmental Fund.

Section 77a Czech Police Force

(1) The Czech police force

a) within the framework of its border duties and within a zone up to 25 km from the state border 48b) shall record and, to the best of its ability, document any suspicious occurrences and circumstances indicating the illegal cross-border transport of waste to the Czech Republic,

b) shall hand over its findings to the Inspectorate bodies and the Customs Authorities which shall adopt their own corrective measures,

c) shall work together with and, as part of this cooperation provide expert assistance and suitable conditions to the Inspectorate bodies and the Customs Authority.

(2) Within the framework of its participation and in the acquisition of necessary information to perform the tasks set forth in paragraph 1 above, the Czech police force shall follow the procedures and use the authorisations specified in the relevant legal regulations 48c).

(3) When performing the tasks set for in paragraph 1 above, the Czech police force may request the assistance of the bodies of the Inspectorate or the Custom Authorities.

Section 83 Interim Provisions

Annex no. 10

Economic activities of final vendors pursuant to Section 31g paragraph 2 (c)

47.11 Retail sale in non-specialised stores with food, beverages or tobacco predominating, provided the size of the sales area exceeds 200 m²

47.19 Other retail sale in non-specialised stores, provided the size of the sales area exceeds 200 m²

47.29 Other retail sale of food in specialised stores, provided the size of the sales area exceeds 200 m²

47.41 Retail sale of computers, peripheral units and software in specialised stores

47.42 Retail sale of telecommunications equipment in specialised stores

47.43 Retail sale of audio and video equipment in specialised stores

47.52 Retail sale of hardware, paints and glass in specialised stores

47.54 Retail sale of electrical household appliances in specialised stores

47.59 Retail sale of furniture, lighting equipment and other household articles in specialised stores, provided the size of the sales area exceeds 200 m²

47.64 Retail sale of sporting equipment in specialised stores, provided the size of the sales area exceeds 200 m²

47.65 Retail sale of games and toys in specialised stores, provided the size of the sales area exceeds 200 m²

47.77 Retail sale of watches and jewellery in specialised stores

47.78 Other retail sale of new goods in specialised stores, provided the size of the sales area exceeds 200 m²

47.78.1 Retail sale of photographic and optical equipment and supplies

The first column showing the economic activity of final vendors given in the table above is taken from Regulation (EC) no. 1893/2006 of the European Parliament and of the Council of 20 December 2006, establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) no. 3037/90 as well as certain EC Regulations on specific statistical domains, as amended, and the communication from the Czech Statistical Office dated 18 September 2007 on the introduction of the Classification of Economic Activities (CZ-NACE)

