



Ordinance on producer responsibility for electrical and electronic products

Swedish Code of Statutes 2005:209

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The Government prescribes¹ the following.

Section 1. The purpose of this Ordinance is to ensure that electrical and electronic products are designed and manufactured in a way that prevents waste and, in the case of waste that is nevertheless generated, that

1. producers shall provide systems for collection of the waste,
2. the products can be re-used or recycled, and
3. the targets set out in Annex 3 to this Ordinance are achieved.

Definitions

Section 2. For the purposes of this Ordinance *electrical and electronic products* means products that are designed for use with a voltage rating not exceeding 1 000 Volt for alternating current and 1 500 Volt for direct current and that:

1. are designed for and dependent on electric current or electromagnetic fields to work properly, or
2. are designed for the generation, transfer or measurement of electrical currents or electromagnetic fields.

When waste electrical or electronic products are generated the components, subassemblies and consumables that are in the products at that time shall be regarded as forming part of the products.

Section 3. For the purposes of this Ordinance a *producer* means a person who:

1. manufactures electrical and electronic products and sells them under his own brand,
2. sells under his own brand electrical and electronic products that do not have a brand that can be attributed to a producer referred to in point 1, or

¹ Extract from the minutes of the Cabinet Meeting, 14 April 2005 (Government Ordinance Explanatory Note 2005:1). Cf. Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) (OJ L 37, 13.02.2003, p. 24, Celex 32002L0096), amended through Directive 2003/108/EC of the of the European Parliament and of the Council (OJ L 345, 31.12.2003, p. 106, Celex 32003L0108).

3. on a professional basis either imports electrical and electronic products into Sweden or exports such products from Sweden to another Member State of the European Union.

The term producer does not refer to a person who only provides financing under a loan, lease, rental or hire purchase agreement that relates to a product, irrespective of whether the agreement means that the ownership right to the product will or may be transferred.

Section 4. For the purpose of this Ordinance the following terms have the meaning set out in this section.

Directive 2002/96/EC: Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE)² amended by Directive 2003/108/EC of the European Parliament and of the Council³.

Distance selling: selling a product to a user in another country under a contract made directly with the user, exclusively by means of distance communication, when this user is not to be regarded as a producer under the corresponding regulations in the other country.

Household products: electrical or electronic products that are typically found in households and that can therefore be expected to become household waste.

Pre-treatment: any treatment referred to in Section 24 of the Waste Ordinance (2001:1063).

Collection system: a system that a producer maintains or is affiliated to and to which waste electrical and electronic products can be delivered in order to be transported and recycled or disposed of on behalf of the producer.

Energy recovery: use of waste material to utilise the energy in the material.

Material recovery: processing of waste material for some other use than reuse or energy recovery.

Dangerous substances and preparations: all substances or preparations that shall be regarded as dangerous under Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances⁴ most recently amended through Commission Directive (EC) No 2004/73⁵, or Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations⁶, most recently amended through Regulation (EC) No 2004/66⁷ of the European Parliament and the Council.

² OJ L 37, 13.2.2003, p. 24 (Celex 32002L0096).

³ OJ L 345, 13.12.2003, p. 106 (Celex 32002L0108).

⁴ OJ 196, 16.8.1967, p. 1 (Celex 31967L0548).

⁵ OJ L 152, 30.4.2004, p. 1 (Celex 32004L0073).

⁶ OJ L 200, 30.7.1999, p. 1 (Celex 31999L0045).

⁷ OJ L 168, 1.5.2004, p. 35 (Celex 32004L0066).

Section 5. Other terms and expressions used in this Ordinance have the same meaning as in the Environmental Code and the Waste Ordinance (2001:1063).

Scope

Section 6. This Ordinance shall apply to the electrical and electronic products set out in Annex 1 to the Ordinance.

This Ordinance shall not apply to

1. products that form part of or that have been manufactured and sold only to form part of a product that is not covered by this Ordinance, or
2. products that are connected with the protection of essential interests of the security of a Member State of the European Union, arms, munitions or war material, if the products have been produced for a specifically military purpose.

Section 7. If a regulation issued pursuant to the Radiation Protection Act (1988:220) differs from this Ordinance, that regulation takes precedence.

If a regulation in the Batteries Ordinance (1997:645) or in provisions issued pursuant to the Batteries Ordinance differs from this Ordinance, that regulation takes precedence.

Section 8. Chapter 15, Section 8 of the Environmental Code contains provisions directing that municipalities shall be responsible for the transportation and recycling or disposal of household waste. This responsibility is only restricted by the provisions of this Ordinance in the case of waste delivered under the Ordinance to a responsible producer or collection system referred to in Section 16.

Data on products and registration

Section 9. A producer who sells electrical and electronic products shall supply the Swedish Environment Protection Agency with data on the products. The data shall refer to products in every product category according to Annex 1 to this Ordinance, specified by product type and in the way that is appropriate for the application of this Ordinance. Data shall be supplied on

1. what products and quantities, expressed in weight or numbers, of the various products that the producer sells in Sweden and sells at a distance to other countries in the European Union,
2. what quantities, expressed in weight or numbers, of household products that the producer sells in Sweden,
3. what quantities, expressed in weight or numbers, of household products that the producer sells at a distance to each other Member State of the European Union, and
4. how the producer intends to fulfil his responsibility under this Ordinance and how the obligation to ensure the financing of action to deal with waste under Section 18 has been fulfilled.

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Section 10. The Swedish Environment Protection Agency shall compile the data provided by producers under Section 9 in a register.

With the assistance of this data and through the exchange of information with other States in the European Union, the Swedish Environment Protection Agency shall calculate each producer's market share of the household products sold in Sweden and, as regards selling at a distance to another Member State of the European Union, what market share the producer's distance sales constitute of household products sold in each such Member State.

These market shares may refer to a certain product type or product market or some other appropriate categorisation.

Marking of products

Section 11. A producer who sells electrical and electronic products in Sweden or at a distance to another Member State of the European Union shall ensure that the product is marked with

1. the symbol shown in Annex 2 to this Ordinance,
2. data showing that the product was put on the common market after 12 August 2005, and
3. the data required to identify the responsible producer.

If necessary because of the size or function of the product, the symbol referred to in paragraph 1 may instead be placed on the packaging of the product or in the written instructions for use or warranty that accompanies the product.

Obligation to deal with products

Section 12. A producer shall deal with waste electrical and electronic products if, after 12 August 2005, the producer has sold the products in Sweden or in another Member State of the European Union or at a distance to such a Member State.

Section 13. A producer shall participate in action to deal with waste electrical and electronic products put on the market before 13 August 2005 that become household waste.

For every time period prescribed by the Swedish Environment Protection Agency the producer shall be responsible for

1. a share of the waste generated in Sweden equal in size to the producer's market share of sold household products in Sweden, and
2. in the event of distance selling to another Member State of the European Union, a share of the waste generated in each such Member State equal in size to the market share that the producer's distance-sold products constitutes of household products sold in that Member State.

These shares may refer to a certain product type or product market or some other suitable categorisation.

Section 14. A producer shall deal with waste electrical and electronic products put on the market before 13 August 2005 that are not household

waste, if they are delivered to the producer in connection with the sale by the producer of a corresponding quantity of new products. This obligation only applies to products that are of the same product type as the products sold or that in normal use fulfil essentially the same function as the products sold.

Section 15. The producer shall deal free of charge with waste referred to in Sections 12–14 that has been generated by households.

Section 16. For waste that can be expected to be generated in Sweden a producer shall fulfil his obligation under Sections 12–14 by ensuring that

1. there are one or more appropriate collection systems for waste referred to in Sections 12 and 13,
2. that the possibility of delivering products under Section 14 is arranged in a simple and practical way, and
3. that the products delivered to the collection system or systems referred to in point 1 or delivered to the producer under Section 14 are transported, pre-treated or reused or subjected to material recovery or energy recovery or dealt with in some other environmentally acceptable way.

Section 17. A collection system shall be regarded as appropriate if

1. it is easily accessible and provides good service to households, municipalities and other users who can be expected to want to deliver the electrical and electronic products referred to in Sections 12 and 13,
2. it makes it easier for households and other users to sort the products from other waste,
3. for waste referred to in Section 12 there are collection systems with an appropriate geographic spread in view of the expected use and service life of the products sold and other circumstances,
4. for waste referred to in Section 13 there are collection systems in every municipality,
5. as regards household waste it means that products of the same product type as the products for which the collection system is intended can be delivered to the system even though the producer's responsibility to deal with waste is limited to certain products or a certain share of the waste generated,
6. it promotes the reuse of all or part of the product, and
7. it is designed so that persons managing the products in the system are not exposed to health and safety risks due to the nature of the products.

In the assessment of what is to be regarded as an appropriate collection system, special account shall be taken of what has emerged at consultations between the municipality and the producer under Section 23.

For service to municipalities under the first paragraph, point 1, the collection system shall enable products to be delivered to the system or to be collected by someone representing the system at least at the place or one of the places arranged by the municipality concerned for the management of waste electrical and electronic products. The municipality and the producer may agree on deviations from this requirement.

Obligation to ensure financing for the fulfilment of producer responsibility

Section 18. A producer who sells electrical and electronic products in Sweden or at a distance to another Member State of the European Union shall ensure through a financing system, insurance arrangements, blocked accounts or in some other appropriate means that financing is available for the fulfilment of the producer's obligation to deal with products under Section 12 read together with Section 16 even if the producer terminates his operations or fails to carry through on fulfilment for some other reason.

Action to ensure fulfilment shall be regarded as appropriate if it is likely, in view of the expected use and service life of the product sold and other circumstances, that the obligations will be fulfilled or that the person who fulfils the producer's obligation can obtain compensation for the costs that fulfilment will entail.

Obligation to supply information on the content and disposal of the products

Section 19. A producer shall for electrical and electronic products that the producer sells in Sweden or sells at a distance to some other Member State of the European Union supply the information about the contents of products that is necessary in environmental or health terms in order to facilitate maintenance, upgrading, repair, reuse, pre-treatment, material recovery, energy recovery and disposal of all or parts of the products.

The producer shall fulfil his obligation to provide information by ensuring that the data is available, no later than one year after sale, to anyone handling waste electrical and electronic products on a professional basis and to others who can be expected to want to reuse such products.

Section 20. For the calculation of the targets set out in Annex 3 to this Ordinance a producer shall ensure that data is available for products collected in collection systems referred to in Section 16 or delivered to the producer under Section 14 concerning how much has been

1. collected,
2. reused without pre-treatment,
3. pre-treated,
4. reused after pre-treatment,
5. subjected to material recovery,
6. subjected to energy recovery,
7. has been disposed of in some other way, and
8. has been removed from Sweden for the waste management referred to

in points 2–7.

In the case of data on procedures referred to in the first paragraph, points 3–7, that have been conducted outside the European Union, the producer shall be able to show that the products have been managed in a way that corresponds to the requirements of Directive 2002/96/EC.

The producer shall ensure that the data are supplied to the Swedish Environment Protection Agency in the way and to the extent determined by the Agency.

Section 21. When a municipality informs households about waste management in the municipality, information concerning electrical and electronic products shall contain information on:

1. the potential effects on human health and the environment as a result of the presence of dangerous components in such products,
2. the meaning of the marking referred to in Section 11, paragraph 1,
3. the obligation to sort waste consisting of such products under the provisions of the Waste Ordinance (2001:1063) and the sorting method to be used,
4. the collection systems available to households, and
5. the recycling outcome that sorting contributes to.

Section 22. In the case of electrical and electronic products a producer shall ensure that users other than households receive information about

1. the purpose of handling waste consisting of such products separately from other waste, and
2. how such products can be delivered to the producer or to a collection system.

This information shall be formulated and supplied in such a way that it reaches those users who can be expected to want to deliver electrical or electronic products to the producer or a collection system.

Consultation

Section 23. A producer who is required to provide a collection system under Section 16 shall, as regards household waste consisting of electrical and electronic products, consult every municipality concerned on matters regarding the collection system. The purpose of this consultation shall be to coordinate the producer's responsibility with the municipality's refuse collection duty in the light of local conditions in the municipality.

Section 24. The producer shall fulfil his consultation obligation before the collection system is brought into use or otherwise when requested by the municipality by

1. supplying the municipality with a detailed account of how the producer is fulfilling or intends to fulfil the obligations that follow from Section 17,
2. supplying to the municipality the data that the municipality needs in order to be able to inform households under Section 21 as well as the other data about the handling of electrical and electronic products that are needed for the municipality's refuse collection system, and
3. giving the municipality the opportunity to hold discussions with the producer on the alterations or the coordination that the municipality considers necessary.

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Section 25. In the consultation the municipality shall give the producer the opportunity to submit comments on the formulation of the information to households referred to in Section 21.

Division of responsibility, reporting and supervision

Section 26. The Swedish Environment Protection Agency shall fix the producers' shares under Section 13 using the data provided under Sections 9 and 20 and shall notify the producers of the division of responsibility.

The Swedish Environment Protection Agency shall assist parties affected by producer responsibility with information registered under Section 10 or supplied under Section 20 and that is needed in order to calculate a producer's responsibility under Section 12 or so that an affected party will obtain information on who is the responsible producer and how financing for the fulfilment of the responsibility has been ensured.

Section 27 A producer shall report each year to the Swedish Environment Protection Agency on how the producer has fulfilled his obligations under this Ordinance.

The first paragraph does not apply to how collection at local level fulfils the requirements in Sections 16 and 17.

Section 28. The Swedish Environment Protection Agency shall

1. fulfil the tasks concerning reporting to the European Commission that are prescribed in Article 12 of Directive 200/96/EC, and
2. organise the cooperation for the exchange of information with other Member States of the European Union that follows from this Ordinance and Directive 2002/96/EC.

Section 29. Provisions on supervision and fees are found in the Ordinance on Supervision under the Environmental Code (1998:900) and the Ordinance on Fees for Examination and Supervision under the Environmental Code (1998:940).

Authorisation

Section 30. The Swedish Environment Protection Agency may issue the regulations needed for the application of Sections 9, 10, 13, 16–20, 26 and 27.

Penalty provisions

Section 31. A fine shall be imposed on any person who fails either intentionally or through negligence to fulfil his obligations to

1. ensure that electrical and electronic products are marked pursuant to Section 11,
2. deal with electrical and electronic products pursuant to Sections 12–14 and Section 16 points 1 and 3,
3. ensure financing pursuant to Section 18, or
4. supply data pursuant to Section 19.

A person who has breached an injunction or prohibition issued under Chapter 26 of the Environmental Code that is accompanied by a penalty payment may not be held responsible under this Ordinance for acts covered by the injunction or prohibition.

A person shall not be held responsible under this Ordinance for an act that is punishable under Chapter 29 of the Environmental Code.

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This Ordinance enters into force on 13 August 2005.

On behalf of the Government

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