

## **The Packaging Act No. 477/2001 Coll.**

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Complete wording valid since 20/04/2023

### **LIBERAL TRANSLATION**

Let us inform you, that this translation is just for your information and cannot be consider as official statutory text. For this purposes it is necessary to use text published in Collection of Law of the Czech Republic.

**Packaging Act No. 477/2001 Coll., and on the amendment to certain acts (Packaging Act),**

as amended by Act No. 274/2003 Coll., Act No. 94/2004 Coll., Act No. 237/2004 Coll., Act No. 257/2004 Coll., Act No. 444/2005 Coll., Act No. 66/2006 Coll., Act No. 296/2007 Coll., Act No. 25/2008 Coll., Act No. 126/2008 Coll., Act No. 227/2009 Coll., Act No. 281/2009 Coll., Act No. 77/2011 Coll., Act No. 18/2012 Coll., Act No. 167/2012 Coll., Act No. 62/2014 Coll., Act No. 64/2014 Coll., Act No. 243/2016 Coll., Act No. 298/2016 Coll., Act No. 149/2017 Coll., Act No. 183/2017 Coll., Act No. 277/2019 Coll., Act No. 541/2020 Coll., Act No. 545/2020 Coll., Act No. 609/2020 Coll., Act No. 261/2021 Coll., Act No. 244/2022 Coll. and Act No 87/2023 Coll is amended as follows:

## **PART ONE PACKAGING ACT**

### **CHAPTER I INTRODUCTORY PROVISIONS**

#### **Section 1**

##### **Purpose and Subject of the Act**

(1) The object of this Act is to protect the environment by preventing the generation of wastes from packaging namely by reducing, in compliance with European Union law, the weight, volume and hazards of the packaging and chemical substances<sup>1)</sup> (hereinafter, „the substances“) contained therein. This law establishes the rights and obligations of legal and natural persons engaged in business (hereinafter referred to as "persons") and the competence of administrative authorities when, preventing the creation of waste from packaging, placing packaging on the market or in circulation and handling packaging or packaging waste, and provides for charges and safeguards, corrective measures and offences.

(2) This Act applies to the handling of all packaging that is placed on the market or into circulation in the Czech Republic, with the exception of containers used in road, rail or air transport or in maritime or inland navigation according to international treaties by which the Czech Republic is bound and which were announced in the Collection of Laws and International Treaties or in a previous similar collection<sup>3)</sup>.

(3) Unless otherwise provided by this Act, the Waste Act shall apply to the management of packaging waste<sup>4)</sup>.

(4) The Act shall not prejudice other requirements for packaging as provided by special regulations<sup>5)</sup>.

#### **Section 2**

##### **Basic terms**

Regarded for the object of this Act as

a) Packaging is a product consisting of any type of material and serving for the purpose of holding, protecting, handling, delivering or possibly presenting a product(s) designated for the consumer<sup>6)</sup> or another end user, provided that it should also serve the following purposes

1. Represent a sales unit for the consumer or other end user at the sales location (hereafter referred to as “sales packaging”);
2. Represent a group of a certain amount of sales units at the sales location, whether this group of products is being sold to the consumer or to another final user or whether such a group of products only serves as a tool for the placement of merchandise on the shelves at the sales location and can be removed from the product without affecting its quality (hereafter referred to as “group packaging”);
3. Enable the easier handling of a certain number of sales units or group packaging and in that manner, enable transport in order to prevent physical damage during shipping and handling (hereafter referred

to as “shipment packaging”); the criteria and illustrating examples specifying the definition of packaging are provided in Annex No. 1 to this Act,

b) product is any object manufactured, extracted or otherwise acquired, irrespective of the degree of processing thereof, which is intended for marketing or circulation,

c) packaging management is the packaging production, place packaging on the market or put into circulation, use of packaging, modification of packaging, and reuse of packaging,

d) placement on the market refers to the moment when the packaging or packaging means are first handed over or offered for handover in the Czech Republic for a fee or free of charge, for the purpose of distribution or use, or when the ownership rights to it are first transferred; placement on the market also includes the cross-border transport of packaging or packaging means from another member state of the European Union to the Czech Republic or import, with the exception of release into the inward processing or temporary admission customs regimes in the event that, after the end of that regime, the packaging or packaging means will be exported abroad from the Czech Republic in full,

e) put packaging into circulation is such transfer, against payment or not, of a packaging in the Czech Republic, regardless if separately or together with a product, to another person for distribution or use, which is not place packaging on the market,

f) import means the release of packaging or packaging means from a state that is not a European Union Member State, into the customs regime of free circulation, inward processing or temporary admission,

g) reusable packaging refers to a packaging product that has been designed, manufactured and place on the market in such a way that allows the packaging you need to be use more than once during its life cycle or which may be cycled several times by refilling or reusing the relevant contents for the same purpose for which it was used originally,

h) single-use packaging means packaging that is not reusable packaging,

i) returnable packaging means packaging for which a method exists for returning that packaging or waste from that packaging to the person that places it into circulation,

j) composite packaging refers to a packaging composed of two or more layers of different materials, which cannot be separated manually and form a single integral unit consisting of an inner container and an outer casing, which is filled, stored, transported and emptied as such,

k) plastic material refers to a material consisting of a polymer according to Article 3 point 5 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>33</sup>), to which additives or other substances may be added and which may be the main structural component of the final products; the term plastic does not include material made of chemically unmodified natural polymers,

l) single-use plastic package means a package that is entirely or partially made of plastic and is not reusable packaging,

m) oxo-degradable plastic packaging is a packaging made of plastic materials that contain additives that cause the plastic material (through oxidation) to break down into microparticles or that cause a chemical decomposition of that material,

n) biodegradation refers to an aerobic or anaerobic degradation of packaging waste; oxo-degradable plastic packaging is not considered biodegradable,

- o) take back means the collection of packaging or packaging waste from consumers within the Czech Republic for the purpose of the reuse of the packaging or for the purpose of the recycling<sup>4</sup> or disposal<sup>4</sup> of packaging waste,
- p) another end user is a physical or a legal entity conducting business which purchases packaging for its business and does not put them into further circulation,
- q) industrial packaging is used exclusively as packaging for products designated exclusively for another end user,
- r) packaging mean is a product from which the sales packaging, group packaging or transport packaging is directly made or which is part of multi-part packaging,
- s) single-use plastic packaging mean packaging which is wholly or partly made of plastic and which is not manufactured, designed or placed on the market in such a way that
1. it can be used more than once during its life cycle or can go through several cycles by being returned to the person placing it on the market or into packaging circulation for refilling, or
  2. reused for the same purpose for which it was designed,
- t) a plastic carrier bag is a shopping bag with or without handles provided to the consumer at the product point of sale, made of plastics,
- u) a very light plastic carrier bag is a plastic carrier bag with up to 15 micron wall thickness, necessary for hygienic reasons or provided as sales packaging for loose foodstuffs where its use prevents foodstuff wasting,
- v) beverage bottle means a bottle used for any type of beverage, particularly beer, wine, drinking water, liquid snacks, juices and nectars, milk or instant drinks intended for direct consumption without needing to be mixed with another product or otherwise modified,
- w) beverage container means a beverage bottle or composite beverage package used for any type of beverage, particularly beer, wine, drinking water, liquid snacks, juices and nectars, milk or instant drinks intended for direct consumption without needing to be mixed with another product or otherwise modified,
- x) eco-modulation means taking account of the impact of the packaging on the environment, particularly its reusability, recyclability, content of hazardous substances and fulfilment of the requirements stipulated by other legal regulations<sup>34</sup>, during its life cycle when an authorised packaging company determines the amount of the cash contribution for an individual packaging product or for a group of similar packaging products, paid by the person who places the packaging on the market or into circulation in order to ensure collective compliance with the obligations pursuant to this Act,
- y) collection point is the location where packaging waste is taken back and collected.

## **CHAPTER II**

### **BASIC OBLIGATIONS CONCERNING THE HANDLING OF PACKAGING AND PACKAGING WASTE**

#### **Section 3**

#### **Prevention**

- (1) The person who places packaging on the market or puts into circulation shall see to it that the weight and volume of the packaging should be minimized while complying with the requirements for the packaging

product and retaining its appeal to the customer or another end user, in order to reduce the quantity of packaging waste which shall be disposed of.

(2) If packaging for a certain product is made in accordance with the harmonized Czech technical standards<sup>7a)</sup>, the requirements according to Par. 1 shall be deemed fulfilled.

(3) A plastic carrier bag may be provided to the consumer in the product point of sale at least for a charge covering the costs of its production. This does not apply to the very light plastic carrier bag.

#### Section 4

##### Terms of placing packaging on the market

(1) The person who places a packaging on the market or packaging mean shall see to it that

- a) the concentration in the packaging or packaging mean of substances identified in the List of Hazardous Chemical Substances Classified<sup>8)</sup> as yet should comply with the limit values as provided in special regulations<sup>9)</sup>, given the presence thereof in emissions, ashes or leach after incineration or landfilling of the waste generated from the packaging or packaging mean,
- b) the total sum of concentrations of lead, cadmium, mercury and chromium with oxidation number VI in a packaging or packaging mean did not exceed the value of 100 micrograms/g (hereinafter the "limit value"),
- c) the packaging or packaging mean, having been used in the way for which it was intended and all the residues of the packaging product having been removed in the usual way, namely by disposal thereof, shall be repeatedly reusable, or may be recovered through recycling, energy recovered or recovered through biodegradation.

(2) If a packaging or packaging mean is made in accordance with the harmonized Czech technical standards<sup>7a)</sup>, the requirements according to Par. 1 shall be deemed fulfilled.

(3) No limit value according to Par. 1, Letter b) is stipulated for packaging and packaging means produced exclusively from lead crystal glass<sup>9a)</sup>.

(4) The limit value according to Par. 1, Letter b) may be exceeded in glass packaging and packaging means, provided that

- a) no lead, cadmium, mercury or chrome with the oxidizing number VI are deliberately inserted into the packaging or packaging mean during the manufacturing process; for the purposes of this Contract and in accordance with the European Union law 9b) deliberate insertion shall mean the process of the deliberate use of a certain substance to create a packaging or packaging mean, so that the substance is present in the produced packaging or packaging mean and is the carrier of certain specific characteristics, appearance or quality of packaging; deliberate insertion shall not include the use of recycled material for the production of packaging or packaging means where part of the recycled materials may contain certain regulated quantities of heavy metals,
- b) the limit value is exceeded only as a consequence of added recycled materials and
- c) the producer of the packaging or packaging mean conducts measurements of the concentrations of heavy metals in product samples, once a month, representing normal and regular production activity. These samples shall be collected from each single melting aggregate. The measured values of heavy metal concentrations are recorded and reported in the manner stipulated in Annex No. 5 to this Act.

(5) The limit value according to Par. 1, Letter b) may be exceeded in plastic crates and plastic pallets, provided that

- a) no lead, cadmium, mercury or chrome with the oxidizing number VI is deliberately inserted into the crates or pallets during the manufacturing process or during distribution,
- b) the limit value is exceeded only as a consequence of added recycled materials,
- c) the crates or pallets are produced through a recycling process using only recycling material produced from the recycling of other plastic crates or pallets, and the use of other material outside the recycling cycle is restricted to the minimum permissible limit and does not in any case exceed 20% of the weight of the material used for the production of such crates or pallets, and
- d) the material from which the crates or pallets are produced is visibly identified on such crates or pallets, in accordance with the European Union law <sup>9c)</sup>.

(6) A person placing on the market the single-use plastic packaging specified in Part A of Annex No. 4 to this Act is obliged to place on the market such packaging only on condition that the plastic cap or lid remains attached to the container for as long as the product is used for its intended purpose. A metal cap or lid with a plastic seal is not considered to be made of plastic.

#### Section 5

- (1) A person who places packaging on the market is required to
  - a) Provide to the inspection authorities all technical documentation necessary to prove that the requirements specified in Sections 3 and 4 have been met, if requested, whereas the information according to Par. 2, Letter b) should, for the purpose of this inspection, replace the documentation which serves to prove the compliance with the requirements specified in Section 4,
  - b) Decisively inform its purchasers that the packaging meets the requirements specified in Sections 3 and 4.
- (2) A person who places a packaging mean on the market is required to
  - a) Provide to the inspection authorities, if requested, all technical documentation necessary to prove fulfilment of the requirements specified in Section 4,
  - b) Decisively inform its purchasers that the packaging mean meets the requirements specified in Section 4.

#### Section 6

##### Marking of packaging

- (1) If a person marketing or putting into circulation a packaging indicates on the packaging the material from which the packaging is produced, this marking shall be in harmony with the European Union law <sup>9c)</sup>.

#### Section 7

##### Reusable packaging

- (1) The person who places on the market or puts into circulation products whose packaging are reusable, shall take appropriate organizational, technical or financial measures in compliance with the criteria provided in Annex No. 2 to this Act, which facilitate multiple reuse.
- (2) The specific aspects of these measures and the method and course of repeated use are stipulated in the relevant harmonized Czech technical standards <sup>7a)</sup>.

## Section 8

### Returnable packaging

The person who places on the market or puts into circulation products whose packaging are returnable shall secure multiple reuse of such packaging as provided under points B. 1 or B. 2 of Annex No. 2 to this Act, or recovery of wastes from such packaging in compliance with Section 12.

## Section 9

### Deposit returnable packaging

(1) For the purposes of this Act the term deposit returnable packaging means returnable packaging for which a special sum of money is charged as part of the measures pursuant to Section 8, which is directly linked to the returnable packaging used for the sale of the product and whose return to the buyer is guaranteed when the product is sold upon the return of this packaging or waste from this packaging, if it is single-use packaging ("deposit").

(2) The persons shall comply with the amount of the deposit for the deposit returnable packaging as provided in the implementing regulation.

(3) The person who places products on the market in deposit returnable packaging, shall mark the packaging as deposit returnable packaging in the way provided by the implementing regulation.

(4) A person who places products in deposit returnable packaging on the market or into circulation is obliged to redeem that packaging or waste from that packaging, if it is deposit returnable packaging, with no limit on the quantity and without making that redemption conditional on the purchase of goods.

(5) A person who places products in deposit returnable packaging on the market or into circulation through sale to consumers in an establishment<sup>11</sup> is obliged to redeem that packaging or waste from that packaging, if it is deposit returnable packaging, with no limit on the quantity and without making that redemption conditional on the purchase of goods.

(6) A person who places products in deposit returnable packaging on the market or into circulation in a manner other than through sale to consumers is obliged to inform the persons who place the products in that packaging on the market or into circulation through sale to consumers of any upcoming change to the type of deposit returnable packaging or of the termination of the redemption of deposit returnable packaging or waste from single-use deposit returnable packaging at least 6 months before such a change comes into effect or before redemption is terminated; the redemption of this deposit returnable packaging or waste from such packaging, if it is single-use deposit returnable packaging, may not be stopped during this period.

(7) If a person who has placed products in deposit returnable packaging on the market or into circulation states that it is ceasing to use deposit packaging for which a deposit was previously paid, that person is obliged to that deposit returnable packaging or redeem waste from such packaging, if it is single-use deposit returnable packaging, under the terms applicable for the packaging for which a deposit was previously paid, for a period of at least 1 year from the date on which that packaging was last placed on the market or into circulation.

(8) The provisions of Par. 3 to 7 are of no prejudice to the provisions of special regulations<sup>6)</sup>.

(9) The amounts of deposits for selected types of deposit returnable packaging or for deposit returnable packaging designed for selected types of products shall be provided by an implementing regulation.



(10) The person who puts into circulation table beer, tap beer or lagers in containers which are not deposit returnable packaging, shall also offer the beverages belonging to the above mentioned groups in deposit returnable packaging, should such beverages be marketed in such packaging. This obligation shall not apply to persons who puts into circulation such beverages in premises of a sale area smaller than 200 square metres.

#### Section 9a

(1) The consumer is entitled to hand over waste from selected single-use deposit returnable packaging to the collection point at the establishment of the person who places the given selected single-use deposit returnable packaging on the market or into circulation through sale to consumers.

(2) The person specified in Paragraph 1 is not a waste generator in relation to the received waste from the selected single-use deposit returnable packaging, and its establishment does not have to be a designated waste management facility.

(3) An implementing legal regulation determines the types of selected single-use deposit returnable packaging according to Paragraph 1.

#### Section 10

##### Take-back

(1) If a person who places packaging on the market or into circulation fails to prove that such packaging has become waste within the territory of the Czech Republic, that person is obliged to ensure the take back of that packaging or waste from that packaging. They provide take back without the right to payment for this take back, under the conditions specified in Paragraphs (2) and (4). At the same time, the person is obliged to pay attention to the sufficient number and availability of collection points, including sufficient coverage of the territory of the Czech Republic, especially with regard to the locations of municipalities in the area. Accessibility refers to a reasonable walking distance; however, this does not apply in the case of deposit returnable packaging - as these packaging are sold to the consumer at the relevant store and therefore it is regarded as sufficient accessibility providing that the store buys back deposit returnable packaging in accordance with Section 9 Par. 4.

(2) A person who places packaging on the market or puts packaging into circulation is obliged to ensure that

- a) the share or number of municipalities in whose territory the person is obliged to ensure take-back through collection points in accordance with paragraph 1 is at least 90% of the total number of municipalities in the Czech Republic, and
- b) the share or the number of residents living in municipalities in whose territory the person is obliged to ensure take-back through collection points in accordance with paragraph 1 is at least 90% of the total number of residents in the Czech Republic.

This obligation does not apply to deposit returnable packaging.

3) While fulfilling the compliance with the limits regulated by this Act in relation to the population of the Czech Republic, the number of municipalities and the number of residents, the latest data published by the Czech Statistical Office shall be used.

4) Collection points for waste packaging that comprise an authorised packaging company's collection network must be included in the municipal waste management system set by the municipality<sup>35</sup>, on the basis of a written agreement with the municipality.



5) A person placing the single-use plastic packaging specified in Part B of Annex No. 4 to this Act on the market or into circulation is obliged to achieve the minimum amount of take back from that packaging in each calendar year, as follows:

- a) from 1 January 2025 at least 77 % of the weight of the packaging it placed on the market or into circulation in the given calendar year, and
- b) from 1 January 2029 at least 90 % of the weight of the packaging it placed on the market or into circulation in the given calendar year.

(6) An implementing legal regulation establishes the rules for calculating the level of returnable single-use plastic packaging waste listed in Part B of Annex No. 4 to this Act.

#### Section 10a

##### Reimbursement of the costs for cleaning up packaging waste

(1) A person placing the single-use plastic packaging specified in Parts C or D of Annex No. 4 to this Act on the market or into circulation is obliged, on the basis of a written agreement, to reimburse municipalities for the costs incurred in cleaning up the waste from single-use plastic packaging that people have disposed of outside the designated disposal points, and the costs of the subsequent transport and processing of such waste.

(2) A person placing packaging on the market or into circulation pursuant to Paragraph (1) is obliged to ensure that the proportion of contracted municipalities reimbursed for the costs of cleaning up the waste is at least 90 % of the total number of municipalities in the Czech Republic, and that the proportion of the population living in these municipalities is at least 90 % of the total population of the Czech Republic.

(3) The person placing packaging on the market or into circulation pursuant to Paragraph (1) must reimburse the costs of cleaning up the waste at an amount that reflects the actual costs of cleaning up the waste and that such costs are not set at a disproportionate amount. The person shall publish the method used to calculate these costs on its website.

#### Section 11

##### Awareness-raising

(1) Persons placing packaging on the market or into circulation through sale to consumers are obliged to inform consumers of

- a) the method used to ensure take back according to Section 10, Paragraph 1,
- b) the options for preventing the generation of packaging waste,
- c) consumers' role in contributing towards the take back and recovery of packaging waste
- d) the adverse environmental impact of disposing of packaging waste outside the designated disposal points.

(2) A person placing the single-use plastic packaging specified in Parts C or D of Annex No. 4 to this Act on the market or into circulation is obliged to inform consumers of the facts stated in Section 9, Paragraph 2 of the Act concerning mitigation of the environmental impact of selected plastic products in a similar manner.

(3) A person placing the single-use plastic packaging specified in Part D of Annex No. 4 to this Act on the market or into circulation is obliged to adapt to any change in consumer behaviour in order to reduce the consumption of such packaging.

(4) An implementing legal regulation establishes the minimum scope and method for

- a) informing consumers pursuant to Paragraphs 1 and 2 and
- b) for adapting to changes in consumer behaviour pursuant to Paragraph 3.

## Section 12

### Recovery of packaging waste

(1) Unless a person places packaging on the market or puts into circulation packaging proves that these packaging do not become waste in the Czech Republic, this person shall ensure that the waste from the packaging placed on the market or put into circulation by this person are recovered to the extent stipulated in Annex No. 3 to this Act.

(2) To a person who places on the market or puts into circulation packaging containing hazardous goods,<sup>13)</sup> hazardous substances or hazardous agents,<sup>1)</sup> the requirement according to Par. 1 relates at least to the degree specified in Column B, Annex No. 3 to this Act.

## Section 12a

### Mandatory content of recycled plastics in packaging

(1) A person placing the single-use plastic packaging specified in Part B of Annex No. 4 to this Act on the market or into circulation shall ensure that

- a) from 1 January 2025 each single-use plastic package specified in Part B of Annex No. 4 to this Act which is made from polyethylene terephthalate as the main component and which it places on the market or into circulation contains at least 25% recycled plastics, and
- b) from 1 January 2030 each single-use plastic package specified in Part B of Annex No. 4 to this Act which it places on the market or into circulation contains at least 30 % recycled plastics.

(2) In the case of persons placing the single-use plastic packaging specified in Part B of Annex No. 4 to this Act on the market or into circulation who comply with their obligations stipulated in Sections 10 to 12a in the manner specified in Section 13, Paragraph 1, Letter c), the contained proportion of recycled plastics pursuant to Paragraph 1 is calculated as the average for the relevant authorised packaging company for all the given packaging placed on the market or into circulation for the given calendar year by those persons.

(3) A person placing the single-use plastic packaging on the market or into circulation pursuant to Paragraph 1 who is subject to the obligation to submit a proposal for registration pursuant to Section 14, Paragraph 1, is obliged to notify the Ministry of the Environment of the amount of recycled plastics it has used in that packaging, by submitting documents proving the content of recycled plastics in the packaging it placed on the market or into circulation during the last calendar year no later than by 15 February of the following year. This notification is to be filed via the integrated system for the fulfilment of reporting environment-related obligations or via the data box of the Ministry designated for the fulfilment of reporting environment-related obligations pursuant to the Act on the Integrated Pollution Register and the Integrated System for the Fulfilment of Reporting Environment-related Obligations and on the Amendment of Certain Acts.

## Section 13

(1) The person who places packaging on the market or puts into circulation shall fulfil the obligations provided in Sections 10 to 12a

- a) by its own organizational and technical support and at its own cost,
- b) by transferring those obligations to another person with the transfer of the ownership rights to the packaging to which those obligations apply, for the purpose of its further release into circulation, where the contract on the transfer of ownership expressly provides for such; this shall not apply with regard to the obligation stipulated in Section 12a, unless the person to whom the obligations stipulated in Sections 10 to 12a are transferred under the contract on the transfer of ownership rights fulfils these obligations in the manner stipulated in Section 13, Paragraph 1, Letter c), or

c) by concluding a contract ensuring the fulfilment of the obligations stipulated in Sections 10 to 12a (hereinafter referred to as the "contract on collective compliance") with only one authorized packaging company (Section 16) and in relation to all packaging placed on the market or put into circulation by this contract; this clause shall not apply to deposit returnable packaging, where these obligations may also be fulfilled pursuant to Section 13, Paragraph 1, Letter a) or by concluding a contract on collective compliance with an authorized packaging company which provides collective compliance exclusively for deposit returnable packaging.

(2) A person who places packaging on the market or puts into circulation through sale to the relevant consumer may not in any way influence a person who places packaging on the market or puts into circulation under a previous link existing within the distribution chain and who sells packaging for the purpose of resale (hereinafter "supplier") under the company with which the supplier may enter into a contract on collective compliance.

(3) Should reusable packaging be which are placed on the market or put into circulation, whose reuse is supported organizationally by the method described in Pt. B.1 or B.2 of the Annex No. 2 to this Act, it shall be understood that take-back and recovery of such packaging has been guaranteed, should at least 70 % of the weight of such newly which are placed on the market or put into circulation packaging be reused.

### Section 13a

#### Authorized representative

(1) If the person who places packaging on the market or puts into circulation is not established in the Czech Republic, that person is entitled to appoint an authorized representative.

(2) A business owner who uses remote means of communication<sup>36)</sup> to sell the single-use plastic packaging or packaging means specified in Parts C or D of Annex No. 4 to this Act directly to consumers or other end-users to the Czech Republic from another state in which they are established is obliged to appoint an authorised representative to ensure compliance with the obligations stipulated by this Act.

(3) A person established in the Czech Republic who supplies the single-use plastic packaging or packaging means specified in Parts C or D of Annex No. 4 to this Act via remote means of communication<sup>36)</sup> directly to consumers or other end-users in another Member State is obliged, in accordance with the legal the regulations of that Member State, to appoint an authorised representative to ensure compliance with the obligations arising from the legal regulations of that Member State in relation to such single-use plastic packaging or packaging means.

(4) The authorised representative may be appointed solely on the basis of a written agreement. The authorised representative pursuant to Paragraphs 1 or 2 must be a person licensed to engage in business who is established in the Czech Republic.

(5) The authorised representative pursuant to Paragraphs 1 or 2 shall fulfil the obligations of the person placing packaging on the market or into circulation, with the exception of the obligations stipulated in Sections 3 to 6 of this Act.

### Section 14

#### List of Subjects

(1) A person who puts packaging on the market or into circulation and who is the bearer of certain obligations set out in Sections 10 to 12 or in Section 12a. Paragraph 1, Letter 1, is required to submit a proposal for

registration in the List of Persons (hereinafter referred to as the "List") to the extent specified in paragraph 5.

(2) A person who places packaging on the market or puts into circulation is not obliged to submit any proposal to be included in the List, if

- a) the authorized representative is included on the List, or
- b) the authorized representative has submitted a request to be included in the List, and based on which the representative has not yet been placed on the List; this clause shall not apply if a decision pursuant to Section 14, Par. 7 has been issued.

(3) The authorized representative shall submit a request to be included in the List under his own name instead of the name of the person who places packaging on the market or puts into circulation, and whose duties that representative is obligated to fulfil pursuant to this Act.

(4) An application for registration in the List shall be filed with the Ministry of the Environment no later than within 60 days of the commencement of the obligation according to Par. 1

- a) in two hard copies and in electronic form on a technical data medium, or
- b) in electronic form identified with an electronic mark based on a qualified system certificate issued by an accredited provider of certification services or signed with a recognized electronic signature according to the relevant legal regulation <sup>13a)</sup>.

(5) The application for entry on the List shall include

- a) name, surname, address of residence, business address, business identification number if it has been assigned (hereinafter as identification number only), providing that it concerns a natural person,
- b) business name, legal form, registered office, business identification number if it has been assigned; if it is a legal person,
- c) identification details of the foreign person, if the application is submitted by his authorized representative, and a written authorization based on which the authorized representative was appointed,
- d) description of the method of take-back as provided in Section 10, Par. 1,
- e) method of ensuring the educational activity according to Par. 11,
- f) description of the method of recovery of the packaging waste as provided in Section 12,
- g) a proof of the payment of the registration fee (see Section 30, Par. 1),
- h) from what material the packaging which is being introduced to the market or put into circulation is manufactured and whether such packaging is designated for sale to the consumer.

(6) Should the applicant be a natural person with residence or a legal person with registered office outside the territory of the Czech Republic, the application as provided in Par. 1 may be lodged in English.

(7) If the application for request does not meet the requirements pursuant to Paragraphs 4 and 5, or the data pursuant to Paragraph 5, Letter d), e), f) and h) are not sufficient for the assessment whether the applicant has secured the fulfilment of the obligations stipulated by this Act, the Ministry of the Environment shall request the applicant to supplement or further specify the application during a period stipulated by the Ministry; however, no less than 30 days. In addition, the applicant will be instructed on how to provide such supplementation or specifications. Should the applicant fail to specify the application during the period stipulated, the Ministry of the Environment will make the entry in the List on the basis of the available data and if there are any doubts as to whether the applicant has fulfilled the obligations stipulated by this Act, the Ministry of the Environment will request the competent control authority to conduct an audit. If the

conditions stipulated by this Act and under which it is possible to appoint the authorized representative are not met, or if the petitioner has not provided a written authorization based on which the representative was appointed, the Ministry of the Environment shall not enter the authorized representative on the List and shall issue a decision explaining why the representative was not entered on the list.

(8) The Ministry of the Environment will enter the applicant on the List within 30 days of the delivery of an application meeting all requirements according to Par. 4 and 5 and including data sufficient for the consideration of whether the applicant has secured the fulfilment of the obligations stipulated by this Act; the Ministry shall notify the applicant about the execution of the entry within 14 days thereof.

(9) The person entered on the List shall report to the Ministry of the Environment any changes of the facts, furnished as provided in Par. 5, in 14 days of the occurrence thereof. It shall report to the Ministry of the Environment within the same period that the legal reasons for its keeping on the List have ceased.

(10) The Ministry of the Environment, on receipt of a notification as provided in Par. 9, or on the basis of its own findings, shall amend the entry on the List, or strike off the List the person whose legal reasons for entry on the List have ceased. Should the Ministry make changes to the List based on its own findings, or if the Ministry does not make the change in the List on the basis of a notification, the ministry shall issue a decision explaining the relevant reasons. The Ministry shall also issue a decision on the removal of the person from the List if that person was removed based on its own findings; this clause shall not apply to a person who has died or ceased to exist.

(11) The List is public. Anyone has the right to review, copy or excerpt it.

(12) The obligation in the sense of Par. 1 shall not apply to the person who

- a) has concluded a contract on collective compliance for all packaging which is being introduced into the market or is being released into circulation” is inserted after the word “filling”, or which
- b) places packaging on the market or puts into circulation by selling them to the customer, should the obligations provided in Sections 10 to 12 and Section 12a (1)., relating to all the packaging which places on the market or puts into circulation have been evidently fulfilled by other person.

#### Section 14a

##### Proceedings regarding the List

(1) The issuance of a decision pursuant to Section 14, Par. 7 and 10 is the first act in the proceedings.

(2) Only the petitioner is the party to the proceedings dealing with the issuance of the decision pursuant to Section 14, Par. 7. The party to the proceedings dealing with the issuance of a decision pursuant to Section 14, Par. 10 is only the person to whom the change, or the removal from the List, relates.

#### Section 15

##### Records

(1) The person entered on the List as provided in Section 14, shall

- a) to keep records concerning packaging and packaging waste and concerning the manner of the disposal thereof, and in accordance with the rules that are used to calculate the reuse of the of packaging waste
- b) to provide notification of data from these records for the previous calendar year, no later than by 15 February of the following year, to the Ministry of the Environment,
- c) to prove upon the request of the Ministry of the Environment or the Czech Environmental Inspectorate – the veracity of the data recorded and reported according to Letters a) and b),

d) to keep documents with data maintained in these records and reported from these records during a period of at least 5 years.

(2) The Ministry of the Environment shall keep comprehensive records of the data collected as provided in Par. 1, Let. b). These comprehensive records are public; anyone has the right to review, copy or excerpt it.

(3) Records of packaging waste according to paragraph 1 letter a) beginnings with the producer of the waste all the way to the waste reuse or when the waste exits from the sorting machine, providing that this output is supplied for the recovery without significant losses. In the case of energy recovery or biodegradation, the relevant records shall be maintained all the way to the waste management facility where the waste was reused by means of recovery of energy or by means of biodegradation.

4) The relevant implementing legal regulation shall define the scope for the keeping records pursuant to paragraph 1 letter a), the scope and method of data reporting from these records, and shall also define the rules to calculate the reuse of the packaging waste.

#### Section 15a

(1) Persons who places packaging on the market or puts them into circulation need not fulfil the obligations stipulated in Sections 10 through 15, provided that they meet the following conditions, i.e. that

- a) the total quantity of the packaging placed on the market or put into circulation per calendar year does not exceed 300 kg, and
- b) their annual turnover does not exceed CZK 25,000,000.

(2) A person making use of the exception as per Par. 1 shall ensure the fulfilment of the obligations stipulated in Sections 10 through 15 immediately after it becomes apparent that the conditions according to Par. 1 will not be fulfilled during the calendar year concerned.

(3) A person making use of the exception as per Par. 1 shall prove upon request the fulfilment of the obligations stated in Par. 1 to the control authorities specified in Section 31.

(4) Any person who fails to prove the fulfilment of the conditions stated in Par. 1 with respect to a certain period shall be deemed subject to all duties specified in Sections 10 through 15 during this period.

#### Section 15b

##### Special provisions on packaging means

(1) A person placing the single-use plastic packaging means specified in Part D of Annex No. 4 to this Act on the market is subject to the same rights and obligations as those applicable for a person placing the packaging specified in Sections 10 to 13 on the market or into circulation in relation to those packaging means.

(2) A person placing packaging means on the market or into circulation pursuant to Paragraph (1) is subject to the same obligations as those specified in Section 15 (1) in relation to those packaging means; these obligations do not apply to a person who has concluded a collective compliance agreement for all the packaging means they place on the market or into circulation. A person placing packaging means on the market or into circulation pursuant to Paragraph 1 shall keep continuous records pursuant to Section 15(1)a) by only recording the quantity of packaging means it places on the market or into circulation.

(3) For the purposes of Chapters III to VII of this Act, with the exception of Section 23, the packaging means pursuant to Paragraph 1 are regarded as packaging.



## **CHAPTER III**

### **AUTHORIZED PACKAGING COMPANY**

#### Section 16

##### Authorized packaging company

An authorised packaging company ("authorised company") is a joint stock company that is authorised to carry out activities on the basis of an authorisation decision pursuant to Section 17. For the purposes of this Act, authorisation means the authorisation to provide collective compliance with the obligations stipulated in Sections 10 to 12a and to conclude collective compliance agreements for this purpose in accordance with Section 13(1)c).

#### Section 17

##### Authorization to ensure collective compliance

(1) Authorization decision shall be issued by the Ministry of the Environment on application by the joint-stock company and on consultation with the Ministry of Industry and Trade.

(2) The application for the issuance of authorization decision shall be lodged at the Ministry of the Environment in 4 printed copies in the Czech language and also on an electronic data carrier.

(3) The application for the issuance on the authorization decision shall include the name and registered office of the joint-stock company (hereinafter, "the Applicant"), and the list of all the shareholders of the Applicant, including the proportion of their interest in the capital stock and a share of voting rights, indicating the shareholders acting in accord, annexed to the application shall be

- a) the current wording of the articles of association of the joint-stock company, unless they are stored in the book of documents in the public register;
- b) a statement of the applicant that the conditions specified in Section 20, Par. 7 and Section 20a, Par. 5 have been met
- c) the latest Annual Report or, if it exists;
- d) the project of organization of collective compliance, including namely
  1. description of technical, organizational and financial arrangements and description of the collection network and data, including a statement whether cooperation with municipalities should be a part of the organization of collective compliance;
  2. marking of the types of packaging for which the Applicant intends to organize the collective compliance in the individual years of the effect of the authorization;
  3. projected number of contracts of collective compliance and projected quantities of packaging for which the collective compliance should be organized in the individual years of the effect of the authorization;
  4. estimated quantities of packaging waste for which the process will ensure recycling, energy recovery, biodegradation, or disposal during the individual years of validity of authorization decision
  5. proposed structure of the recording of packaging and the recording of packaging waste;
  6. a detailed description of the projected financial support of the collective compliance in the first 3 years of the effect of the authorization, and documents attesting accuracy thereof, namely the financial statement and contract of credit line, should debt be intended for financing; this financial support must be independent of the solvency of the persons who place packaging on the market or puts them into circulation,
  7. detailed description of the functional mechanism designed to compensate the costs for take-back of packaging waste at collection points, which the applicant has not contractually secured until the date of reaching the shares described under Section 10 Par. 2 and where the take-back are provided



by other authorized companies, as well as cost for the reuse of packaging waste, including evidence demonstrating the functionality and existence of this proposed mechanism.

8. draft methodology for calculating the costs of cleaning up waste from the single-use plastic packaging listed in Parts C and D of Annex No. 4 to this Act pursuant to Section 21(3), together with the currently valid calculation of those costs, and

e) specimen agreements on

1. collective compliance,
2. cooperation in the provision of take back and inclusion of the take back point in the municipal waste management system set up by the municipality; this does not apply if the applicant intends to provide collective compliance solely for industrial packaging, and
3. reimbursement of the costs of cleaning up waste from single-use plastic packaging pursuant to Section 21(1)d), if the applicant intends to provide collective compliance for that packaging; this does not apply if arrangements on the reimbursement of these costs are included in the agreement pursuant to Point 2.

(4) An authorization decision may only be issued if

- a) by way of derogation from Section 10, Par. 2, the applicant has contractually secured the a number of collection points so that the number of residents living in municipalities where the applicant is obliged to provide take-back according to Section 10 represents at least 25% of the total number residents in the Czech Republic; and that the share of municipalities where the applicant is obliged to provide the take-back represents at least 25% of the total number of municipalities in the Czech Republic; this clause shall not apply if the applicant intends to provide collective compliance only for deposit returnable packaging,
- b) the applicant, whose intention is to provide collective compliance exclusively for deposit returnable packaging, has, by way of derogation from Section 10 Par. 2, contractually secured that facilities where the returnable and deposit returnable packaging is sold to the customer, are involved in the waste collection and buyback process in line and Section 9 Par. 4,
- c) c) the applicant shall discuss with the authorized companies, in accordance with Section 21c, all coordinated areas and including those where agreement will be reached between the applicant and the authorized companies, and shall conclude a written contract between the applicant and the authorized companies; as for the coordinated areas where no agreement is reached within 9 months from the day of the commencement of negotiations, the Ministry of the Environment shall decide, based on the request of the applicant focusing on the solution for these coordinated areas, which shall define the proposal for these coordinated areas, except for the eco-modulation area , which the applicant is obliged to solve by taking over the eco-modulation method performed by the authorized companies, and demonstrate the takeover to the Ministry of the Environment,
- d) Acts of the applicant, who is a joint stock company with a monistic system of internal structure require that the board of directors has at least three members and that the management and control powers are divided between the individual members of the board of directors.

(5) The Ministry of the Environment shall issue authorization decision on review of the data presented in the application and the documentation enclosed with the application. It shall decline the application for authorization decision should any of the shareholders fail to comply with the terms set out in Section 18, Par. 1, 3, or 4, or should the applicant fail to comply with the terms set out in Section 20, Par. 4, or 7, or Section 20a Par. 5 or unless the project securing the collective compliance provides sufficient guarantee that the collective compliance will be performed duly and for a sufficiently long time, that the project securing collective compliance is sufficiently financially supported and will not threaten the fulfilment of the repurchase and reuse obligation by other parties according to Section 13, Par. 1. The application for the

issuance of the authorization decision shall also be rejected if the applicant has not complied with the requirements set out in Section 17, Par. 4.

(6) The authorization shall be granted for a specific period, not longer than 10 years, and shall not be forwarded to other entity and may not be transferred to another entity.

(7) Authorization decision shall include

- a) business name, business identification number and registered office of the joint-stock company to which authorization decision is issued,
- b) period of effect of the authorization,
- c) types of packaging for which the authorized company is entitled to organize collective compliance,
- d) required proportion of recovery and recycling and/or energy recovery and biodegradation of wastes of the total quantity of packaging which are placed on the market or put into circulation by persons which intend to conclude contracts of collective compliance with the authorized company; different requirements may be set for individual years of the effect of the authorization; the setting thereof shall be based on the plan of waste management in compliance with a special regulation<sup>4</sup>
- e) requirements for the method of keeping and reporting of records as provided in Section 23,
- f) requirements for ensuring awareness-raising activities pursuant to Section 11.

(8) The effect of authorization decision may be prolonged should the authorized company apply for prolongation no later than 1 year before the expiry of the effect of authorization decision. Provisions of Paragraphs 1 to 6 apply analogously to the proceedings of prolongation of authorization decision. Should the authorized person prove compliance with the terms set out by the law and good business practice, it shall be entitled to prolongation of the effect of authorization decision.

## Section 18

### Obligations of the shareholders of the authorized company

(1) The shareholders of an authorized corporation may only be parties which are introducing packaging on the market or into circulation.

(2) The shareholder of the authorized company shall conclude a contract on collective compliance with the authorized company of which it is a shareholder.

(3) The interest of any individual shareholder, or more shareholders acting in accord, in the capital stock of the authorized company or on the share of voting rights of the authorized company shall not exceed 33 %. Should this be the case, the shareholder, or shareholders, shall immediately notify the Ministry of the Environment of such fact and reduce its, or their, interest to not more than 33 % no later than 1 year of the day of excess.

(4) The shareholder of the authorized company shall not engage in any waste management business activity<sup>4</sup>.

(5) Shares of the authorized company may be transferred only to a person who meets the requirements stipulated by this Act.

(6) A shareholder of the authorized company may not be a shareholder in another authorized company. This also applies to persons controlling shareholders or to persons controlled by the shareholder or by close persons of the shareholder.

(7) In case of failure to comply with the terms provided in Par. 1 to 6, the Ministry of the Environment may decide on the suspension of the voting right of shareholder or the right to demand a general assembly of shareholders.

## Section 19

### Conflict of interests

(1) A manager of the authorized company, appointed to his position by the statutory body of the authorized company or by a member of the company, shall not be a member of statutory body of other legal person, which is a business entity.

(2) Shareholders, members of the bodies of the authorized company, and employees of the authorized company shall not act in the interest of other persons whose object of business is waste management, and especially packaging waste management, or persons whose business is directly related to waste management or to secondary raw material trading.

### Certain restrictions of the authorized company

## Section 20

(1) Apart from activities related to the ensurance of collective compliance, an authorized company may not perform any activity other than consulting activities focusing on the prevention of creation of packaging waste and dealing with labelling of packaging or it may provide consulting, research, education or promotional activities in the field of take-back and recovery of packaging waste.

(2) The authorized company is entitled to enter into contracts focusing on a research or verification with persons authorized to handle waste only if the conclusion of such a contract does not lead to an advantage or disadvantage of the person authorized to handle the waste with regards to competition existing on the waste processing market.

(3) The authorized company may not do business in the field of waste management or be involved in any business of another person. The authorized company may not trade packaging waste or secondary raw materials obtained from packaging waste, mediate trade regarding packaging waste or secondary raw materials obtained from packaging waste or determine to whom the persons who handle take-back and recovery of packaging waste or secondary raw materials obtained from packaging waste may provide or handover the waste.

(4) The authorized company shall only issue shares which are not linked to special rights, recorded electronically with registered name. The share issue price may only be repaid in financial contributions. The authorized company shall not apply for placement of its shares on the public market.

(5) An authorized company may not distribute profit or other own resources. A decision taken in conflict with the above shall not produce any legal effects.

(6) The authorized company may not reduce its registered capital for any purpose other than to cover a loss or to fulfil obligations stipulated by this Act and may not increase its registered capital in a conditional manner. Conflicting legal action shall have no legal effect.

(7) The authorized company may not be an unlimited liability partner. Further, it may not be a member of the board or participate in the establishment of another legal entity, with the exception of a legal entity that associate entities with a similar subject of business activity as the authorized company. Conflicting legal action shall have no legal effect.

(8) The authorized company may not secure debts of other persons in any way and may not provide gifts, loans, credits or secure its debt using collected and received contributions. Conflicting legal action shall have no legal effect.

(9) The authorized company is obliged to separately manage funds obtained from contributions provided by persons who place packaging on the market or put them into circulation including any income from other funds as to ensure proper transparency and controllability in fund handling.

(10) The authorized company may not perform activities of the authorized representative defined in Section 13a.

#### Section 20a

(1) The authorized company shall not hold a general meeting of shareholders without furnishing an excerpt from the Business Register to the Ministry of the Environment, relating to the issuer of registered shares. The excerpt, issued as of 7 days prior to the general meeting of shareholders, shall be furnished to the Ministry of the Environment on the day of its issuance. The Ministry of the Environment shall identify those shareholders whose rights have been suspended as provided in Section 18, Par. 7, and return the excerpt to the authorized company no later than 6 days of its receipt. Should the Ministry of the Environment fail to return the excerpt within the above period, it shall be taken that the Ministry has no objections to the exercise of the rights of participation and voting at the general meeting by the shareholders listed. The authorized company shall submit the resolution of its general meeting to the Ministry of the Environment within 30 days of the meeting.

(2) The authorized company may not allow voting at a general meeting by a person who is not on the list compiled pursuant to Par. 1, and may not allow voting at a general meeting or per rollam decisions made by a person whose voting rights have been suspended by the Ministry of the Environment in terms of the right voting rights of a share owner or the right to convene a general meeting pursuant to Section 18, Par. 7.

(3) The authorized company may not enter into any contract with a natural person who has a special relationship with the authorized person as defined under Par. 4 other than a contract on collective compliance defining the performance of a certain position, a contract through which shares of the authorized company are subscribed or a contract to provide an additional payment to the authorized company. Another contract which is in conflict with the above shall not produce legal effects.

(4) Persons having a special relation to the authorized company shall be regarded as

- a) Directors, supervisors and employees of the authorized company, appointed to their positions by the statutory body of the authorized company or by its member,
- b) shareholders of the authorized company, who are natural persons, and members of the statutory bodies of the legal persons which are shareholders of the authorized company,
- c) persons related<sup>15)</sup> to persons specified in Letter a) or b),
- d) legal persons of whose capital stock or their voting rights of which persons listed in a) or b) owns more than 33 %,
- e) shareholders of the authorized company, which are legal persons, and other business corporations under their control,
- f) employees of the Ministry of the Environment and the Ministry of Industry and Trade, and employees of organizations established by the above ministries<sup>16)</sup>

(5) The authorized company shall not conclude other contract with a shareholder of the authorized company, legal person controlled by the shareholder, or with a person controlling any shareholder of the authorized

company, than a contract on collective compliance where the shares of the authorized company are subscribed. Another contract which is in conflict with the above shall not produce legal effects.

(6) A decision of the competent body of the authorized company on its termination, transformation, transfer, lease or termination of the commercial plant, or on the change of its business activities shall not take effect unless approved by the Ministry of the Environment issued after consultation with the Ministry of Industry and Trade. The decision of the competent authority of the authorized company shall be terminated if the consent is not granted within six months after the decision is issued.

(7) The effectiveness of the contract on the transfer, lease or termination of a commercial plant of the authorized company requires the consent of the Ministry of the Environment issued after consultation with the Ministry of Industry and Trade.

## Section 21

### Terms of the organization of collective compliance

(1) The authorized company shall

- a) set uniform terms for the conclusion of contracts of collective compliance for all the persons and in such way that no person or no type of packaging should be unduly disadvantaged in business competition,
- b) conclude the contract on collective compliance with any person which declares to be interested and has no outstanding debts; the authorized company may not regard as the conclusion of the contract any form of payment, except for registration fees pursuant to Section 30,
- c) conclude the contract on collective compliance with the person in line with Letter b) for all the packaging introduced to the market or circulated by the person for which the person is authorized to provide collective compliance; this clause shall not apply if the relevant packaging are deposit returnable packaging,
- d) concluding, with each municipality interested in concluding such an agreement, under the same terms as with other municipalities, an agreement on cooperation in the provision of take back and inclusion of the take back point in the municipal waste management system set up by the municipality<sup>35)</sup> and an agreement on the reimbursement of the costs of cleaning up waste from single-use plastic packaging pursuant to Point 3 of Paragraph (1)k), if it provides collective compliance for that packaging, and arrangements on the reimbursement of these costs are not included in the agreement on cooperation in the provision of take back; the authorised company may not require any form of payment for the conclusion of the agreement,
- e) ensuring collective compliance with the obligations of persons placing packaging on the market or into circulation with which it has concluded a Contract on Collective Compliance, in accordance with the terms stipulated by this Act and in the authorisation decision
- f) by way of derogation from the Section 10, Par. 2, the authorized company shall have contractually secured certain number of collection points so that
  1. within 6 months from the date the authorization decision comes into force, the number of residents living in municipalities where the authorized company is obliged to handle waste take-back, reaches at least 50% of the total population of the Czech Republic, and that number of municipalities in whose territory is the authorized company is obliged to handle take-back, reaches at least 50% of the total number of municipalities in the Czech Republic, and
  2. within 9 months from the date the authorization decision comes into force, the number of residents living in municipalities where the authorized company is obliged to handle the take-back, reaches at least 75% of the total population of the Czech Republic, and that the number of

municipalities in whose territory is the authorized company is obliged to handle the take-back, reaches at least 75% of the total number of municipalities in the Czech Republic,

- g) to have contractually secured the number of collection points in order to make sure that within 12 months from the date of the authorization decision comes into force, reaches the numbers specified in Section 10, Par. 2,
- h) achieving the set minimum level of take back of the packaging waste specified in Part B of Annex No. 4 to this Act to which the Contract on Collective Compliance it has concluded apply, pursuant to Section 10(5),
- i) to determine the amount of average costs of municipalities for different size groups of municipalities on
  - 1. operation of the packaging waste take-back and recovery system and
  - 2. cleaning up the waste from the single-use plastic packaging listed in Parts C and D of Annex No. 4 to this Act that people dispose of outside the designated disposal points, and the costs of the subsequent transport and processing of such waste.

if multiple authorised companies are operating in the Czech Republic, this proportion shall be determined by one authorised company designated in the manner specified in Section 21c ( 3),

- j) determining the proportion of packaging waste in sorted municipal waste and in waste that is handled in waste treatment facilities prior to recovery involving the final sorting of waste; if multiple authorised companies are operating in the Czech Republic, this proportion shall be determined by one authorised company designated in the manner specified in Section 21c(4);
- k) ensuring that the amount of the monetary contributions paid by persons placing packaging on the market or into circulation for the purpose of collective compliance covers
  - 1. the costs of the take back of packaging and packaging waste, its subsequent transport and treatment
  - 2. the costs of achieving the required recycling rate and the overall recovery of packaging waste in accordance with the authorisation decision, taking into account the economic value of the materials recovered from the packaging waste and of the unpaid deposits pursuant to Section 9(1),
  - 3. the costs incurred by municipalities in cleaning up the waste from the single-use plastic packaging listed in Parts C and D of Annex No. 4 to this Act that people dispose of outside the designated disposal points, and the costs of the subsequent transport and processing of such waste,
  - 4. the costs of awareness-raising activities pursuant to Section 11,
  - 5. the costs of keeping records pursuant to Section 23(1),
  - 6. the costs of creating a reserve pursuant to Section 21a and
  - 7. the ordinary administrative costs necessary for the authorised company's activity.
- l) carrying out, on the basis of studies, in particular life cycle assessment studies, eco-modulation for packaging or types of packaging for which this is possible, whereby eco-modulation does not constitute an unjustified competitive disadvantage as referred to in point a); if multiple authorised companies are operating in the Czech Republic, eco-modulation for individual types or groups of similar packaging must be carried out by all the authorised companies in a uniform manner under the conditions laid down in this Act or in a written agreement pursuant to Section 17(4)c) or Section 21c(1), and any change in eco-modulation must be implemented in accordance with the procedure laid down in Section 21c(5),
- m) ) ensuring that the amount of the monetary contributions set for persons placing packaging on the market or into circulation for the purpose of collective compliance does not exceed the necessary costs



for the performance of these obligations in a cost-effective manner; costs shall be allocated between municipalities and persons providing waste management services in a manner that allows for control by the Ministry of the Environment,

- n) to make sure that the financial contributions covering the costs of collective compliance which are paid by person who places packaging on the market or puts them into circulation in terms of reusable packaging as defined in Section 13 Par. 3, are lower than the monetary contributions charged by the authorized company for placing packaging, which is not reusable, to the market or putting them into circulation
- o) to publish on the company website information defining the ownership structure including the percentage of shares belonging to shareholders, including names and surnames of the members of the bodies of the authorized company, monetary contribution tariffs associated with the provision of collective compliance and paid by persons introducing packaging to the market per individual unit or per unit of weight of packaging placed on the market or put into circulation including information describing the involvement of waste management operators in the collective compliance system of the authorized company; the authorized company is obliged to update the published data no later than within 30 days from the date the relevant change was applied,
- p) to publish on the company website contracts concluded between the company and persons with whom the company has concluded a contract on collective compliance, if the subject of these contracts is to ensure communication with consumers and the contract specifies a fee or discount for the provided collective compliance; the authorized company is obliged to publish these contracts no later than 30 days after their conclusion.

(2) An authorised company providing collective compliance pursuant to Section 10a is obliged to ensure, within 1 year from the date the authorisation decision entered into force, that the proportion of contracted municipalities reimbursed for these costs is at least 90 % of the total number of municipalities in the Czech Republic, and that the proportion of the population living in these municipalities is at least 90 % of the total population of the Czech Republic.

(3) The authorised company must draft the methodology for calculating the costs of cleaning up waste pursuant to Point 3 of Paragraph (1)k) on the basis of the average costs determined pursuant to Point 2 of Paragraph (1)i) so as to reflect the actual costs of cleaning up the waste and ensure that such costs are not set at a disproportionate amount. The authorised company shall publish this methodology on its website.

(4) The authorized company shall send to the Ministry of the Environment a report defining the fulfilment of obligations set out in paragraph 1 letter m) for the previous calendar year, which was prepared by the company's supervising body and the company shall do so no later than 6 months after the end of that calendar year.

(5) The authorized company shall not disclose information on the quantity of packaging which are placed on the market or put into circulation by any of the persons with which it has concluded a contract on collective compliance to any third person; this provision shall not apply to, disclosure of such information to the relevant administrative authority.

(6) In the event that the authorised company ensures collective compliance exclusively for

- a) deposit returnable packaging, it is not subject to the obligations stipulated in Paragraph (1)f) and g), Section 10(2) and (3) and in Section 21b, or
- b) industrial packaging, it is not subject to the obligations stipulated in Paragraph (1)d), (i) and j), Points 1 and 3 of Paragraph (1)k) and in Sections 21b and 21c.



## Section 21a

### Reserve

(1) The authorized company is obliged to create a reserve intended to cover future costs of the collective compliance regarding obligations of persons who place packaging on the market or put them into circulation, while taking into account the associated financial risks. The reserve shall ensure continuity and availability of services by the authorized company (hereinafter "Reserve" only).

(2) The authorized company creates the reserve by depositing funds in a special restricted account maintained in the Czech Republic at a bank or a branch belonging to a foreign bank and registered in another Member State of the European Union. Interest on the reserve funds shall belong to the company.

(3) The authorized company creates and maintains the reserve and, in case of using the reserve, the company shall replenish the reserve so that after 5 years from the date of the first authorization decision the amount reaches on the last day of each accounting period at least 50% of the total costs of the authorized company according to the last approved regular or extraordinary financial statements. For the purposes of this provision, the costs of the authorized company do not include the income tax paid and the costs spent to create the reserve.

(4) Failure to reach the minimum amount of the reserve as defined in paragraph 3 is permissible, providing that:

- a) during the previous accounting period, the minimum amount of the reserve was reached; and
- b) the authorized company ensures that the minimum amount of the reserve is reached in the following accounting period.

(5) Funds that form the reserve may be used only for the purpose of fulfilling obligations under the collective compliance for persons who place packaging on the market or put them into circulation, with whom the authorized company has concluded a contract on collective compliance. The funds of the reserve are not part of the property owned by the authorized company as per the law governing bankruptcy and methods of bankruptcy resolution, and the reserve cannot be affected by enforced bankruptcy decisions and execution proceedings.

(6) Data on the status and drawing of funds from the reserve shall be reported by the authorized company in its annual report.

## Section 21b

### Compensation of costs spent by authorized companies

(1) Should several authorized companies operate in the Czech Republic, each authorized company is obliged to report quarterly to the Ministry of the Environment the total weight of packaging placed on the market by persons with whom the company has concluded contract on collective compliance. The amount shall be divided according to packaging materials listed in Annex No. 3 attached to this Act and also based on the fact whether the packaging is considered industrial packaging or not. Based on the reported data, the Ministry of the Environment shall determine through its decision the market share for each packaging material belonging to each company, as well as the total market share, and shall publish market these shares at regular intervals in a manner enabling remote access. An appeal lodged against the decision issued pursuant to the second sentence shall not have suspensive effect.

(2) The municipality is obliged to report to each of the authorized companies with which it has concluded a contract to ensure the take-back and recovery of packaging waste, the weight of packaging waste handed

over within the municipal waste management system established by this municipality and divided according to packaging materials as listed in Annex No. 3 attached to this Act, which correspond with the market shares of the authorized company defined for individual packaging materials.

(3) A municipality that does not have a contract defining the take-back and recovery of packaging waste with all authorized companies operating in the Czech Republic shall report these facts only to authorized companies with which the municipality has concluded the relevant contract, that is the weight of packaging waste handed over under the municipal waste management system established by this municipality and the amount shall be broken down according to the packaging materials listed in Annex No. 3 attached to this Act and shall follow the adjusted market share. The adjusted market share of the authorized company is determined as the portion of its market share and the sum of the market shares of authorized companies with which the municipality has concluded the relevant contracts.

(4) Should the municipality report to the authorized company the weight of packaging waste handed over under the municipal waste management system established by this municipality in line with the packaging materials listed in Annex No. 3 attached to this Act and based on the adjusted market share, the municipality must notify the authorized company about it. In such scenario, the authorized company is then entitled to pay this municipality only for the weight of packaging waste corresponding with its market share.

(5) Should any of the authorized companies notify the Ministry of the Environment of the weight of packaging placed on the market pursuant to paragraph 1 incorrectly, then a corrective calculations performed with the intention to compensate of the costs pursuant to Section 21c shall take place after the end of the calendar year.

(6) The authorized company that does not reach the shares specified in Section 10 Par. 2 is obliged to provide compensation for the cost by applying the mechanism defined in Section 17 Par. 3 letter d) item 7 until the day when it reaches the shares specified in Section 10 Par. 2.

(7) The applicable implementing legal regulation shall define the format of the report pursuant to paragraph 1.

## Section 21c

### Coordination of authorized companies

(1) In the case of operation of several authorized companies in the Czech Republic, the authorized companies are obliged to coordinate their actions together with the Ministry of the Environment with the intention to achieve and harmonize conditions defining collective compliance applicable to the areas referred to in paragraphs 2 to 6. After an accord is achieved a written contract between the Ministry of the Environment and authorized companies is conclude.

(2) Authorised companies are obliged to act within the framework of coordination in order to reach an agreement on the volume of funds

- a) provided to the operators of waste sorting facilities, for each packaging material listed in Annex No. 3 to this Act separately; after reaching an agreement on the volume of funds provided to the operators of waste sorting facilities for each packaging material, the individual authorised companies are obliged to contribute to the volume of funds according to their market share set for the relevant packaging material pursuant to Section 21b (1) a)
- b) incurred in ensuring the mandatory content of recycled plastics in packaging pursuant to Section 12a within the framework of collective compliance.

(3) If multiple authorised companies operate within the Czech Republic, the average costs of municipalities pursuant to Section 21(1)i) shall be ascertained by a single appointed authorised company, on which all authorised companies and the Ministry of the Environment agree within the framework of coordination. Other authorized companies are obliged to contribute financially to cover the costs associated with this activity, each company according to its share that corresponds with the size of the total market share determined in accordance Section 21b Par. 1; the method and amount of the reimbursement is subject to coordination procedure. The authorized company is obliged to send the data defining the costs without undue delay to the Ministry of the Environment, which will publish them in a way that allows remote access.

(4) In the event that multiple authorised companies operate within the Czech Republic, the proportion of packaging waste in sorted municipal waste and in waste treated in waste treatment facilities prior to recovery involving the sorting of that waste shall be determined by only one appointed authorised company, on which all authorised companies and the Ministry of the Environment agree within the framework of coordination. Other authorized companies are obliged to contribute financially to cover the costs associated with this activity. Each company shall contribute based on its share corresponding with the size of the total market share determined in accordance with the procedure defined in Section 21b Par. 1; the method and amount of reimbursement is subject to the coordination procedure.

(5) If one of the authorized companies intends to make a change in the eco-modulation method for a certain packaging or type of packaging, it is obliged to notify the other authorized companies and the Ministry of the Environment. They must agree on the change under the coordination procedure. Should the authorized companies and the Ministry of the Environment fail to agree on the eco-modulation, this change cannot be implemented.

(6) Authorized companies are further obliged to act within the framework of the coordination procedure with the aim of reaching agreement on

- a) the total amount of funds spent on collection points and on mutual compensations for these costs,
- b) sharing the costs of ensuring compliance with the obligations of persons who place packaging on the market or into circulation, but do not comply with the obligations stipulated in Sections 10 to 12a of this Act
- c) corrective compensation of costs according to Section 21b Par. 5,
- d) ensuring a consistent approach eliminating the risks of duplication of records; and
- e) information shared in connection with awareness-raising campaigns and, where appropriate, related to funds offsetting spent on awareness-raising campaigns.

(7) If the authorized companies and the Ministry of the Environment do not agree on the solution under the coordination procedure applicable to the coordinated area within 4 months, the Ministry of the Environment shall (after consultation with the authorized companies), determine the solution while taking into account their proposals; this clause shall not apply to coordination done in the field of eco-modulation pursuant to paragraph 5.

(8) An appeal filed against the decision pursuant to paragraph 7 shall not have a suspensive effect.

## Section 22

*(cancelled)*

## Section 23

### Obligations of recording and information

(1) The authorized company shall keep and disclose to the Ministry of the Environment, in forms specified in authorization decision,

- a) record of the persons with which it has concluded contracts on collective compliance,
- b) record of the quantity of packaging and the quantity of packaging waste, subject to the effective contracts of collective compliance, in line with waste utilization and recovery calculations,
- c) record of persons who collect, process or otherwise dispose of packaging or packaging waste for the authorized company and persons that generate waste with whom the authorized company has concluded a contract based on which these persons provide the authorized company with data specifying the amount of packaging waste and the relevant waste processing methods,
- d) records of the quantities of the single-use plastic packaging means listed in Part D of Annex No. 4 to this Act placed on the market and covered by the Contract on Collective Compliance,
- e) record of collection points according to Section 10, Par. 1 a,
- f) record of costs spent on consulting activities and research projects,
- g) records of the quantities of recycled plastics used by persons placing single-use plastic packaging on the market or into circulation pursuant to Section 12a (1) of this packaging, which is covered by the Contract on Collective Compliance.

(2) Authorised company reports data pursuant to paragraph 1 to the Ministry of the Environment via the integrated reporting system for the environment or the data box of the Ministry reserved for fulfilment of reporting liability in the area of the environment pursuant to the legislative act laying down the integrated environment pollution register and the integrated reporting system for the environment.

(3) The Ministry of the Environment shall separately organize the keeping of records of data collected as provided in Paragraph 1, Letter a) and b) from each authorized company and the overall records which are based on these data. The comprehensive record and records of data collected from individual authorized companies shall be accessible to the public; anyone shall have the right to review, copy or excerpt these records.

(4) Records of packaging waste pursuant to Paragraph 1, Letter b) are maintained and start with the producer of the waste all the way to waste recovery or all the way to the output coming out of the sorting facility, provided that this output is fed into the recovery process without significant losses. In the case of energy recovery or biodegradation, these records are kept all the way to the designated waste management, where the waste was reused through the process of energy recovery or biodegradation.

(5) The executive decree specifies the scope of record keeping pursuant to Paragraph 1, the scope and method of data reporting, and defines of the rules to calculate the use of the packaging waste.

## Section 23a

### Data verification

(1) The authorized company is obliged to have regular or extraordinary financial statements checked by an auditor.

(2) The authorized company is obliged to make sure that the auditor performs verification of the correctness and completeness of the following

- a) information on the quantity of packaging introduced to the market or into circulation, which the persons who have concluded a contract on collective compliance with the authorized company reported to the authorized company,
- b) record keeping pursuant to Section 23, Par. 1,
- c) the costs incurred by the authorized company in relation to:
  - 1. collection and utilization of packaging waste originating from collection points participating in the municipal waste management system established by the municipality including the performance of the collection network,
  - 2. collection and utilization of waste from industrial packaging,
  - 3. additional / final sorting of packaging waste,
  - 4. direct support for the recycling process and for recovery of packaging waste,
  - 5. record keeping in terms of packaging and packaging waste and their reporting duties,
  - 6. providing information to consumers,
  - 7. verification of data according to Section 23a,
  - 8. administration, and
  - 9. taxes and fees,
- d) definition of prices for the collective compliance for individual types of packaging; only validation of the correctness is required for this verification.

(3) The authorized company is further obliged to ensure that the auditor verifies the correctness and completeness of the data reported to the authorized company by the persons referred defined in Section 23, Par. 1, Letter c) and by the relevant municipalities.

(4) The authorized company is obliged to make sure that verification is done pursuant to paragraphs 2 and 3 during each year in which the authorized company is allowed to perform collective compliance. The authorized company is obliged to send the report on the verification of financial statements as defined in paragraph 1 and the report or verification reports pursuant to paragraphs 2 and 3 to the Ministry of the Environment no later than 6 months after the end of the audited period.

(5) Persons who place packaging on the market or put them into circulation and persons defined in Section 23 Par. 1 letter c) must provide the authorized company with the necessary cooperation in order to fulfil obligations laid down in paragraphs 2 and 3.

(6) The applicable implementing legal regulations shall define the minimum scope of the verification performed pursuant to Paragraph 2, Letter a) and Paragraph 3.

## Section 24

### Supervision of the activities of the authorized company

(1) The activities of the authorized companies shall be supervised by the Ministry of the Environment, which proceeds in this respect as provided by the special regulation.

(2) Should the Ministry of the Environment find faults in the operation of the authorized company, it is entitled, according to the nature of the fault

- a) to demand of the authorized company to rectify the fault within a specific period; appeal of such decision shall have no suspensive effect,
- b) instruct the Czech Environmental Inspection to initiate proceedings focusing on the offence of the authorized company,
- c) resolve, on consultation with the Ministry of Industry, to amend or withdraw authorization decision, or

- d) to prohibit the authorised company from ensuring collective compliance, if it fails to comply with the obligation stipulated in Section 21(1)f) or g) or in Section 21b (6); an appeal against such a decision has no suspensive effect.
- (3) Regarded as faults in the operation of the authorized company shall be breach of an obligation provided by this Act to the authorized company, or an obligation provided by other regulations<sup>19)</sup> to the joint-stock company, or breach of the terms provided in authorization decision.

## Section 25

### Amendment to authorization decision

The Ministry of the Environment, after consultation with the Ministry of Industry and Trade, may also amend authorization decision except for the case specified in Section 24, Par. 2 Letter c)

- a) on request by the authorized company,
- b) due to changes in the obligations relating to the proportion of recovery and recycling of the packaging waste, should these arise from the European Union law.
- c) based on changes in legislation which affect the collective compliance and obligations belonging to persons who place packaging on the market or put them into circulation, or
- d) in a situation where the fulfilment of recycling objectives and the overall recovery or reuse of the packaging waste would be jeopardized.

## Section 26

### Withdrawal of authorization decision

- (1) The Ministry of the Environment shall, without undue delay withdraw authorization decision, should
- a) the authorized company fail to conclude any contract on collective compliance, beside contracts concluded under Section 18, Par. 2, in 3 months of the day of effect of authorization decision,
  - b) authorization decision have been granted to the authorized company on the basis of untrue data presented in the application or in documents attached to the application,
  - c) the authorized company has not fulfilled the obligation stipulated in Section 21, Par. 1 Letter f) or g) or in Section 21b Par. 6,
  - d) the authorized company have failed to rectify a fault as provided in Section 24, Par. 2 Letter a) within an additionally assigned term, or
  - e) bankruptcy proceedings have been declared on the authorized company under the special regulation<sup>20)</sup>.
- (2) The Ministry of the Environment, on consultation with the Ministry of Industry and Trade may withdraw authorization decision should
- a) the authorized company fail within 12 months of the effect of authorization decision to achieve the recovery of at least 80% of the target defining the total use of packaging waste set out in authorization decision pursuant to Section 17, Par. 7, Letter d),
  - b) the authorized company fail within the first year of its operation to achieve the recovery of the waste of the packaging in the extent of at least two-thirds of the quantity required in authorization decision, or
  - c) the total quantity of packaging for which the authorized company has concluded contracts of collective compliance fail after 12 months of the effective date of authorization decision to equal at least 10% of all the packaging which are placed on the market or put into circulation in the Czech Republic, to which authorization decision applies.



(3) Should the general meeting of shareholders of the authorized company resolve that the authorized company shall not continue to engage in the activity for which it was granted authorization decision, the authorized company shall notify the Ministry of the Environment of this fact without delay; the Ministry shall withdraw authorization decision no later than 30 days of the receipt of the notification.

#### Section 27

(1) The parties to the proceedings under Section 17 are applicants seeking an authorisation decision in relation to the types of packaging subject to an authorisation decision, and authorised companies providing collective compliance in relation to those types of packaging. This clause shall not apply in case of proceedings focusing on the extension of the validity of authorization decision is defined in to Section 17, Par. 8, where only the authorized company is the participant.

(2) The parties to the proceedings under Section 25 are authorised companies providing collective compliance in relation to those types of packaging subject to an authorisation decision.

3) Pursuant to Section 26 only the authorized company is the party to the proceedings.

#### Section 28

##### Termination of authorization decision

(1) Authorization decision shall terminate by

- a) withdrawal thereof,
- b) expiry of the effect thereof
- c) termination of the authorized company without liquidation, or by termination with liquidation,
- d) change in the legal form of the authorized company or by change in the effectiveness of the contract on the transfer or defining lease of a commercial plant.

(2) The termination of authorization decision as provided in Par. 1 Letter a) shall be of no prejudice to the entitlements of the persons which had effective contracts of collective compliance with the authorized company as of the day of termination of authorization decision in the settlement of rights and obligations with the authorized company.

#### Section 28a

##### Transfer of funds upon termination of authorization decision

(1) A legal entity whose authorization decision has expired is obliged to transfer all unused funds obtained from the contributions paid by persons who place packaging on the market or put them into circulation, including the relevant income and funds that make up the reserve of the authorized company that took over the obligation to fulfil duties of these persons. Should there be several authorized companies, each of them shall receive by a transfer a proportion of those funds corresponding with the portion of contributions paid for the packaging placed on the market or put into circulation during the last 24 months before authorization decision expires by each person who places packaging on the market or puts them into circulation, and which had concluded a contract on collective compliance with the authorized company whose authorization decision had expired. The authorized company which has taken over the obligations of persons who place packaging on the market or put them into circulation is not entitled to require these persons who place packaging on the market or put them into circulation to provide reimbursement for these contributions until the date of the expiry of the authorization decision of the authorized company with which the person who has placed the packaging on the market or put them into circulation had concluded the contract on collective compliance before the relevant obligations were taken over.



(2) The legal entity must fulfil the obligation set out in paragraph 1 within 180 days from the day when its authorization decision expired, and the legal entity shall do so in a manner approved by the Ministry of the Environment based on the proposal of this legal entity. The Ministry of the Environment shall also provide this legal entity with information defining which authorized companies and for which quantities of packaging the individual persons have concluded the relevant contract on collective compliance pursuant to Paragraph 1.

(3) If the funds cannot be transferred in accordance with paragraph 1 due to the fact that the person who places packaging on the market or puts them into circulation has not concluded a contract on collective compliance with the authorized company, the legal entity shall transfer the corresponding part of the funds within 180 days after its authorization decision expired to the persons who place packaging on the market or put them into circulation and who decided to fulfil the obligations under this Act independently pursuant to Section 13, Par. 1, Letter a), and which is included in the List. Should there be undistributed funds, these funds shall be transferred within 180 days from the date of the expiry of the period under the first sentence, to individual authorized companies which fulfil obligations related to these types of packaging and which were originally fulfilled by the legal entity whose authorization decision has expired.

(4) A proposal to delete a legal entity from the public register may not be filed before the obligations set out in Paragraphs 1 and 3 are fulfilled. After proving the fulfilment of these obligations, the Ministry of the Environment shall issue a certificate of their fulfilment in line with the first sentence and upon the request of the legal entity. This certificate is a mandatory requirement for the proposal to delete a legal entity from the public register.

(5) Should the authorized company be transformed, based on which the authorization decision expires, the authorized company is obliged (before entering the change in the Commercial Register) to prove to the Ministry of the Environment that all unused funds obtained from contributions from persons who place packaging on the market or put them into circulation, including revenues received from the relevant funds as well as the funds which form the reserve of the authorized packaging company, that these have been transferred in accordance with Paragraph 1 or 3. The proposal to enter the conversion of the company in the Commercial Register may not be filed before this obligation is fulfilled. The party proposing the entry of the change into the Commercial Register shall demonstrate fulfilment of this obligation to the Ministry of the Environment.

(6) If the authorization decision of the contract on the transfer or lease of a commercial plant of the authorized company expires, and if the obligation to transfer the funds is not fulfilled within the period defined in Paragraph 2 or 3, the contract shall be cancelled from the very beginning.

## Section 29

### Publication of authorization decision

The list of issued authorization decisions, decisions on amendments and withdrawals thereof, as well as the content of the certificates with the exception of facts which are subject to business secrets or protection of personal data, shall be published in the official bulletin of the Ministry of the Environment.

## **CHAPTER IV**

### **REGISTRATION AND RECORD FEES**

#### **Section 30**

- (1) Registration fee in the amount of CZK 800 shall be paid for entry on the List (see Section 14) and in the following calendar years the fee for keeping on the List shall be paid for the previous calendar year, no later than by 15 February of the following year.
- (2) For authorization decision issued according to Section 17, the applicant shall pay a registration fee of CZK 2,000. In each subsequent calendar year, the authorized company shall pay a registration fee of CZK 800 per person with whom the authorized company has concluded a contract on collective compliance which was valid during at least a part of the calendar year, for the previous calendar year, no later than by 15 February of the following year.
- (3) The authorized company shall not be obliged to pay the registration fee according to Par. 2 with respect to a person with whom the authorized company has concluded a contract on collective compliance which was valid only during a part of the calendar year, provided that the person who places packaging on the market or puts them into circulation less than 300 kg of packaging during this part of the calendar year.
- (4) The provision of the Tax Code, according to which late interest fees do not apply in case of monetary performance done within the divided administration, shall not apply to registration fees.
- (5) The proceeds from the registration and evidence fees are credited to the budget of the State Fund for the Environment of the Czech Republic.
- (6) The State Fund for the Environment of the Czech Republic is the registration and evidence fee administrator. The customs office administers collection of these fees. Territorial competence of the customer office is governed by the registered seat or place of residence of the taxpayer. Pardoning the delay interest is decided at the discretion of the Ministry of the Environment.

## **CHAPTER V**

### **GOVERNMENT ADMINISTRATION IN THE FIELD OF PACKAGING AND PACKAGING WASTE MANAGEMENT**

#### **Section 31**

Administrative authorities in the field of packaging and packaging waste management

Government administration of packaging and packaging waste management shall be conducted by

- a) the Ministry of the Environment,
- b) the Ministry of Industry and Trade,
- c) the Regional Hygiene Stations (the Hygiene Station of the Capital city of Prague),
- d) the Czech Trade Inspection Authority,
- e) the State Agricultural and Food Inspection,
- f) the Czech Environmental Inspection,
- g) the State Institute for Drug Control,
- h) the Institute for State Control of Veterinary Biologicals and Medicine
- i) Customs bodies of the Czech Republic

## Section 31a

*(cancelled)*

## Section 32

### The Ministry of the Environment

The Ministry of the Environment as the central administrative authority in the field of packaging and packaging waste management

- a) keeps the List as provided in Section 14,
- b) upon consultation with the Ministry of Industry and Trade issues authorization decisions as provided in Section 17, Par. 1, and resolves on prolongation of the effect of authorization decision as provided in Section 17, Par. 8,
- c) keeps the list of issued authorization decisions, decisions on amendment or withdrawal of authorization decision, and publishes them in the Bulletin of the Ministry of the Environment as provided in Section 29,
- d) identifies in the excerpt of the Register of Issuers of Shares those shareholders whose rights have been suspended as provided in Section 20, Par. 1,
- e) decides, upon prior discussion with the Ministry of Industry and Trade, on the termination of the authorized company through the transformation of the authorized company, on the transfer, lease or on the use of the authorized company business plant as a collateral or on the change of the subject of business activities of the authorized company pursuant to Section 20a Par 6 or on consent to the effectiveness of the contract on the transfer, lease or cessation of the business plant of the authorized company pursuant to Section 20a Par. 7,
- f) keeps records pursuant to Section 23, Par. 3, first sentence, as well as summary of records pursuant to Section 15, Par. 2 and processes these records to maintain general and overall records,
- g) inspects the operation of the authorized companies as provided in Section 24, Par. 1,
- h) imposes remedial measures on an authorised company in accordance with Section 24(2)a), or a ban on ensuring collective compliance in accordance with Section 24(2)d),
- i) submits a motion to the Czech Environmental Inspectorate seeking the initiation of proceedings for an offence committed by an authorised company in accordance with Section 24(2)b),
- j) decides on the amendment of an authorisation decision in accordance with Section 24(2)c) and Section 25,
- k) decides on the revocation of an authorisation decision in accordance with Section 24(2)c) and Section 26,
- l) decides on appeals against decisions of the Czech Environmental Inspectorate,
- m) provides the European Commission with data on packaging and packaging waste management in the Czech Republic to the extent and in the manner required,
- n) ensures that the total amount of packaging waste recovered is in accordance with the international commitments by which the Czech Republic is bound<sup>23</sup>,
- o) appoints, after consultation with the Ministry of Industry and Trade, representatives of the Czech Republic to committees, commissions, expert and working groups and other bodies established in accordance with European Union law in the field of packaging and packaging waste management<sup>2</sup>,
- p) ensures, in cooperation with the Ministry of Industry and Trade, appropriate public information on the role of consumers in contributing to the reuse, recovery and recycling of packaging and packaging waste<sup>2</sup>,
- q) initiates inspections by the Czech Trade Inspection Authority in the area of packaging management,

- r) ensures regular dialogue between authorised companies, persons placing packaging on the market or into circulation, persons handling packaging and packaging waste, municipalities and associations whose activities relate to this Act,
- s) determines the market shares of authorised companies on the basis of which cost compensation is carried out in accordance with Section 21b and publishes them at regular intervals in a manner allowing remote access,
- t) directs coordination in accordance with Section 21c to achieve a consensus between the authorised companies and convenes meetings between the authorised companies and the Ministry of the Environment for this purpose as necessary, and in the event of failure to reach a consensus in the coordinated area, shall decide on the solution itself, and
- u) publishes, in a manner allowing remote access, the costs of municipalities for the operation of the packaging waste take back system for different size groups of municipalities, as determined by the appointed authorised company in accordance with Section 21c(3).

### Section 33

#### The Ministry of Industry and Trade

The Ministry of Industry and Trade issues statement to the Ministry of the Environment on application for the issuance of authorization decision as provided in Section 17, Par. 1, application for prolongation of the effect of authorization decision as provided in Section 17, Par. 8, application for ex ante approval as provided in Section 20a, Par. 6 and 7, amendment to authorization decision as provided in Section 24, Par. 2 Letter c) and Section 25, and withdrawal of authorization decision as provided in Section 24, Par. 2 Letter c) and Section 26, Par. 2.

### Section 34

*(cancelled)*

### Section 35

#### The Regional Hygiene Stations

The Regional Hygienic Stations (Hygienic Station of the Capital City of Prague) inspect the fulfilment of obligations concerning prevention, placing packaging on the market or into circulation, its labelling and reuse in the case of packaging of cosmetic products<sup>24)</sup> in the event of a breach of these obligations they impose corrective measures under the Product Market Surveillance Act and administrative penalties.

### Section 36

#### Czech Trade Inspection Authority

The Czech Trade Inspection Authority

- a) inspects compliance with the obligations relating to prevention, placing packaging on the market or into circulation, marking and reuse thereof, with the exception of packaging of cosmetic products<sup>24)</sup>, packaging coming to direct contact with food, packaging of medical preparations<sup>10)</sup> and packaging of materials for the formulation of human medical preparations<sup>10)</sup>,
- b) inspects the organization of take-back by the persons who place packaging on the market or put them into circulation by sale to the consumer; such persons shall prove on request the method of the organization of take-back,
- c) inspects the organization of sale of beverages in charged returnable containers in legal persons or natural persons entitled to enterprise, which place packaging on the market or put them into circulation beverages by sale to the consumer,

- d) in the event of a finding of a breach during an inspection of obligations under letters a), b) or c), impose corrective measures under the Product Market Surveillance Act and administrative penalties.

## Section 37

### State Agricultural and Food Inspection Authority

The State Agricultural and Food Inspection Authority inspects compliance with obligations relating to prevention, placing packaging on the market or into circulation, marking and reuse thereof in case of packaging coming to a direct contact with food; in the event of a breach of these obligations, the Inspectorate imposes corrective measures under the Product Market Surveillance Act and administrative penalties.

## Section 38

### State Institute for Drug Control

The State Institute for Drug Control inspects compliance with the obligations relating to prevention, placing packaging on the market or into circulation, marking and reuse thereof in case of packaging of human medical preparations and packaging of materials for the formulation of human medical preparations; in the event of a breach of these obligations, the Inspectorate imposes corrective measures under the Product Market Surveillance Act and administrative penalties.

## Section 39

### Institute for State Control of Veterinary Biologicals and Medicine

The Institute for State Control of Veterinary Biologicals and Medicine inspects compliance with the obligations relating to prevention, placing packaging on the market or into circulation, marking and reuse thereof in case of packaging of veterinary medical preparations and packaging of materials for the formulation of veterinary medical preparations; in the event of a breach of these obligations, the Inspectorate imposes corrective measures under the Product Market Surveillance Act and administrative penalties.

## Section 40

### Czech Environmental Inspectorate

- (1) The Czech Environmental Inspectorate<sup>28)</sup> checks compliance with
- a) the take back obligation, with the exception of the take back obligation referred to in Section 36(b), and the obligation to recover packaging waste,
  - b) awareness-raising activities,
  - c) the obligations stipulated under Section 10a, Section 12a, Section 13(2), Section 13a, Section 23a(5) and Section 28a, and
  - d) other obligations relating to the obligations under (a) to c).
- (2) Upon detecting a breach of the obligations pursuant to Paragraph 1, the Czech Environmental Inspectorate will impose measures under the Product Market Surveillance Act and administrative penalties and may impose protective measures pursuant to Section 43.

## Section 41

### Authorities of the Customs Administration of the Czech Republic

- (1) Customs authorities are entitled to examine whether packaging or packaging means imported to the Czech Republic or transported from EU member states to the Czech Republic fulfil the requirements of this Act. If it is doubtful whether the conditions of this Act have been fulfilled, the customs authorities shall release the examined goods into the relevant customs regime or for further transportation shall submit a

request at the competent control authority to conduct an inspection and at the same time shall notify the Ministry of the Environment of this request.

(2) For the purposes of state administration in the field of packaging and packaging waste management, the General Directorate of Customs shall provide the Ministry of the Environment and the Czech Environmental Inspection, upon request, with the following information on packaging imports from countries not Member States of the European Union:

- a) identification data of the declarant and the consignee, namely the name or business name, or the name, registered office address and identification number, if assigned,
- b) date of import,
- c) gross and net weight of the consignment,
- d) commodity code,
- e) type and number of packaging,
- f) description of the goods,
- g) the State from which the packaging was imported; and
- h) unit of measure and its number.

(3) The provision of information pursuant to Paragraph 2 is not a breach of the duty of confidentiality pursuant to the Tax Code.

#### Section 41a

*(cancelled)*

#### Section 42

##### Inspection in the management of packaging and packaging

Inspectors and authorised employees of administrative authorities exercising competence in the field of packaging and packaging waste management pursuant to this Act shall, when carrying out inspection activities, present a card issued by the competent inspection authority as proof of their authorisation to inspect.

## CHAPTER VI

### PROTECTIVE MEASURES AND OFFENCES

#### Section 43

##### Protective measures

(1) The Czech Environmental Inspectorate may, taking into account the nature and seriousness of the violation of the obligation under this Act, prohibit the placing on the market or into circulation of packaging which does not comply with the requirements set out in Section 10(1) or suspend the placing on the market or into circulation of such packaging until remedy has been sought. In imposing such a measure, the Czech Environmental Inspectorate shall proceed in a similar manner under the Act on Market Surveillance of Products.

(2) An appeal against a decision to impose a measure pursuant to subsection (1) shall not have suspensive effect.

## Offences committed by corporate entities and individual entrepreneurs

### Section 44

- (1) Corporate entities or individual entrepreneurs shall be deemed to have committed an offence by conducting activities for which authorization is required according to Section 17 without this authorization, or offering – without authorization – third parties the opportunity to conclude contracts for activities for which authorization is required.
- (2) Corporate entities or individual entrepreneurs shall be deemed to have committed an offence by
- a) breaching the duty stipulated in Section 3, Par. 1 as a person marketing packaging,
  - b) failing to meet any of the conditions for marketing packaging or packaging mean according to Section 4 as a person marketing a packaging or packaging means,
  - c) failing to submit – upon request - technical documentation to the control authority according to Section 5, Par. 1, letter a) as the person marketing the packaging, or failing to demonstrably inform its customers according Section 5, Par. 1, letter b),
  - d) failing to submit – upon request - technical documentation to the control authority according to Section 5, Par. 2, Letter a) as the person marketing the packaging mean, or failing to demonstrably inform its customers according Section 5, Par. 2, letter b),
  - e) failing to adopt measures as the person who places packaging on the market or puts into circulation with re-usable or returnable packaging, owing to which it would be possible to make repeated use of the used packaging according to Section 7, or failing to ensure the due reuse of returnable packaging or use of the waste from this packaging according to Section 8,
  - f) breaching any of the duties concerning returnable packaging (to be repurchased) according to Section 9 as the person specified in Section 9,
  - g) failing to ensure the repurchase of these packaging or waste from these packaging according to Section 10, Par. 1 as the person marketing or putting into circulation packaging,
  - h) as a person placing the single-use plastic packaging specified in Part B of Annex No. 4 to this Act on the market or into circulation, who fails to achieve the minimum amount of waste take back from that packaging in accordance with Section 10(5),
  - i) as a person placing the single-use plastic packaging specified in Parts C or D of Annex No. 4 to this Act on the market or into circulation, who fails to reimburse the municipality for the costs pursuant to Section 10a (1) or fails to fulfil any of the obligations pursuant to Section 10a(2) or (3),
  - j) as a person placing packaging on the market or into circulation, who fails to perform awareness-raising activities pursuant to Section 11(1) to (3),
  - k) As a person placing packaging on the market or into circulation, who fails to provide the recovery of packaging waste pursuant to Section 12
  - l) as a person placing the single-use plastic packaging specified in Part B of Annex No. 4 to this Act on the market or into circulation, who fails to ensure the mandatory content of recycled plastics in the packaging pursuant to Section 12a(1) or who fails to report the quantity of recycled plastics it used in packaging pursuant to Section 12a(3),
  - m) as a person who places packaging on the market or puts into circulation through the sale to a consumer, violates the prohibition to influence suppliers in their option to select the authorized company pursuant to Section 13 Par. 2,
  - n) failing to appoint an authorised representative in violation of Section 13a(2) or (3) or appoints an authorised representative in violation of Section 13a(4) or (5),
  - o) breaching the duty to submit an application for entry into the List according to Section 14, Par. 1 as the person who places packaging on the market or puts into circulation,



- p) failing to fulfil the duty to provide notification of changes in data according to Section 14, Par. 9 as the person entered in the List,
- q) breaching any of the duties to register according to Section 15 as the person subject to the obligation to be entered into the List,
- r) as a person who places on the market or puts into circulation packaging or as a person defined in Section 23 Par. 1 letter c) fails to provide the authorized company with the necessary co-operation pursuant to Section 23a Par. 5), or
- s) as a legal entity whose authorization decision has expired, fails to transfer funds pursuant to Section 28a.

(3) An authorised company commits an offence by

- a) failing to comply with any of the authorisation conditions laid down in the authorisation decision on the basis of Section 17(7)c) to f),
- b) breaching any of the authorised company's restrictions pursuant to Section 20,
- c) breaching the prohibition on holding a general meeting without submitting an extract from the issue register pursuant to Section 20a(1),
- d) allowing, in violation of Section 20a(2), a person whose shareholder rights have been suspended by the Ministry of the Environment or a person who is not listed in the issue statement to vote at the general meeting,
- e) breaching the prohibition on concluding an agreement pursuant to Section 20a(3),
- f) breaching the prohibition on concluding an agreement pursuant to Section 20a(5),
- g) failing to seek the prior approval of the Ministry of the Environment to issue a resolution of the general meeting in the cases referred to in Section 20a(6),
- h) laying down the conditions for concluding a collective compliance agreement in violation of Section 21(1)a),
- i) failing to conclude a collective compliance agreement in violation of Section 21(1)b) or c),
- j) entering into a contract with a municipality in violation of Section 21(1)d) or refusing to conclude a contract with a municipality,
- k) failing to ensure collective compliance with the obligations of persons placing packaging on the market or into circulation with whom it has concluded a collective compliance agreement, in accordance with the terms stipulated by this Act and in the authorisation decision pursuant to Section 21(1)e),
- l) failing to comply with the obligation to provide take back through collection points for a specified proportion of the population or municipalities pursuant to Section 21(1)f) or g),
- m) failing to achieve the minimum level of packaging waste take back pursuant to Section 21(1)h),
- n) failing to comply with the obligation to ascertain the costs to municipalities for the operation of the packaging waste take back system for different size groups of municipalities pursuant to Section 21(1)i) or to ascertain the proportion of packaging waste in sorted municipal waste and in waste that is handled in waste treatment facilities prior to recovery involving the final sorting of waste pursuant to Section 21(1)j),
- o) failing to ensure that the amount of the financial contributions covers the costs pursuant to Section 21(1)k),
- p) failing to comply with the obligation to carry out eco-modulation pursuant to Section 21(1)l),
- q) failing to ensure that the amount of the financial contributions does not exceed the necessary costs pursuant to Section 21(1)m),
- r) failing to comply with the obligation to set lower cash contributions pursuant to Section 21(1)n),
- s) failing to publish information pursuant to Section 21(1)o),
- t) failing to publish contracts within the time limit laid down in Section 21(1)p),

- u) failing to draw up a methodology in the manner stipulated under Section 21(3) or failing to publish that methodology on its website,
- v) failing to comply with the obligation to prepare a report and send it to the Ministry of the Environment pursuant to Section 21(4), or
- w) breaching the prohibition on disclosing information to third parties pursuant to Section 21(5).

(4) An authorised company also commits an offence by

- a) failing to fulfil any of the obligations relating to the reserve pursuant to Section 21a,
- b) failing to fulfil any of the obligations relating to the settlement of costs pursuant to Section 21b,
- c) in relation to coordination pursuant to Section 21c
  - 1. failing to engage in coordination or failing to follow the agreed procedure confirmed by the agreement pursuant to Section 21c(1),
  - 2. as the appointed authorised company, failing to send data obtained on the amount of costs to the Ministry of the Environment pursuant to Section 21c(3),
  - 3. failing to notify the other authorised companies or the Ministry of the Environment of its intention to change the eco-modulation method and making the change without their agreement pursuant to Section 21c(5), or
  - 4. failing to comply with a decision issued pursuant to Section 21c(7),
- d) failing to keep records in the manner and to the extent prescribed by Section 23(1) or failing to report data from those records to the Ministry of the Environment pursuant to Section 23(2), or
- e) failing to comply with any of the obligations relating to the verification of data by the auditor pursuant to Section 23a

(5) Legal entity or natural person – businessman commits an offence by providing a plastic carrier bag to a consumer at a point of sale in a way other than as specified in Section 3 Par. 3.

(6) The municipality commits an offence by failing to observe provisions of Section 21b Par. 2 or 3 and in conflict with these provisions the municipality fails to provide each authorized company with the proportionate weight of packaging waste handed over under the municipal waste management system established by this municipality or in violation of Section 21b Par. 4, fails to notify the authorized company.

## Section 45

(1) The following fines may be imposed for an offence under Section 44

- a) up to CZK 50,000 in the event of an offence under Paragraph (6),
- b) up to CZK 500,000 in the event of an offence under Paragraph (2)a), c) to f), j), o) or p), Paragraph (3)t) or Paragraph (5),
- c) up to CZK 1,000,000 in the event of an offence under Paragraph (2)i), m), q), or r), or Paragraph (3)p), r) or s),
- d) up to CZK 5,000,000 in the event of an offence under Paragraph (2)n), or
- e) up to CZK 10,000,000 in the event of an offence under Paragraph (1), Paragraph (2)b), g), k), l) or s), Paragraph (3)a) to l), n), o), q) or u) to w) or under Paragraph (4).

(2) Legal entities and natural persons engaged in business that commit an offence under Section 44(2)h) or Section 44(3)m) may be subject to a fine up to the sum equivalent to the sum total of the number indicating the number of percentage points by which they are short of achieving the specified minimum level of packaging waste take back and the amount of CZK 1,000,000.

## Section 46

(1) Corporate entity or natural person doing business shall not be held liable for an offence as defined in Section 44 Par. 2 letter g) to l) if the obligation is breached within 3 months of the day on which the authorized entity with which the corporate entity or individual entrepreneur concluded a contract on collective compliance of obligations authorization decision has ceased to exist. It shall be understood that the obligations pursuant to Section 10, Par. 1 and Sections 10a to 12a in relation to packaging that a legal or a natural person doing business introduced to the market or into circulation within 3 months from the date of expiry of authorization decision pursuant to the first sentence, shall be regarded as fulfilled.

(2) Proceedings concerning offences according to this Act shall be conducted – at the first instance – by the Regional Hygiene Station, the Czech Trade Inspection Authority, the State Agricultural and Food Inspection, the State Institute for Drug Control, the Institute for State Control of Veterinary Biologicals and Medicine or the Czech Environmental Inspection, to the extent of their competences stipulated in Sections 35 through 40. If more administrative authorities are competent to deal with an administrative tort concerned with respect to the extent of their competences, the proceedings concerning the offence in question shall be conducted by the administrative authority which has first instigated such proceedings. The administrative authority instigating proceedings shall duly notify all administrative authorities competent to conduct proceedings concerning offences according to this Act.

(3) Penalties shall be collected by the body which has imposed them.

(4) The income from penalties shall be income to the budget from which the activities of the body which has imposed the penalty concerned is financed, with the exception of penalties imposed by the Czech Environmental Inspectorate, which shall be the income of the State Environmental Fund of the Czech Republic.

## CHAPTER VII

### COMMON, ENABLING AND TRANSITIONAL PROVISIONS

#### Section 47

*(cancelled)*

#### Section 48

Such packaging shall be seen as packaging of single material for the purpose of compliance with the obligations of packaging waste recovery as provided in Section 12 and record-keeping as provided in Section 15 and 23, in which one composite packaging and other packaging consisting of more than one material are reported based on materials that are included in the packaging. This requirement may be waived if the material in question constitutes an insignificant part of the packaging and does not represent more than 5% of the total weight of the packaging.

#### Section 49

The enforcement of the powers of the Authorities of the Customs Administration of the Czech Republic under this Act shall be deemed to be the enforcement of tax administration, with the exception of proceedings concerning offences.

#### Section 50

##### Enabling provisions

(1) The Government shall issue a regulation to implement Section 9, Par. 9.

(2) The Ministry of the Environment shall issue a decree pursuant to Section 9a(3), Section 10(6), Section 11(4), Section 15(4), Section 21b(7), Section 23(5) and Section 23a(6).

(3) The Ministry of Industry and Trade shall issue a decree to implement Section 9, Par. 3.

## Section 51

### Transitional provisions

(1) If the authorised company was issued with an authorisation decision prior to 4 July 2018, it shall adapt its activities so as to comply with the requirements of Act No. 477/2001 Coll., as in force from the date of the entry into force of this Act, no later than by 31 December 2022.

(2) The provisions of Section 23(1)d) of Act No. 477/2001 Coll., as in force from the date of the entry into force of this Act, will first apply when reporting data from the authorised company's records for the year 2022. The provisions of Section 23(1)g) of Act No. 477/2001 Coll., as in force from the date of the entry into force of this Act, will first apply when reporting data from the authorised company's records for the year 2023.

(3) An applicant for an authorisation decision pursuant to Section 17 of Act No. 477/2001 Coll., as in force before the entry into force of this Act, for whose application no final decision has been made before the entry into force of this Act, shall, within 6 months from the date on which this Act enters into force, supplement the application so as to comply with the requirements stipulated by Section 17(3) of Act No. 477/2001 Coll., as in force from the date of the entry into force of this Act.

(4) The obligation under Section 10a of Act No. 477/2001 Coll., as in force from the date of the entry into force of this Act, shall apply to persons placing the single-use plastic packaging specified in Parts C or D of Annex No. 4 to this Act on the market or into circulation from 1 January 2023. An authorised company issued with an authorisation decision after 4 July 2018 shall adapt its activities by 30 June 2024 so as to ensure the fulfilment of this obligation within the framework of collective compliance.

(5) The provisions of Section 12a(3) of Act No. 477/2001 Coll., as in force from the date of the entry into force of this Act, will first apply when reporting the quantity of recycled plastics used in the single-use plastic packaging specified in Part B of Annex No. 4 to this Act for the year 2023.

(6) The Contract on Collective Compliance concluded pursuant to Act No. 477/2001 Coll., as in force before the entry into force of this Act, is considered to constitute a collective compliance agreement pursuant to Section 13(1)c) of the Packaging Act No. 477/2001 Coll., as in force from the date of the entry into force of this Act.

## Section 51a

(1) The decisions issued by the Ministry of Trade and Industry pursuant to Section 47 expire on the day this Act comes into force.

(2) Any proceedings initiated according to Section 47 which were not completed prior to the day this Act came into force, shall be discontinued on the day this Act comes into force.

## EFFECTIVENESS

This Act shall enter into force on the first day of the second calendar month following the date of its promulgation, with the exception of the provisions of

- a) Section 13a(4) and (5) which shall enter into force on 1 January 2024
- b) Section 4 (6) which shall enter into force on 1 July 2024

### **Transitional provisions introduced by Act No. 545/2020 Coll.**

#### Article II.

1. Proceedings dealing with the application for the issuance of the decision on authorization pursuant to Section 17 of Act No. 477/2001 Coll., as amended and which occurred was not properly and legally completed before this Act came into force, shall be completed pursuant to Act No. 477 / 2001 Coll., as amended using the wording in effect from the date this Act came into force.
2. The applicant applying for authorization pursuant to Section 17 of Act No. 477/2001 Coll., as amended but based on the wording valid before this Act came into effect, and whose application has not been properly decided before this Act came into force, is obliged to do the following - and the applicant shall do so within 6 months from the date of this Act came into force
  - a) add information and supplement the application so that it meets the requirements set out in Section 17, Par. 3 of Act No. 477/2001 Coll., as amended in the wording valid after this Act came into effect,
  - b) meet the requirements set out in Section 17 Par. 4 letters a), b) and d) of Act No. 477/2001 Coll., as amended and in the wording valid after this Act came into force, and
  - c) start negotiations with authorized companies and to take over the method of eco-modulation of authorized companies according to Section 17 Par. 4 letter c) of Act No. 477/2001 Coll., as amended and affected in the wording of after this Act came into effect.
3. If an authorized company has been issued the decision on authorization before the date this Act came into effect, the authorized company shall create and maintain the relevant reserve pursuant to Section 21a of Act No. 477/2001 Coll., as amended in the wording valid after this Act came into effect. The company shall also maintain and add more funds to the reserve (if necessary) in order to make sure that within 5 years this Act came into force, the amount of the reserve reaches (on the last day of the accounting period) at least 50% of the total costs of the authorized company according to the last approved regular or extraordinary financial statements prepared for the previous accounting period.
4. Should, as of the date when this Act came into force, several authorized companies operate in the Czech Republic, then these companies are obliged to act within the framework of coordination is defined in to Section 21c with the intention to reach an agreement on how to implement the eco-modulation method; if no agreement is reached within 6 months after this Act came into force, the Ministry of the Environment shall decide on the method how to carry out the eco-modulation based on the proposed solutions submitted by the authorized companies.

#### Article III

##### Notification of a technical regulation

This Act was notified in accordance with the Directive (EU) 2015/1535 of the European Parliament and of the Council dated 9 September 2015 defining applicable procedures on the provision of information in the field of technical regulations including regulations applicable to IT companies.

Article IV  
Effectiveness

This Act shall enter into force on 1 January 2021.

**Transitional provisions introduced by Act No. 609/2020 Coll.**

Article XXVIII

1. Late interest fees pursuant to Act No. 477/2001 Coll., as amended valid in the wording before this Act came into force, and for which the conditions for its implementation remain valid before this Act took legal force, shall apply until the day preceding the date when this Act took legal effect. Since the day this Act came into effect, the interest shall be subject to the Packaging Act No. 477/2001 as amended and valid in the wording of to this Act came into force.

2. Act No. 477/2001 Coll., as in force before the date of entry into force of this Act, shall apply to proceedings and other procedures related to the application of default interest pursuant to Act No. 477/2001 Coll., as in force from the date of entry into force of this Act.



**Criteria and examples clarifying the meaning of the term packaging**

**Criterion 1**

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A product compliant with the definition of packaging as per Section 2, letter a), simultaneously fulfilling or capable of fulfilling a function other than that of packaging, shall be considered packaging only if:

- a) it is not an integral part of another product;
- b) is not essential for closing, carrying or protecting such product for the duration of its service life,
- c) and all parts thereof have not been designed to be used, consumed and/or removed jointly.

**Illustrative examples for criterion 1**

**Packaging**

Confectionery boxes

Film overwrap around a CD case

Mailing pouches for catalogues and magazines (with a magazine inside)

Cake doilies sold with a cake

Rolls, tubes and cylinders around which flexible material (e.g. plastic film, aluminium, paper) is wound, except rolls, tubes and cylinders intended as parts of production machinery and not used to present a product as a sales unit

Glass bottles for injection solutions

CD spindles (sold with CDs, not intended to be used as storage)

Clothes hangers (sold with a clothing item)

Matchboxes

Sterile barrier systems (pouches, trays and materials necessary to preserve the sterility of the product)

Beverage system capsules

Refillable steel cylinders used for various kinds of gas, excluding fire extinguishers

## **Non-packaging**

Flower pots intended to stay with the plant throughout its life time

Cases, cases and cartridges for tools and instruments

Tea bags

Wax layers around cheese

Sausage skins

Clothes hangers (sold separately)

Coffee pods disposed together with the used coffee product

Cartridges for printers

CD, DVD and video cases (sold together with a CD, DVD or video inside) CD spindles (sold empty, intended to be used as storage)

Soluble bags for detergents

Grave side lights (containers for candles)

Mechanical quern (integrated in a refillable recipient, e.g. refillable pepper mill)

## **Criterion 2**

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Items designed to be filled at the point of sale, are considered packaging, if they fulfil the function of packaging.

### **Illustrative examples for criterion 2**

#### **Packaging, if designed and intended to be filled at the point of sale**

Paper or plastic carrier bags

Disposable plates and cups

Cling film

Sandwich bags

Aluminium foil

Plastic foil for cleaned clothes in laundries

### **Non-packaging**

Stirrer

Disposable cutlery

Wrapping paper (sold separately)

Paper baking cases (sold empty)

Cake doilies sold without a confectionery product

### **Criterion 3**

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Packaging components and ancillary elements incorporated in the packaging shall be considered as parts of the packaging in which they are incorporated. Ancillary elements which are suspended directly on the product or are attached to the product and perform a packaging function shall be considered as packaging only if

- a) not an integral part of such product, and
- b) where all the parts are not intended to be consumed or disposed of together.

### **Illustrative examples for criterion 3**

#### **Packaging**

Labels hung directly on or attached to a product

#### **Item that is part of the packaging**

Mascara brush which forms part of the container closure

Sticky labels attached to another packaging item

Staples

Plastic sleeves

Device for measuring dosage which forms part of the container closure for detergents

Mechanical quern (integrated in a non-refillable recipient, filled with a product, e.g. pepper mill filled with pepper)

#### **Non-packaging**

RFID tags for radio frequency identification

## **SYSTEMS OF ENSURING REUSE OF PACKAGING**

### **A. Reusable packaging systems are:**

1. **Closed system** - a system in which reusable packaging is put into circulation by a person or an organized group of persons;
2. **Open system** - a system in which reusable packaging is put into circulation between unspecified persons;
3. **Mixed system** - a system consisting of two parts:
  - a) reusable packaging that remains with the end user for whom there is no redistribution system leading to commercial refilling,
  - b) single use packaging to be used as an ancillary product for the transport of contents for refilling the packaging.

### **B. Criteria for ensuring a reusable packaging system**

The requirements for reusable packaging are set by a combination of the requirements for the packaging itself and for the reusable packaging system in which it is functional.

#### **1. Criteria for a closed system:**

- a) the reusable packaging is permanently owned by a person or an organized group of persons;
- b) the packaging is repeatedly placed on the market by the person or organized group of persons who owns it;
- c) the design type of the packaging is determined according to the specifications agreed by the participants in this system and is also used according to these specifications;
- d) systems for the collection and redistribution of such packaging are in place at the appropriate collection point;
- e) persons or organized groups of persons shall be obliged to take back reusable packaging that has been used in accordance with the agreed specifications;
- f) all persons placing packaging on the market shall provide information on the use of the packaging and the places where the packaging may be left for reuse;
- g) a control system is used on the basis of an agreed specification agreed between the participants in the system

#### **2. Criteria for an open system:**

- a) the user of the packaging can decide for himself whether the packaging will be reused;
- b) reusable packaging is always owned by the person who is currently using it;
- c) the design type of the packaging is determined according to generally accepted specifications;
- d) the recovery of the reusable packaging may be provided by the user of the packaging or is available on the market;
- e) systems for the collection and redistribution of such packaging may be at an appropriate collection point;
- f) a control system based on a generally accepted specification is used

#### **3. Criteria for a mixed system:**

- a) the reusable packaging always remains with the end-user, is in his possession and is refilled with it using an auxiliary product (replacement packaging);
- b) ancillary products (replacement packaging) are available on the market;
- c) all persons placing packaging on the market shall provide information on how to reuse (refill) the reusable packaging.



**The required scope of recycling and total reuse of packaging waste**

A: recycling    B: total recovery

Packaging waste	From 1 Jan 2021 Till 31 Dec 2024		From 1 Jan 2025 Till 31 Dec 2029		From 1 Jan 2030 Till 31 Dec 2034		From 1 Jan 2035	
	A	B	A	B	A	B	A	B
	%	%	%	%	%	%	%	%
Paper and cardboard	75		75		85		85	
Glass	75		75		75		75	
Plastic	50		50		55		55	
Metal FE	55		70		80		80	
Metal AL	-		35		50		60	
Wood	15		25		30		30	
Sales (for Consumer)	50	55	50	55	50	55	50	55
Total	70	75	75	80	75	80	75	80

1. The desired extent of the recycling and overall recovery of packaging waste must be achieved in each calendar year of the designated period.
2. The level of recycling or rather the total recovery of sales packaging for consumer use is specified as the percentage of the quantity of recovered packaging waste obtained by collection from consumers from the total quantity of sales packaging which are placed on the market or put into circulation by the entity. The denominator does not include sales packaging that are industrial packaging at the same time.
3. Packaging made of one material may only be considered packaging where the given material makes at least 95 % of the packaging weight.
4. Recycling and total recovery are specified in weight percentages and recycling is included in the total recovery as one of its forms together with use for energy recovery and biodegradation pursuant to Section 4 Par. (1) letter c).



**Single-use plastic packaging and packaging means subject to measures intended to limit their environmental impact**

**Part A**

**Single-use plastic packaging for which an attached cap or lid is required**

Beverage containers with a capacity of up to 3 litres, i.e. receptacles used to contain liquid, e.g. beverage bottles, including their caps and lids, and composite beverage packaging, including their caps and lids, except for

- a) glass or metal beverage containers that have caps and lids made from plastic, and
- b) beverage containers intended and used for food for special medical purposes as defined in point (g) of Article 2 of Regulation (EU) No 609/2013 of the European Parliament and of the Council that is in liquid form

**Part B**

**Single-use plastic packaging subject to requirements concerning the minimum take back level and recyclable plastic content**

Beverage bottles with a capacity up to 3 litres, including their caps and lids, except for

- a) glass or metal beverage containers that have caps and lids made from plastic, and
- b) beverage bottles intended and used for food for special medical purposes as defined in point (g) of Article 2 of Regulation (EU) No 609/2013 that is in liquid form.

**Part C**

**Single-use plastic packaging and packaging means subject to requirements concerning the reimbursement for the costs for cleaning up waste, awareness-raising activities and the appointment of an authorised representative**

1. Packets and wrappers made from flexible material containing food that is intended for immediate consumption from the packet or wrapper without any further preparation.
2. Beverage containers with a capacity of up to 3 litres, i.e. receptacles used to contain liquid, e.g. beverage bottles, including their caps and lids, and composite beverage packaging, including their caps and lids, but not glass or metal beverage containers that have caps and lids made from plastic, including their caps and lids.
3. Plastic carrier bags.

**Part D**

**Single-use plastic packaging and packaging means subject to requirements concerning the reimbursement for the costs for cleaning up waste, awareness-raising activities, the appointment of an authorised representative and the requirements stipulated under Section 15b**

1. Cups for beverages, including their caps and lids.
2. Food containers, i.e. receptacles such as boxes, with or without a lid, used to contain food which:
  - a) is intended for immediate consumption, either on-the-spot or to take away,
  - b) is typically consumed from the receptacle, and
  - c) is ready to be consumed without any further preparation, such as cooking, boiling or heating, including food containers used for fast food or any other meal ready for immediate consumption, except for beverage containers, plates and packets and wrappers containing food.

**Annex No. 5 to Act 477/2001 Coll.****Measured values of heavy metal concentrations**

Table no. 1

Measured values of heavy metal concentrations in the glass melt of individual smelting aggregates, in micrograms per gram

	Aggregate No.	1	2	3	4	...	x
Month							
January							
February							
March							
April							
May							
June							
July							
August							
September							
October							
November							
December							

If the measured value of heavy metal concentration exceeds 200 micrograms per gram in any month at any of the measured aggregates, the values measured during a period of the following 12 months shall be entered in Table 2.

Table no. 2

Measured values of heavy metal concentration in the glass melts of the melting aggregate No. \_\_, in micrograms per gram, for the purposes of reporting to the Ministry of the Environment

Melting aggregate No.		
Month	Date of measuring	Measured value
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		
Total	xxx	
Annual average P	xxx	
P - 200	xxx	

If the total P - 200 in any of the melting aggregates is higher than zero, it is necessary to submit a report with respect to this aggregate to the Ministry of the Environment.

The report shall comprise:

1. Measured values
2. Description of measuring methods used
3. Suspicious sources of heavy metal concentrations identified
4. Detailed description of measures adopted in order to reduce heavy metal concentrations"

## Background

It's implemented under the law

111/2002 Coll. Government Regulation laying down the amount of the deposit for selected types of returnable charged packaging

116/2002 Coll. Decree on the method of marking returnable charged packaging

30/2021 Coll. Decree on the amount and way of keeping records of packaging and reporting of data from this register

## Legend

<sup>1)</sup> Act no. 350/2011 Coll., on Chemical Substances and Mixtures and on Amendments to Certain Other Acts (Act on Chemicals), as amended.

<sup>2)</sup> Directive of the European Parliament and of the Council no. 94/62/EC of 20 December 1994, on Packaging and Packaging Waste.

Directive of the European Parliament and of the Council no. 2004/12/EC of 11 February 2004, amending Directive no. 94/62/EC, on Packaging and Packaging Waste.

Directive of the European Parliament and of the Council no. 2005/20/EC of 9 March 2005, amending Directive no. 94/62/EC, on Packaging and Packaging Waste.

Commission Directive no. 2013/2/EU of 7 February 2013, amending Annex I to Directive of the European Parliament and of the Council no. 94/62/EC, on Packaging and Packaging Waste.

Directive of the European Parliament and of the Council (EU) no. 2015/720 of 29 April 2015, amending Directive no. 94/62/EC, as for reduction of consumption of light plastic shopping bags.

Directive (EU) 2018/851 of the European Parliament and of the Council issued on 30 May 2018 amending the Directive 2008/98 / EC on waste.

Directive (EU) 2018/852 of the European Parliament and of the Council issued on 30 May 2018 amending the Directive 94/62 / EC on waste management and processing.

Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on impact limitation of some plastic products on the environment.

<sup>3)</sup> Convention on International Carriage by Rail (COTIF), declared in the Collection of Laws No. 8/1985 Coll., As amended. Convention on International Civil Aviation, declared in the Collection of Laws and Regulations of the Czechoslovak Republic under No. 147/1947 Coll. European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), declared in the Collection of Laws No. 64/1987 Coll., As amended.

<sup>4)</sup> Act No. 541/2020 Coll., on waste.

<sup>5)</sup> For example, Act No. 22/1997 Coll., On Technical Requirements for Products and on Amendments to Certain Other Acts, as amended, Act No. 157/1998 Coll., As amended, Act No. 79/1997 Coll. , on Pharmaceuticals and on Amendments to Certain Related Acts, as amended, Act No. 167/1998 Coll., on Addictive Substances and on Amendments to Some Other Acts, as amended, Act No. 258/2000 Coll., on Protection public health and amending certain related acts, as amended, Act No. 18/1997 Coll., on the peaceful use of nuclear energy and ionizing radiation (the Atomic Act) and on the amendment and supplement of certain laws, as amended.

<sup>6)</sup> Act No. 634/1992 Coll., On Consumer Protection, as amended.

<sup>7a)</sup> Section 4a of Act 22/1997 Coll., on technical requirements for products and on the amendment to certain other acts, as amended by subsequent regulations.

<sup>8)</sup> Act No. 350/2011 Coll., On chemical substances and chemical mixtures and on the amendment of certain acts (Chemical Act), as amended.

<sup>9)</sup> Act No. 201/2012 Coll., On air protection, Act No. 254/2001 Coll., On waters and amending certain acts (Water Act), Act No. 541/2020 Coll. on waste.

- <sup>9a)</sup> Decree 379/2000 Coll., stipulating conditions for the determination of individual types of crystal glass, their properties and forms of identifying crystal glass products.
- <sup>9b)</sup> Commission Decision 2001/171/ES of 19 February 2001, establishing the conditions for marking for glass packaging in relation to the heavy metal concentration levels established in Directive 94/62/EC on packaging and packaging waste.
- <sup>9c)</sup> Annexes I to VII of Commission Decision 97/129/ES of 28 January 1997, establishing the identification system for packaging materials pursuant to European Parliament and Council Directive 94/62/EC on packaging and packaging waste.
- <sup>10)</sup> Act No. 378/2007 Coll. Act on Medicinal Products, as amended.
- <sup>11)</sup> Section 17 Par. 1 of Act No. 455/1991 Coll., Trade Act, as amended.
- <sup>13)</sup> Communication No. 23/2019 Coll. international agreements, the Communication of the Ministry of Foreign Affairs on the adoption of amendments to "Annex A - General Provisions and Provisions Concerning Dangerous Substances and Articles" and "Annex B - Provisions on means of transport and transport" of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR).
- <sup>13a)</sup> Section 18 Par. 2 of Act No. 300/2008 Coll., On Electronic Actions and Authorized Conversion of Documents. Section 6 Par. 1 of Act No. 297/2016 Coll., On Confidence-Building Services for Electronic Transactions.
- <sup>15)</sup> Section 22 of Act No. 89/2012 Coll., Civil Code.
- <sup>16)</sup> Act No. 219/2000 Coll., On Property of the Czech Republic and its Representation in Legal Relationships, as amended.
- <sup>19)</sup> For example, the Commercial Code.
- <sup>20)</sup> Act No. 182/2006 Coll., On bankruptcy and methods of its resolution (insolvency law), as amended.
- <sup>23)</sup> Article 6 Par. 1 of Directive 94/62 / EC of the European Parliament and of the Council on packaging and packaging waste of 20 December 1994.
- <sup>24)</sup> Act No. 258/2000 Coll., As amended.
- <sup>27)</sup> Act No. 146/2002 Coll., On the State Agricultural and Food Inspection and on the amendment of some related laws, as amended.
- <sup>28)</sup> Act No. 282/1991 Coll., On the Czech Environmental Inspection and its competence in forest protection.
- <sup>29)</sup> Section 2, Subsection 2 of the Commercial Code.
- <sup>31)</sup> Part Six of Act No. 337/1992 Coll., As amended.
- <sup>33)</sup> Regulation of the European Parliament and of the Council (EC) no. 1907/2006 of 18 December 2006 on Registration, Evaluation, Authorisation and Restriction of Chemicals, Establishing a European Chemicals Agency, Amending Directive 1999/45/EC and Repealing Council Regulation (EEC) no. 793/93, Commission Regulation (EC) no. 1488/94, Council Regulation no. 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC.
- <sup>34)</sup> For example, Act No. 378/2007 Coll., On Medicinal Products and on Amendments to Certain Related Acts (Act on Medicinal Products), as amended, Act No. 110/1997 Coll., On Food and Tobacco Products and on Amendments to Certain Related Acts, as amended, Act No. 22/1997 Coll., on Technical Requirements for Products and on Amendments to Certain Other Acts, as amended.
- <sup>35)</sup> Section 59 of Act No. 541/2020 Coll., On waste.
- <sup>36)</sup> Section 1820 of Act No. 89/ 20212 Coll.