

Definition of the term producer/importer (WEEE)

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

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

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

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

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

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

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In pursuance of the rules on producer responsibility for WEEE, waste batteries, and ELV this document describes how you can determine whether you have producer responsibility for electrical and electronic equipment sold in Denmark.

Background

Under the producer responsibility scheme for electrical and electronic products covered by WEEE legislation the producer responsibility for a product must be placed unambiguously with one producer or one importer in Denmark. The responsibility for a product must be placed with only one producer or one importer in Denmark in order to avoid unclear responsibilities and to avoid that quantities placed on the market and taken back are dealt with more than once.

Production, import and placing on the market

Producer responsibility and the ensuing duty of registration in Denmark can generally arise from the following situations:

1. A business in Denmark producing a product covered by WEEE legislation and placing this product on the market in Denmark is subject to producer responsibility.
2. An importer importing a product covered by WEEE legislation to Denmark and placing this product on the market in Denmark is subject to producer responsibility.
3. Businesses from an EU country without establishment in Denmark and dealing in distance selling of electrical equipment directly to end-users in Denmark.

It appears implicitly from point 1 above that a producer is only subject to producer responsibility in Denmark if the producer also places this product on the market in Denmark. If the producer exports this product he is not subject to producer responsibility in Denmark.

It appears implicitly from point 2 that an importer in Denmark is only subject to producer responsibility in Denmark if the imported product is also placed on the market in Denmark. If the importer exports this product he is not subject to producer responsibility in Denmark. It should also be mentioned that the producer responsibility applies (or not) whether the product is imported from an EU member state or a non-EU member state.

Regarding point 3 Businesses from an EU country without establishment in Denmark and dealing in distance selling of electrical equipment directly to end-users (in both businesses or private households) in Denmark **must** designate an authorised representative (AR) in Denmark to assume their producer responsibility for all equipment sold onto the Danish market.

Brands

The brand used in connection with placing on the market has an impact on the producer responsibility. The Danish Environmental Protection Act, section 9i(2) gives the following definition of producers and importers:

Any person who:

- A) manufactures and sells electrical and electronic equipment in Denmark under his own brand,*
- B) resells in Denmark under his own brand equipment produced by other suppliers, a reseller not being regarded as the 'producer' if the brand of the producer appears on the equipment,*
- C) imports electrical and electronic equipment on a professional basis into Denmark for resale*

Point A describes the general rule, which is described above. The producer is the one manufacturing and placing a product on the market in Denmark under his own brand.

It appears from point B that a producer is only subject to producer responsibility if the product is placed on the market under his own brand. This means that a producer in Denmark may be supplier to a subsequent level of the distribution chain in Denmark, reselling the product under his brand. The reseller, however, is only subject to producer responsibility if his brand is the only one used for this product. In other words, if you produce under someone else's name the brand owner is subject to producer responsibility. If the producer's brand appears on the product, whether or not the reseller's brand also appears, the producer is subject to the producer responsibility.

It appears from point C that producer responsibility lies with the person that imports and places products on the market in Denmark, regardless of the brand under which the product is placed on the market.

First level of distribution chain

It appears from the above that the first level of the distribution chain in Denmark is subject to producer responsibility with the exception of the above situations where a Danish producer is supplier to a reseller in Denmark dealing under his own brand.

In one situation a foreign business may be subject to producer responsibility in Denmark: if this foreign business deals in distance sale directly to private households in Denmark.

The first level of the distribution chain is described as follows:

Any person in Denmark who places electrical or electronic equipment covered by WEEE legislation on the market for the first time on a professional basis. In addition, any foreign legal person in the EU who places

electrical or electronic equipment covered by WEEE legislation on the market through distance sale directly to private households in Denmark.

Placing on the market means transferring or making available to a third person with or without remuneration, including leasing.

It appears from the above that the first level of the distribution chain in Denmark is subject to producer responsibility. When the first level of the distribution chain places a product on the market it is not a precondition that this business issues an order confirmation or an invoice or receives payment from the business acquiring the product, or delivers the physical product.

Registration in CVR

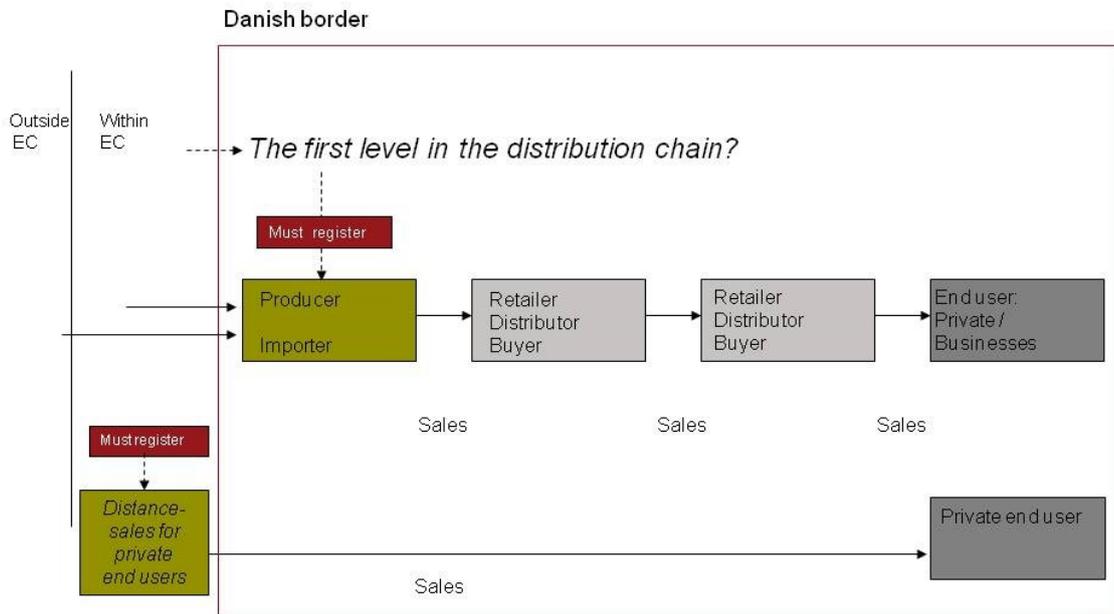
The person subject to producer responsibility must register in the Central Business Register (CVR) with a Danish CVR number and a mail address in Denmark.

For foreign businesses in the EU dealing in distance sale to Denmark the requirement for registration with CVR and for a Danish mail address does not apply in relation to producer responsibility. Here, the foreign business dealing in distance sale to Denmark must register in the producer register with a country code and a VAT number, those two making up a unique registration number.

It appears from the below figure which company is the first level of the distribution chain thus being subject to producer responsibility and the duty to register in Denmark.

Figure 1. Description of producers/importers subject to duty of registration

Who has the producer responsibility? The first level in the distribution chain



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