



Packaging Act 477/2001 Coll.

as amended by
Act 94/2004 Coll.
Act 66/2006 Coll.

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.

ACT

Of December 4, 2001

Packages and Amendment to Certain Acts (Packages Act)

Parliament resolved on the following Statute of the Czech Republic:

PART ONE
PACKAGES ACTChapter I
General ProvisionsSection 1
Object and subject of the Statute

(1) The object of this Statute is to protect the environment by preventing the generation of wastes from packages, namely by reducing, in compliance with European Community law, the weight, volume and hazards of the packages and chemical substances (hereinafter, „the substances“) contained therein.²⁾ This Statute sets out the rights and obligations of the legal and natural persons which engage in business (hereinafter, “the person”), and the authority of public administration in the management of packages, marketing or circulation of packages and packaged products, the take-back and recovery of package waste, and sets the fees and protective measures, remedial measures and fines.

(2) This Statute applies to the management of all packages , marketed or circulated in the Czech Republic, except containers used in transport by road, rail or air, or transport on sea or on inland navigation under the international agreements binding on the Czech Republic and promulgated in the Gazette of International Agreements or in the Gazette of Law.

(3) Unless provided otherwise by this Statute, the handling of package wastes shall be subject to effective legal regulations providing the management of wastes.


(4) The Statute shall not prejudice other requirements for packages as provided by special regulations.

Section 2
Basic concepts

Regarded for the object of this Statute 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 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

²⁾ Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste. **Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004, amending Directive 94/62/EC on Packaging and Packaging Waste” shall be inserted on a new line.**



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 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) package management is the manufacture, placement on the market or into circulation, use of packages, modification of packages, and reuse of packages;
- d) marketing of a package is the instant when a package is transferred, regardless if alone or together with a product, for the first time in the Czech Republic, against payment or not, for the purpose of distribution or use, or when ownership title to it is transferred for the first time; also **international transportation of packaging or a packed product from another EU member state to the Czech Republic**, or the import of a package or a packaged product is regarded as marketing of a package; with the exception of release into an active improvement mode or into a temporary use mode⁷⁾ provided that after the termination of this mode, the packaging or the packaged products will be exported from the Czech Republic in their full extent.
- e) circulation of a package is such transfer, against payment or not, of a package **in the Czech Republic**, regardless if separately or together with a product, to another person for distribution or use, which is not marketing of a package;
- f) importing packaging or a packaged product means its release **from a state which is not an EU member to the Czech Republic, to the customs mode of free circulation**, into active improvement mode, temporary use mode or the mode of processing under customs supervision;⁷⁾.
- g) reuse is an activity in which a package, which has been designed and intended to serve for a minimum number of turns or cycles (hereinafter, “reusable package”), is refilled or reused for the purpose for which it has been intended, with or without the aid of additional means, which allow refilling, such as additional replacement packages and means for the use thereof;
- h) returnable package is one which enjoys a specifically designed form of return of the used package to the person which has circulated it;
- i) take-back is the acceptance of used packages from the consumers in the Czech Republic with the intention of reuse of the packages, or with the intention of recovery or disposal of package wastes;
- j) another end user is a physical or a legal entity conducting business which purchases packaging or packaged products for its business and does not release them into further circulation,
- k) industrial packaging is used exclusively as packaging for products designated exclusively for another end user,
- l) packaging agent is a material from which the **sales** packaging, group packaging or shipment packaging is directly made or which is a part of packaging consisting of multiple components.



Chapter II
General obligation in the management of packages and package wastes

Section 3
Prevention

(1) The person which markets a package shall see to it that the weight and volume of the package should be minimized while complying with the requirements for the packaged product and retaining its appeal to the customer **or another end user**, in order to reduce the quantity of package waste which shall be disposed of.

(2) If packaging for a certain product is made in accordance with the harmonized Czech technical standards^{7a)}, the requirements according to Subsection 1 shall be deemed fulfilled.

Section 4
Terms of marketing of packages

- (1) The person which markets a package, packed product or **packaging agent** shall see to it that
- a) the concentration in the package **or packaging agent** of substances identified in the List of Hazardous Chemical Substances Classified as yet should comply with the limit values as provided in special regulations, given the presence thereof in emissions, ashes or leach after incineration or landfilling of the waste generated from the packages **or packaging agents**;
- b) **the total sum of concentrations of lead, cadmium, mercury and chromium with oxidation number VI in a package or packaging device did not exceed the value of 100 micrograms/g (hereinafter the “limit value”)**;
- c) the package or packaging agent, having been used in the way for which it was intended and all the residues of the packaged product having been removed in the usual way, namely by disposal thereof, shall be repeatedly reusable, or the waste from the package or packaging agent recoverable under the usual conditions in at least one of the following processes:
- 1.a process whereby the wastes or residues of packages alone or mixed with other materials are transformed into a product or material (hereinafter, “recycling”);
 - 2.direct incineration with release of energy by burning, mixed or not with other wastes, recovering the heat generated (hereinafter, “energy recovery”);
 - 3.aerobic or anaerobic processing of biologically degradable components of such waste under controlled conditions, using microorganisms to produce stabilized organic residues or methane (hereinafter, “organic recycling”); landfilling shall not be considered a form of organic recycling.

(2) The provisions of Par. 1 c) shall be of no prejudice to the provisions relating to waste management under the special regulation.

(3) If a package or packaging device is made in accordance with the harmonized Czech technical standards^{7a)}, the requirements according to Subsection 1 shall be deemed fulfilled.

(4) No limit value according to Subsection 1, Letter b) is stipulated for packages and packaging devices produced exclusively from lead crystal glass^{9a)}.

(5) The limit value according to Subsection 1, Letter b) may be exceeded in glass packages and packaging devices, provided that

^{7a)} 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.

^{9a)} Decree 379/2000 Coll., stipulating conditions for the determination of individual types of crystal glass, their properties and forms of identifying crystal glass products.



a) no lead, cadmium, mercury or chrome with the oxidizing number VI are deliberately inserted into the package or packaging device during the manufacturing process; for the purposes of this Contract and in accordance with the European Communities law ^{9b)} deliberate insertion shall mean the process of the deliberate use of a certain substance to create a package or packaging device, so that the substance is present in the produced package or packaging device 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 packages or packaging devices 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 device conducts measurements of the concentrations of heavy metals in product samples, at least 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 5 to this Act.

(6) The limit value according to Subsection 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 Communities law ^{9c)}.

Section 5

(1) An entity that is introducing 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 Subsection 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) An entity that is introducing a packaging agent on the market is required to:

- a) Provide to the inspection authorities, if requested, all technical documentation necessary to prove fulfillment of the requirements specified in Section 4;

^{9b)} 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.

^{9c)} 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.

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- b) Decisively inform its purchasers that the packaging agent meets the requirements specified in Section 4.

Section 6
Marking of packages

If a person marketing or putting into circulation a package or packed product indicates on the package or packed product the material from which the package is produced, this marking shall be in harmony with the European Communities law ^{9c)}.

Section 7
Reusable packages

(1) The person which markets or circulates products whose packages are reusable, shall take appropriate organizational, technical or financial measures in compliance with the criteria provided in Annex No 2 to this Statute, 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 ^{7a)}.

Section 8
Returnable packages

The person which markets or circulates products whose packages are returnable shall secure multiple reuse of such packages as provided under points B. 1 or B. 2 of Annex No. 2 to this Statute, or recovery of wastes from such packages in compliance with Section 12.

Section 9
Charged returnable packages

(1) Should the measure as provided in Section 8 include the charging of a specific amount of money (hereinafter, "the deposit"), which relates directly to the returnable package used for the sale of a packaged product, and the buyer is offered at the sale a guarantee to reimburse the amount at the return of such package, such package shall be regarded under this Statute as charged returnable package.

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

(3) The person which markets products in charged returnable packages, shall mark the packages as charged returnable packages in the way provided by the implementing regulation.

(4) The person which markets or circulates products in charged returnable packages shall repurchase such charged returnable packages in unlimited quantities and without binding the repurchase to any purchase of goods.

(5) The person which markets or circulates packaged products in charged returnable packages by selling them to the consumer in a shop shall see to it that such charged returnable packages are repurchased in the premises during the entire opening time.

(6) The person which markets or circulates products in charged returnable packages by other ways than sale to the consumer, shall notify the persons, which market or circulate packaged products in such packages by sale to the consumer, of any planned change of the type of the charged returnable package or of the termination of repurchase of the charged returnable packages no later than 6 months before the effect of such change or the termination of the repurchase; the repurchase of such charged returnable packages shall not be stopped during this period.

(7) Should the person which has marketed or circulated charged returnable packages notify that it terminates the use of a package charged so far, it shall take such package back on terms applying to the package so far charged during no less than one year of the last marketing or circulation of the package.



(8) The provisions of Par. 3 to 7 are of no prejudice to the provisions of special regulations.

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

(10) The person which circulates beverages in containers which are not charged returnable packages, shall also offer the same beverages in charged returnable packages, should such beverages be marketed in such packages. This obligation shall not apply to persons circulating such beverages in premises of a sale area smaller than 200 square metres.

Section 10 Take-back

(1) **Unless a person marketing or putting into circulation packages or packed products proves that these packages do not become waste in the Czech Republic, this person shall ensure the repurchase of these packages or waste from these packages.** It shall secure the take-back ~~directly from the consumer~~ without claiming any title to payment for such take-back. The person shall thereby namely guarantee an adequate number of collection points and accessibility thereof for the consumer.

(2) The persons which market or circulate products by sale to the consumer, and furthermore authorized package companies (see § 16) within the scope of their authorization (see § 17), shall inform the consumer of the method of take-back as provided in Par. 1.

(3) The obligations stemming from the provisions of this Statute shall not be prejudiced in case of packages which have not been filled with a hazardous product.

Section 12 Recovery of package waste

(1) **Unless a person marketing or putting into circulation packages or packed products proves that these packages do not become waste in the Czech Republic, this person shall ensure that the waste from the packages of products marketed or put into circulation on the market by this person are re-used to the extent stipulated in Annex 3 to this Act.**

(2) To an entity which is introducing packaging containing hazardous goods,¹³⁾ hazardous substances or hazardous agents,¹⁾ the requirement according to Subsection 1 relates at least to the degree specified in Column B, Appendix 3 to this Act.



Section 13

(1) The person which markets or circulates packages shall comply with the obligations provided in Sections 10, 12

- a) by its own organizational and technical support and at its own cost; or
- b) by transfer of the obligations together with the transfer of ownership title to the package to which the obligations relate, with the object of the repeated circulation thereof, should the contract of transfer of ownership title expressly provide so, or
- c) by a contract of compliance with the obligation of take-back and recovery of package waste under this Statute, concluded with the authorized package company (see Section 16) (hereinafter, "contract of associated compliance").

(2) Should reusable packages be marketed or circulated, whose reuse is supported organizationally by the method described in Pt. B.1 or B.2 of the Annex No. 2 to this Statute, it shall be understood that take-back and recovery of such packages has been guaranteed, should at least 55 percent of the weight of such newly marketed or circulated packages be reused.

Section 14 List of persons

(1) The person which markets or circulates packages or packaged products shall apply to be entered on the List of Persons Obligated to Take-back or Recovery of Package Waste (hereinafter, "the List") in the extent as provided in Par. 3.

(2) 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 Subsection 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 ^{13a)}.

(3) The application for entry on the List shall include ~~and the following shall be attached to the application~~

- a) name, surname, address of residence, business address, business identification number if it has been assigned, and an officially verified copy of a business license – for example, a trade license, should the person be a natural one; should the person be listed in the Business Register, also an excerpt from the Business Register, no older than 3 months;
- b) business name, legal form, registered office, business identification number if it has been assigned and excerpt from the Business Register no older than 3 months, should the person be a legal one if entered into this register;
- c) description of the method of take-back as provided in § 10, Par. 1;
- d) method of notification of the consumers as provided in § 10, Par. 2;
- e) description of the method of recovery of the package wastes as provided in § 12;
- f)

^{13a)} **Act. 227/2000 Coll., on electronic signatures, as amended by subsequent regulations.**



a proof of the payment of the registration fee (see Section 30, Par. 1).

g) 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.

(4) 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.

(5) Unless the application meets the requirements according to Subsections 2 and 3 or the data according to Subsection 3, Letters c), d), e) and g) are sufficient for the consideration of 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.

(6) The Ministry of the Environment will enter the applicant in the List within 30 days of the delivery of an application meeting all requirements according to Subsections 2 and 3 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.

(7) The person entered on the List shall report to the Ministry of the Environment any changes of the facts, furnished as provided in Par. 3, 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.

(8) The Ministry of the Environment, on receipt of a notification as provided in Par. 7, 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.

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

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

a) has concluded a contract on associated responsibility 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) markets or circulates packages by selling them to the customer, should the obligations provided in Sections 10 and 12, relating to all the packages it markets or circulates, have been evidently fulfilled by other person.

Section 15 Recording

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

a) **to keep records concerning packages and package waste and concerning the manner of the disposal thereof,**

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 b)**. These comprehensive records are public; anyone has the right to review, copy or excerpt it.

(3) The extent and form of reporting and keeping of records as well as the simplified keeping of records and reporting of data from these records for entities according to Section 30, Subsection 3 shall be provided by an implementing regulation.

Section 15a

(1) Persons marketing packages or putting 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 packages marketed or put into circulation per calendar year does not exceed 300 kg, and**
- b) their annual turnover does not exceed CZK 4,500,000.**

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

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

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

CHAPTER III

AUTHORIZED PACKAGE COMPANY

Section 16

Authorized package company

(1) The authorized package company (hereinafter, “the authorized company”) is a legal person ~~with registered office in the Czech Republic~~, established as a joint-stock company, which has been granted certificate of authorization as provided in Section 16. Authorization for the object of this Statute shall comprise a licence to provide associated compliance with the obligation of take-back and recovery of package waste, and to conclude for such purpose contracts of associated compliance as provided in Section 13, Par. 1 c).

(2) Unless provided otherwise by this Statute, the provisions of the Commercial Code apply to the authorized company.



Section 17 Authorization of associated compliance

(1) Certificate of authorization 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 the certificate of authorization shall be lodged at the Ministry of the Environment in 4 printed copies in the Czech language and also on an electronic data carrier. Should the application be lodged in the name of a joint-stock company, which has not yet been incorporated in the Business Register, it shall be lodged by the founders.

(3) The application for the issuance on the certificate of authorization 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; annexed to the application shall be

- a) the Articles of Association of the joint-stock company;
- b) excerpt from the Business Register no older than 7 days, should the company be incorporated already;
- c) declaration of the Applicant of compliance with the terms set out in Section 20, Par. 4, 9;
- d) the latest Annual Report or, should it not exist, the Memorandum of Association or Declaration of Association, and detailed information on the activities of the Applicant since its establishment;
- e) the project of organization of associated compliance, including namely projekt
 1. description of technical, organizational and financial arrangements to support associated compliance, including a statement whether cooperation with municipalities should be a part of the organization of associated compliance;
 2. marking of the types of packages for which the Applicant intends to organize the associated compliance in the individual years of the effect of the authorization;
 3. projected number of contracts of associated compliance and projected quantities of packages for which the associated compliance should be organized in the individual years of the effect of the authorization;
 4. projected quantities of package wastes for which recycling, energy recovery, organic recycling or disposal should be organized in the individual years of the effect of the authorization;
 5. proposed structure of the recording of packages and the recording of package wastes;
 6. a detailed description of the projected financial support of the associated compliance in the first year 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.

(4) The Ministry of the Environment shall issue the certificate of authorization on review of the data presented in the application and the documentation enclosed with the application. It shall decline the application for certificate of authorization 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. 1, 4, or 9 **or unless the project securing joint fulfilment provides sufficient guarantee that the joint fulfilment will be performed duly and for a sufficiently long time, that the project securing joint fulfilment is sufficiently financially supported and will not threaten the fulfilment of the repurchase and reuse obligation by other parties according to Section 13, Subsection 1.**

(5) The authorization shall be granted for a specific period, not longer than 10 years, and shall not be transferred to other legal or natural person.

(6) The certificate of authorization shall include



- a) business name, business identification number if **it has been assigned** and registered office of the joint-stock company to which the certificate of authorization is issued;
- b) period of effect of the authorization;
- c) types of packages for which the authorized company is entitled to organize associated compliance;
- d) required proportion of recovery and recycling and/or energy recovery and organic recycling of wastes of the total quantity of packages marketed or circulated by persons which intend to conclude contracts of associated 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;
- e) requirements for the method of keeping and reporting of records as provided in Section 23;
- f) requirements for the organization of notifying of the consumers of their role in their engagement in the take-back and the recovery of package waste.

(7) The effect of the certificate of authorization may be prolonged should the authorized company apply for prolongation no later than 1 year before the expiry of the effect of the certificate of authorization. Provisions of Paragraphs 1 to 6 apply analogously to the proceedings of prolongation of the certificate of authorization. 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 the certificate of authorization.

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 of associated compliance with the authorized company of which it is a shareholder..

(3) The interest of any individual shareholder, or more shareholders acting in concert, in the capital stock of the authorized company shall not exceed 33 percent. 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 percent 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.

(5) In case of failure to comply with the terms provided in Par. 1 to 4, the Ministry of the Environment may decide on the suspension of the exercise of the rights of shareholder in the participation and voting at the general meeting of shareholders, or the exercise of the right to demand an emergency meeting 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, shall not be a statutory body or member of statutory body of other legal person, which is a business under the Commercial Code.

(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 package waste management, or persons whose business is directly related to waste management.

Section 20

Certain restrictions of the authorized company



(1) The authorized company shall only issue common shares, recorded electronically with registered name. The shares can only be subscribed by monetary contributions. The authorized person shall not apply for placement of its shares on the public market.

(2) The profit of the authorized company shall not be distributed to the shareholders.

(3) The authorized company shall not decrease its capital stock for other purpose than compensation of a loss or compliance with obligations provided by the law; it shall not conditionally increase its capital stock.

(4) The authorized company shall not take part on the boards or in the business of another legal person, with the exception of a legal person associating subjects with similar objects of business.


(5) 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 shall identify those shareholders whose rights have been suspended as provided in § 18, Par. 5, 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.

(6) The authorized company shall not admit at its general meeting a person whose shareholder's rights have been suspended by the Ministry of the Environment as provided in § 18, Par. 5, or a person not listed in the issuer's excerpt.

(7) The authorized company shall not conclude with a legal or natural person having a special relation to the company (see Par. 8) a contract which, given its nature, purpose or risk would not be concluded with other legal or natural person as part of due management of the assets of the authorized company; nor shall it guarantee the liabilities of such person or transfer assets to such person free of charge. Contracts concluded in breach of the provision hereto shall not be null and void if the other party acts in good faith. Whoever has concluded such contract on behalf of the authorized company shall be liable for damages caused thereby; there is no exemption from the liability. The liability is subject to the Commercial Code in other respects.

(8) Regarded as persons having a special relation to the authorized company shall be

- a) Directors, supervisors and employees of the authorized company, appointed to their positions by the statutory body of the authorized company;
- b) shareholders of the authorized company, who are natural persons qualifying for business, and members of the statutory bodies of the legal persons which are shareholders of the authorized company;
- c) persons related to persons specified in par. a) or b);
- d) legal persons of whose capital stock any of the persons listed in a) or b) owns more than 33 percent;

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- e) shareholders of the authorized company, which are legal persons, and other legal persons 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.
- (9) The authorized company shall not conclude other contract with a shareholder of the authorized company, legal person controlled by the shareholder, or person controlling any shareholder of the authorized company, than a contract of associated compliance or a contract as provided in Section 22.

(10) Resolution of the general meeting on the dissolution of the authorized company while the certificate of authorization is effective, on merger of the authorized company with another legal person, or on partition of the authorized company, or on a change of the object of business shall only be possible on prior approval by the Ministry of the Environment, issued on consultation with the Ministry of Industry and Trade.

(11) The Ministry of the Environment may request of the court in 60 days of the general meeting of shareholders of the authorized company to rule on the nullity of a resolution of the general meeting, should the Ministry conclude that the resolution is contradictory to general regulations or the Articles of Association of the authorized company.

Section 21 Terms of the organization of associated compliance

- (1) The authorized company shall
- a) set uniform terms for the conclusion of contracts of associated compliance for all the persons and in such way that no type of package should be unduly disadvantaged in business competition;
 - b) conclude a contract of associated compliance with any person which declares to be interested and has no outstanding liabilities to the authorized company;
 - c) conclude each contract of associated compliance for all the packages marketed or circulated by the person as provided in Par. b), for which it is entitled to organize associated compliance in relation to those packages;
 - d) organize, in compliance with the certificate of authorization, take-back and recovery of packages subject to the contracts of associated compliance it has concluded, in conformity with the terms set out in this Statute and in the certificate of authorization.
- (2) The authorized company shall not disclose information on the quantity of packages marketed or circulated by any of the persons with which it has concluded a contract of associated compliance to any third person, with the exception of disclosure of such information to the relevant administrative authority.


(3) Should the authorized company organize associated compliance in cooperation with municipalities, based on contracts with them, it shall conclude such contract with any municipality which indicates interest therein, on terms analogous to those of the contracts with the other municipalities.

Section 22 Other activities of the authorized company i

Beside activities related to the organization of associated compliance, the authorized company shall not engage in any other than consulting activity in the field of prevention of generation of package wastes and marking of packages, or activities of research, awareness or promotion in the field of take-back and recovery of packages. The authorized company shall engage in research, awareness and promotion only as secondary activities.

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 the certificate of authorization,

- 
- a) record of the persons with which it has concluded contracts of associated compliance;
 - b) record of the quantity of packages and the quantity of package wastes, subject to the effective contracts of associated compliance, and the method of recovery thereof in the extent provided in Annex No. 4 to this Statute, and arrange, by employment of an auditor, verification of the records and drafting of a report on the verification; no person having a special relation to the authorized company as provided in Section 20, Par. 8, shall act as the auditor.

(2) The Ministry of the Environment shall organize the keeping of a comprehensive record of the data collected as provided in Par. 1 a), b) from all the authorized companies. Such record shall include as its special part the list of the persons with which the individual authorized companies have concluded contracts of associated compliance. The comprehensive record shall be accessible to the public; anyone shall have the right to review, copy or excerpt it.

(3) The authorized company shall publish a short version of its business report for the previous year in the Business Gazette no later than June 30.

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 toward the imposition of a fine on the authorized company;
- c) resolve, on consultation with the Ministry of Industry and Trade and the Ministry of Agriculture, to amend or withdraw the certificate of authorization.

(3) Regarded as faults in the operation of the authorized company shall be breach of an obligation provided by this Statute to the authorized company, or an obligation provided by other regulations to the joint-stock company, or breach of the terms provided in the certificate of authorization.

Section 25 Amendment to the certificate of authorization

The Ministry of the Environment may also amend the certificate of authorization

- a) on request by the authorized company, or
- b) due to changes in the obligations relating to the proportion of recovery and recycling of the package waste, should these arise from the European Community law.

Section 26 Withdrawal of the certificate of authorization

(1) The Ministry of the Environment, on consultation with the Ministry of Industry and Trade and the Ministry of Agriculture, shall withdraw the certificate of authorization, should

- a) the authorized company fail to conclude any contract of associated compliance, beside contracts concluded under Section 18, Par. 2, in 3 months of the day of effect of the certificate of authorization;
- b)



the certificate of authorization 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 have failed to rectify a fault as provided in Section 24, Par. 2 a) within an additionally assigned term, or
- d) bankruptcy proceedings have been declared on the authorized company under the special regulation.

(2) The Ministry of the Environment, on consultation with the Ministry of Industry and Trade and the Ministry of Agriculture, may withdraw the certificate of authorization should

- a) the authorized company fail within 12 months of the effect of the certificate of authorization to achieve the recovery of at least 15 percent by weight of the waste of the packages for which it concluded contracts of associated compliance;
- b) the authorized company fail within the first year of its operation to achieve the recovery of the waste of the packages in the extent of at least two-thirds of the quantity required in the certificate of authorization, or
- c) the total quantity of packages for which the authorized company has concluded contracts of associated compliance fail after 12 months of the effective date of the certificate of authorization to equal at least 10 percent of all the packages marketed or circulated in the Czech Republic, to which the certificate of authorization 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 the certificate of authorization, the authorized company shall notify the Ministry of the Environment of this fact without delay; the Ministry shall withdraw the certificate of authorization no later than 30 days of the receipt of the notification.

Section 27

Only the applicant shall be party to the proceedings as provided in Sections 25, 26.

Section 28

Cessation of the certificate of authorization

(1) The certificate of authorization shall cease by

- a) withdrawal thereof;
- b) expiry of the effect thereof;
- c) cessation of the authorized company without liquidation, or by dissolution with liquidation.

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

Section 29

Publication of the certificate of authorization

The list of issued certificates of authorization, 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 13) 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 the 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 for joint fulfilment 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 Subsection 2 with respect to a person with whom the authorized company has concluded a contract for joint fulfilment which was valid only during a part of the calendar year, provided that the person marketed or put into circulation less than 300 kg of package during this part of the calendar year.**

(4) Should the person fail to pay the fee or part thereof as provided in Par. 1 or 2 in the required time, it shall pay a penalty in the amount of 0.1 percent of the amount due for each day of arear.

(5) Registration and record fees as provided in Par. 1 and 2 and penalties as provided in Par. 3 shall be paid to the account of the National Environmental Fund to contribute to its revenues.

(6) Unpaid fees shall be enforced by the National Environmental Fund in compliance with special regulations.

CHAPTER V


GOVERNMENT ADMINISTRATION IN THE FIELD OF PACKAGE AND PACKAGE WASTE MANAGEMENT

Section 31

Administrative authorities in the field of package and package waste management

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

- a) the Ministry of the Environment;
- b) the Ministry of Industry and Trade;
- c) the Ministry of Agriculture;
- d) the Ministry of Health;
- e) the Czech Trade Inspection;
- f) the Czech Agricultural and Food Inspection;

- 
- g) the Czech Environmental Inspection;
 - h) the National Institute of Drug Inspection;
 - i) the Institute of the National Control of Veterinary Biopreparations and Drugs;
 - j) customs authorities.

Section 32
The Ministry of the Environment

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

- a) keeps the List as provided in Section 14;
- b) on consultation with the Ministry of Industry and Trade and the Ministry of Agriculture, issues certificates of authorization as provided in Section 17, Par. 1, and resolves on prolongation of the effect of the the certificate of authorization as provided in Section 17, Par. 7;
- c) keeps the list of issued certificates of authorization, decisions on amendment or withdrawal of the certificate of authorization, 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. 5;
- e) resolves, on prior consultation with the Ministry of Industry and Trade and the Ministry of Agriculture, on anticipated approval of the dissolution of the authorized company while the certificate of authorization is in effect, on merger of the authorized company with another legal person, or division of the authorized company as provided in Section 20, Par. 10;
- f) files petition to the court to rule on invalidity of a resolution of the general meeting of shareholders of the authorized company as provided in Section 20, Par. 11;
- g) processes and keeps the comprehensive record as provided in Section 15, Par. 2, and Section 23, Par. 2;
- h) supervises the operation of the authorized companies as provided in Section 24, Par. 1;
- i) orders the authorized company to take measures to rectify faults as provided in Section 24, Par. 2 a);
- j) instructs the Czech Environmental Inspection to initiate proceedings toward the imposition of a fine on the authorized company as provided in Section 24, Par. 2 b);
- k) resolves on amendment to the certificate of authorization as provided in Section 24, Par. 2 c) and Section 25;
- l) resolves on withdrawal of the certificate of authorization as provided in Section 24, Par. 2 c) and Section 26;
- m) will be determined after discussion with the Ministry of Trade and Industry and with the Ministry of Agriculture if uncertain whether the specific type of material is or is not packaging,
- n) resolves on appeals of the decisions of the Czech Environmental Inspection;
- o) furnishes, in the required extent and the required form, data on the management of packages and package wastes in the Czech Republic to the European Commission;



- p) sees to it that the total quantity of recovered package wastes should comply with the international obligations binding on the Czech Republic;
- q) appoints, on consultation with the Ministry of Industry and Trade, representatives of the Czech Republic on committees, commissions, expert groups and working groups and other bodies established in compliance with the European Community law in the field of package and package waste management;
- r) in cooperation with the Ministry of Industry and Trade, organizes, by adequate ways, awareness of the public of the role of the consumers in contributing to the reuse, recovery and recycling of packages and package waste.
- s) it alerts Czech Commercial Inspection authorities to conduct an inspection in the area of the packaging disposal.

Section 33
The Ministry of Industry and Trade

The Ministry of Industry and Trade

- a) issues statement to the Ministry of the Environment on application for the issuance of the certificate of authorization as provided in Section 17, Par. 1, application for prolongation of the effect of the certificate of authorization as provided in Section 17, Par. 7, application for ex ante approval as provided in Section 19, Par. 10, amendment to the certificate of authorization as provided in Section 24, Par. 2 c) and Section 25, and withdrawal of the certificate of authorization as provided in Section 24, Par. 2 c) and Section 26, Par. 1 and 2;

Section 34
Ministry of Agriculture

The Ministry of Agriculture issues opinion to the Ministry of the Environment on the application for authorization as provided in Section 17, Par. 1, application for prolongation of the effect of authorization as provided in Section 17, Par. 7, application for ex ante approval as provided in Section 20, Par. 10, amendment to the certificate of authorization as provided in Section 24, Par. 2 c) and in Section 25, and withdrawal of the certificate of authorization as provided in Section 24, Par. 2 c) and Section 26, Par. 1, 2;

Section 35
Ministry of Health

The Ministry of Health inspects compliance with the obligations relating to prevention, marketing or circulating of packages, marking and reuse thereof in case of packages of cosmetic products; should a failure to comply with such obligations be found, the Ministry shall impose protective measures, remedial measures and fines. It shall proceed in the inspection as provided by special regulations.

Section 36
Czech Trade Inspection

The Czech Trade Inspection

- a) inspects compliance with the obligations relating to prevention, marketing or circulating of packages, marking and reuse thereof, with the exception of packages of cosmetic products, packages coming to direct contact with food, packages of medical preparations and packages of materials for the formulation of human medical preparations;



- b) inspects the organization of take-back by the persons which market or circulate the packages 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 market or circulate packaged beverages by sale to the consumer;
- d) should a failure to comply with the obligations be found in the inspection as provided in Subpar. a) or b), the Inspection shall impose protective measures, remedial measures and fines.
It shall proceed in the inspection as provided by special regulations.

Section 37 Czech Agricultural and Food Inspection

The Czech Agricultural and Food Inspection inspects compliance with the obligations relating to prevention, marketing or circulating of packages, marking and reuse thereof in case of packages coming to a direct contact with food; should a failure to comply with such obligations be found, the Inspection shall impose protective measures, remedial measures and fines. It shall proceed in the inspection as provided by special regulations.

Section 38 National Institute of Drug Inspection

The National Institute of Drug Inspection inspects compliance with the obligations relating to prevention, marketing or circulating packages, marking and reuse thereof in case of ~~consumer~~ packages of human medical preparations and packages of materials for the formulation of human medical preparations; should a failure to comply with such obligations be found, the Institute shall impose protective measures, remedial measures and fines. It shall proceed in the inspection as provided by special regulations.

Section 39 Institute of the National Control of Veterinary Biopreparations and Drugs

The Institute of the National Control of Veterinary Biopreparations and Drugs inspects compliance with the obligations relating to prevention, marketing or circulating of packages, marking and reuse thereof in case of ~~consumer~~ packages of veterinary medical preparations and packages of materials for the formulation of veterinary medical preparations; should a failure to comply with such obligations be found, the Institute shall impose protective measures, remedial measures and fines. It shall proceed in the inspection as provided by special regulations.

Section 40 Czech Environmental Inspection

The Czech Environmental Inspection inspects compliance with the obligation of take-back, with the exception of the obligation of take-back as provided in Section 36, Par. b), and the obligation of recovery of package waste and related obligations; should a failure to comply with such obligations be found, the Inspection shall impose protective measures, remedial measures and fines. Such persons shall prove on request the organization of compliance with the obligations of take-back and package waste recovery.

Section 41 **Customs Authorities**

Customs authorities are entitled to examine whether packages or packed products 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 and handling, request the competent control authority to conduct an audit and notify the Ministry of the Environment of this request. The audits shall be conducted in accordance with the relevant legal regulations ⁷⁾.



Section 42

Rights and obligations of the inspectors and authorized agents of government administration

(1) Unless provided otherwise in the special regulation, the inspectors and authorized agents of government administration responsible for the field of package and package waste management under this Statute shall be entitled in the conduct of their inspections to the extent specified by the authority

- a) to enter or drive in the necessary extent on private property or enter private premises used for business or other commercial activity;
- b) verify the identity of natural persons, should these be inspected, or the identity of natural persons who represent the inspected persons in the inspection, and the authorization of such persons to represent;
- c) demand relevant documents, data and written or oral explanations concerning the subject of the inspection;
- d) conduct local investigations, take samples and make photographic documentation.

(2) Unless provided otherwise in the special regulation, the inspectors and authorized staff of the Ministry of the Environment and other administrative agencies, responsible for the field of package management under this Statute, shall, in the conduct of their inspection,

- a) furnish a proof of identity of the inspecting authority;
- b) keep in confidentiality the facts constituting a matter of trade or service secret, of which they have learned on their inspecting mission;
- c) respect the operating, security and other regulations of activity on the premises inspected;
- d) draft a protocol of the inspection including photographic documentation;
- e) spare the property of the subject inspected.

CHAPTER VI

PROTECTIVE MEASURES, REMEDIAL MEASURES AND FINES

Section 43

Protective and remedial measures


(1) Unless provided otherwise by a special regulation, the relevant administrative authority, having found a failure to comply with the obligations under this Statute, is entitled, according to the nature and significance of the failure,

- a) prohibit till remedy to market or circulate packages or products in packages which do not comply with the requirements provided in Section 4, Par. a), b), or c), Section 6, or Section 10, Par. 1, or suspend the marketing or circulation of such packages or products;
- b) impose the obligation to immediately notify the persons concerned of the hazard to which they could be exposed in consequence to the failure to comply with the requirements provided in Subpar. a).

(2) Appeal of the prohibition or suspension as provided in Par. 1 shall have no suspensive effect.

(3) The Czech Environmental Inspection shall impose a remedial measure in terms provided by this Statute on the person which has failed to comply with an obligation as provided in Section 10 or 12.

(4) Relevant as the administrative authority in the sense of Par. 1 to 3 shall be the office entitled to impose a protective measure or a remedial measure as provided in Sections 35 to 40.



(5) The imposition of measures as provided in Par. 1 or 3 shall be of no prejudice to the provisions of § 44.

Administrative Torts by Corporate Entities and Individual Entrepreneurs

Section 44

(1) Corporate entities or individual entrepreneurs shall be deemed to have committed an administrative tort 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 administrative tort by

- a) breaching the duty stipulated in Section 3 as a person marketing packaging,
- b) failing to meet any of the conditions for marketing packages, packed products or packaging devices according to Section 3 as a person marketing a package, packed product or packaging device,
- c) failing to submit – upon request - technical documentation to the control authority according to Section 5, Subsection 1, Letter a) as the person marketing the package, or failing to demonstrably inform its customers according Section 5, Subsection 1, Letter b),
- d) failing to submit – upon request - technical documentation to the control authority according to Section 5, Subsection 2, Letter a) as the person marketing the packaging device, or failing to demonstrably inform its customers according Section 5, Subsection 2, Letter b),
- e) failing to adopt measures as the person marketing or putting into circulation products with re-usable or returnable packaging, owing to which it would be possible to make repeated use of the used packages according to Section 7, or failing to ensure the due reuse of returnable packages or use of the waste from this packaging according to Section 8,
- f) breaching any of the duties concerning returnable packages (to be repurchased) according to Section 9 as the person specified in Section 9,
- g) failing to ensure the repurchase of these packages or waste from these packages according to Section 10, Subsection 1 as the person marketing or putting into circulation packages or packed products,
- h) failing to ensure the reuse of waste from packages according to Section 12 as the person marketing or putting into circulation packages or packed products,
- i) breaching the duty to submit an application for entry into the List according to Section 14, Subsection 1 as the person marketing or putting into circulation packages or packed products,
- j) failing to fulfil the duty to provide notification of changes in data according to Section 14, Subsection 7 as the person entered in the List, or
- k) breaching any of the duties to register according to Section 15 as the person subject to the obligation to be entered into the List.

(3) Authorized companies shall be deemed to have committed an administrative tort by

- a) failing to fulfil any of the authorization conditions stipulated in the authorization decision pursuant to Section 17, Subsection 6, Letters c) through f),
- b) breaching the restrictions concerning the management of shares according to Section 20, Subsection 1,
- c) breaching the ban on the distribution of profit among shareholders according to Section 20, Subsection 2,
- d) breaching the prohibition to decrease or increase its registered capital according to Section 20, Subsection 3,
- e) breaching the prohibition to become a member of a body or be involved in the business of another corporate entity according to Section 20, Subsection 4,
- f) breaching the ban to hold shareholders' meetings without presenting an extract from the register of registered share issuers according to Section 20, Subsection 5,
- g) enabling – in conflict with Section 20, Subsection 6 – persons whose shareholder's rights have been suspended by the Ministry of the Environment to participate in shareholders' meetings, or persons not stated in the issue extract,
- h) breaching the prohibition to conclude contracts, secure obligations or transfer assets without consideration according to Section 20, Subsection 7,
- i) breaching the prohibition to conclude contracts according to Section 20, Subsection 9,
- j) failing to apply for approval by the Ministry of the Environment with respect to the issue of a resolution by the shareholders' meeting in events stated in Section 20, Subsection 10,
- k) stipulating conditions concerning the conclusion of a contract for joint fulfilment in conflict with Section 21, Subsection 1, Letter a),
- l) breaching the obligation to conclude a contract according to Section 21, Subsection 1, Letter b) or c),
- m) breaching the ban on disclosing information to third parties according to Section 21, Subsection 2,
- n) concluding a contract with a municipality in conflict with the provisions of Section 21, Subsection 3 or refusing to conclude a contract with a municipality in conflict with the provisions of Section 21, Subsection 3,
- o) breaching the prohibition to conduct business activities according to Section 22,
- p) breaching the obligation to record and report persons with whom a contract for joint fulfilment has been concluded or record the quantities of packages and waste packages and the manner of their reuse, and/or the obligation to have the records of the quantities of packages and waste packages and manner of their reuse duly audited according to Section 23, Subsection 1, or
- q) failing to publish economic results according to the provisions of Section 23, Subsection 3.

(4) Authorized companies or corporate entities and/or individual entrepreneurs shall be deemed to have committed an administrative tort by failing to fulfil the obligation to inform customers and consumers



according to Section 10, Subsection 2 as persons marketing or putting in circulation products sold to consumers.

Section 45

Penalties shall be imposed for administrative torts according to Section 44

- a) up to CZK 500,000, as regards administrative torts according to Subsection 2, Letters a), c) through f) and Letters i) and j) or according to Subsection 4,
- b) up to CZK 1,000,000, as regards administrative torts according to Subsection 2, Letter k,
- c) up to CZK 10,000,000, as regards administrative torts according to Subsection 1, Subsection 2, Letter b), g) or h), or according to Subsection 3, Letters a) through q).

Section 46

(1) Corporate entities shall not be held liable for an administrative tort should they prove that they have exerted every effort which may be reasonably required to prevent from such a breach of a legal obligation. As regards administrative torts according to Section 44, Subsection 2, Letters g) and h), corporate entities shall be exempted from their responsibility if the obligation is breached within 3 months of the day on which the authorized person with which the corporate entity or individual entrepreneur concluded a contract for joint fulfilment of obligations to which the corporate entity or individual entrepreneur concerned are subject according to Section 10, Subsection 1, or Section 12, loses its licence for such activities.

(2) The amount of the penalty imposed against corporate entities shall reflect the seriousness of the administrative tort concerned, particularly the form of commitment and its consequences, as well as the circumstances under which it was committed.

(3) Legal entities shall cease to be liable for an administrative tort provided that the administrative authority does not instigate proceedings concerning such a tort within 1 year of the day on which the administrative authority becomes aware of the tort, no later than 3 years from the day on which the tort was committed.

(4) Proceedings concerning administrative torts according to this Act shall be conducted – at the first instance – by the Regional Hygiene Station, the Czech Trade Inspection, State Agricultural and Food Inspection, State Institute for Drug Control, Institute for State Control of Veterinary Biologicals and Medicaments or the Czech Environmental Inspectorate, 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 administrative tort 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 administrative torts according to this Act.


(5) The responsibility for action associated with the business undertaking of an individual²⁹⁾ or in direct connection therewith shall be subject to the provisions of this Act regarding the responsibility and disciplinary action against legal entities.

(6) Penalties shall be payable within 30 days of the day on which the decisions imposing such penalties become legally effective.

(7) Penalties shall be collected by the body which has imposed them, and enforced by the customs authority.

(8) 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

²⁹⁾ Section 2, Subsection 2 of the Commercial Code.



Czech Environmental Inspectorate, which shall be the income of the State Environmental Fund of the Czech Republic.

CHAPTER VII

COMMON, EMPOWERING AND TRANSITIONAL PROVISIONS

Section 47
be deleted

Section 48

Such packages shall be seen as packages of single material for the purpose of compliance with the obligations of package waste recovery as provided in Section 12, and record-keeping as provided in Section 15, in which one material accounts for at least 70 percent of the weight of the package.

Section 49
Relation to the Administrative Rules

The Administrative Rules apply to proceedings under this Statute, with the exception of the provisions of Section 14 **and Section 32, Letter m)** thereof.

Section 50
Empowering provisions

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

(2) The Ministry of the Environment shall issue a decree to implement Section 15, Par. 3.

~~(3) The Ministry of Industry and Trade shall issue, on consultation with the Ministry of the Environment and the Ministry of Health, a decree to implement Section 3, Par. 2, Section 4, Par. 1 b), Section 4, Par. 3 and 4, Section 6, Par. 3, Section 7, Par. 1 and 2.~~

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

Section 51
Transitional provisions

(1) The persons which market or circulate packages or packaged products shall comply with the obligations as provided in Section 3, Section 4, Par. 1 a) and c), Section 5, Section 10 and Section 14 no later than 6 months of the effect of this Statute.

(2) Proceedings initiated before the effective date of this Statute under Sections 18, 19 of the Wastes Act No. 125/1997 Sb., as amended in later regulations, shall be accomplished under the existing regulations.

(3) Requirements for the marketing or circulation of packages manufactured before the effective date of this Statute shall be considered according to the regulations of the time.

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.

PART TWO

Amendment to the Consumer Protection Act

Section 52

Act No 634/1992 Sb., Consumer Protection, as amended in Act No 217/1993 Sb., Act No 40/1995 Sb., Act No. 104/1995 Sb., Act No 110/1997 Sb., Act No 356/1999 Sb., Act No 64/2000 Sb., Act No. 145/2000 Sb., Act No 258/2000 Sb., Act No 102/2001 Sb., and Act No 452/2001 shall be amended as follows:

In Section 18, Paragraphs 1, 2, 3, 5, 6 and 8 shall be deleted..

The existing Paragraphs 4 and 7 shall be marked as 1 and 2.

PART THREE

Amendment to the Small Businesses Act

Section 53

In § 3, Par. 3 ac) of Act No 455/1991, Small Businesses, as amended in Act No. 600/1992 Sb., Act No. 231/1992 Sb., Act No. 591/1992 Sb., Act No. 273/1993 Sb., Act No. 303/1993 Sb., Act No. 38/1994 Sb., Act No. 42/1994 Sb., Act No. 136/1994 Sb., Act No. 200/1994 Sb., Act o. 237/1995 Sb., Act No. 286/1995 Sb., Act No. 94/1996 Sb., Act No. 95/1995 Sb., Act No. 147/1996 Sb., Act No. 19/1997 Sb., Act No. 49/1997 Sb., Act No. 61/1997 Sb., Act No. 79/1997 Sb., Act No. 217/1997 Sb., Act No. 280/1997 Sb., Act No. 15/1998 Sb., Act No. 83/1998 Sb., Act No. 157/1998 Sb., Act No. 159/1999 Sb., Act No. 167/1998 Sb., Act No. 356/1999 Sb., Act No. 358/1999 Sb., Act No. 360/1999 Sb., Act No. 363/1999 Sb., Act No. 27/2000 Sb., Act No. 29/2000 Sb., Act No. 121/2000 Sb., Act No. 122/2000 Sb., Act No. 123/2000 Sb., Act No. 124/2000 Sb., Act No. 149/2000 Sb., Act No. 151/2000 Sb., Act No. 158/2000 Sb., Act No. 247/2000 Sb., Act No. 249/2000 Sb., Act No. 258/2000 Sb., Act No. 309/2000 Sb., Act No. 362/2000 Sb., Act No. 409/2000 Sb., Act No. 458/2000 Sb., Act No. 61/2001 Sb., Act No. 100/2001 Sb., Act No. 120/2001 Sb., Act No. 164/2001 Sb., Act No. 256/2001 Sb., and Act No. 274/2001 Sb., the period at the end of Par. 3 shall be replaced with coma, and new subparagraph ae) shall be added, to read, including the footnote 23l, as follows:

"ae)

the activity of authorized package companies as provided in the special regulation.

23l)

Act No. 477/2001 Sb., Packages and Amendment to Certain Acts (the Packages Act).

PART FOUR

Amendment to the Wastes Act

Section 54

Act No. 185/2001 Sb., Wastes and Amendment to Certain Other Acts, shall be amended as follows:

1. In Section 3, Par. 3 a), the phrase "without formation of another" shall be deleted.
2. In Section 38, Par. 7 a), the phrase "separately, therefore so" shall be replaced with "thus".
3. In Section 42, Par. 1, the phrase "it shall be adopted by the Government" shall be replaced with "it shall be promulgated by a Government regulation".
4. In Section 42, Paragraphs 5, 6, 7 shall be deleted. The existing Paragraph 8 shall become Paragraph 5.
5. In Section 43, Par. 6, the phrase "of the publication of the obligatory part of the plan of waste management in the Czech Republic or amendment thereto in the Gazette of Regulations" shall be replaced with "of the effective date of the Government regulation, by which the plan of waste management in the Czech Republic or amendment thereto is promulgated".
6. In Section 72, Par. 1, Subpar. m) shall be deleted. The existing Subpars. n) to r) shall become Subpars. m) to p).

7. In Section 89, the phrase "as of January 1, 2003, shall be replaced with "as of February 23, 2002".

8. In Section 89, the clause "The provision of Section 38, Par. 1 f) shall take effect as of January 1, 2003" shall be added.

PART FIVE

Amendment to the Value Added Tax Act

Section 55

Annex No. 1 to the Value Added Tax Act No. 588/1992 Sb., as amended in Act No. 196/1993 Sb., Act No. 321/1993 Sb., Act No. 42/1994 Sb., Act No. 136/1994 Sb., Act No. 258/1994 Sb., Act No. 133/1995 Sb., Act No. 151/1997 Sb., Act No. 208/1997 Sb., Act No. 129/1999 Sb., Act No. 17/2000 Sb., Act No. 22/2000 Sb., Act No. 100/2000 Sb., Act No. 241/2000 Sb., Act No. 256/2000 Sb., Act No. 141/2001 Sb., and Act No. 262/2001 Sb., shall be amended as follows:

To add the numerical code of the Harmonized System "ex 7010 91", name of goods: "Glass bottles for beverages".

PART SIX

EFFECT

Section 56

This Statute shall take effect as of January 1, 2002.

Annex 1 to Act 477/2001 Coll.

Criteria and examples clarifying the meaning of the term packing

Criterion 1

A product compliant with the definition of packing as per Section 2, letter a), simultaneously fulfilling or capable of fulfilling a function other than that of packing, shall be considered packing 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; and**
- c) all parts thereof have not been designed to be used, consumed and/or removed jointly.**

Examples illustrating criterion 1

Packing

A box for sweets

A foil over a CD box

Products that are not packing

A flowerpot to be used for the life of the flower; cases, boxes and cartridges for tools and instruments. tea bags; wax layers on cheeses; sausage casing

Criterion 2

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

Examples illustrating criterion 2

Packing

Sacs and carrying bags made of paper or plastic

Disposable plates and cups

Covering foils; sandwich bags; aluminium foil

Products that are not packing

Mixer



Disposable cutlery

Criterion 3

Auxiliary components attached directly to products, which fulfil the functions of packing, are considered packing if:

- a) not an integral part of such product; and
- b) all parts thereof are not designed to be consumed or removed jointly.

Examples illustrating criterion 3

Packing

Stickers, labels and tags, directly attached to the product

Components of packing or auxiliary components integrated into packing, considered part of the packing, to which they are integrated

Mascara brush that is a part of the mascara bottle cap; self-adhesive labels attached to another part of packing; clips, buckles, clamps

Shrinking plastic labels

Dosing device forming a part of the cap of a detergent bottle.

Annex 2 to Act 477/2001 Coll.

Systems of organization of multiple use of packages

A. Specification of reuse system

Types of system

Three types of system are provided for within the terms of this document, as follows:

- closed loop system (6.2);
- open loop system (6.3);
- hybrid system (6.4).

The supplier shall identify the most appropriate for any particular packaging, taking into account the particular circumstances of its intended use, and ensuring that all the criteria applicable to the identified system are met, as follows.

B. Criteria for a closed loop system (see Figure 1)

- a) Reusable packaging is owned by a company or a co-operating group of companies;
- b) the packaging is circulated by a company or a co-operating group of companies;
- c) design of the packaging is fixed in accordance with a mutually acceptable specification;
- d) the packaging is used in accordance with mutually acceptable procedures;
- e) collection, reconditioning and redistribution systems are in place. Packaging materials no longer to be reused and therefore removed from the system shall be recoverable in conformity with the requirements of one or more of EN 13430, EN 13431 or EN 13432;
- f) the company is, or the group of companies are, obliged to take the reusable packaging back if it has been used in accordance with the specification;
- g) the filler/packer/retailer provides information on how to treat and where to leave the packaging for the purpose of reuse;
- h) a control system, ensuring that re-use is enabled, is in use based on the specification.

C. Criteria for an open loop system (see Figure 2)

- a) the reusable packaging is owned by each user at the time the packaging is in his possession;
- b) design of the packaging is fixed in accordance with a generally accepted specification;
- c) the packaging is used in accordance with a specification agreed by the participants in the system;
- d) after reusable packaging is used by the emptier/user, they decide whether to reuse the packaging or to pass it to a third party for reuse;
- e) redistribution systems are in use for that packaging and are generally available;
- f) the filler/packer/retailer provides information on how to treat and where to leave the packaging for the purpose of reuse;

- g) packaging materials no longer to be reused and therefore removed from the system shall be recoverable in conformity with the requirements of one or more of EN 13430, EN 13431 or EN 13432;
- h) reconditioning can be undertaken by the emptier/user or is available on the market as part of the system and meets the essential elements defined in Annex B.

D. Criteria for a hybrid system (see Figure 3)

- a) Reusable packaging stays with the end user and is refilled with the support of an auxiliary product;
- b) the reusable packaging is owned by the emptier;
- c) the emptier is the refiller;
- d) the reusable packaging is only placed on the market if the auxiliary product is readily available;
- e) the filler/packer/retailer provides information on how to refill the reusable packaging;
- f) the reusable packaging and the auxiliary product shall be recoverable in conformity with the requirements of one or more of EN 13430, EN 13431 or EN 13432.

Annex 3 to Act 477/2001 Coll.

Required extent of recycling and recovery of package waste

Material	Till 31.12.2006		Till 31.12.2007		Till 31.12.2008		Till 31.12.2009		Till 31.12.2010		Till 31.12.2011		Till 31.12.2012	
	A	B	A	B	A	B	A	B	A	B	A	B	A	B
	%	%	%	%	%	%	%	%	%	%	%	%	%	%
Paper and board	60		63		65		67		69		70		70	
Glass	65		66		67		68		69		70		70	
Plastics	24		25		25		26		26		27		27	
Metals	33		36		39		41		44		47		50	
Wood	4		6		8		9		11		13		15	
Total	47	50	49	50	50	52	52	54	53	56	54	58	55	60

Packages made of a single material are packages in which the material concerned forms at least 70% of the package weight.

Recycling shall be included in the percentage of use as one of its forms.”



Material	Packaging waste recovered or incinerated in incineration plants with energy release											
	Material recycling of one-way packaging	Material recycling of reusable packaging	Other forms of recycling of one-way packaging	Other forms of recycling of reusable packaging	Total recycling	Energy recovery of one-way packaging	Energy recovery of reusable packaging	Other forms of recovery of one-way packaging	Other forms of recovery of reusable packaging	Incineration of one-way packaging in incineration plant with release of energy	Incineration of reusable packaging in incineration plant with release of energy*	Total recovery and incineration of waste in incineration plant with release of energy
	11	12	13	14	15	16	17	18	19	20	21	22
Glass												
Plastics	PET											
	PE											
	PVC											
	PP											
	PS											
	Other											
	Total											
Paper and board												
Metals	AL											
	FE											
	Total											
Composite materials												
Wood												
Other												
Total												

Estimate on the basis of empiric experience and specific single-way methods – packages which do not fulfil the criteria in Section 13, Subsection 2, reusable – packages which fulfil the criteria in Section 13, Subsection 2 Calculation of columns

8=2+4-6

9 = 3 + 5 -7

10=8+9

15= 11 +12+13+14

22 = 15 + 16 + 17 + 18 + 19 + 20 + 21 ".

Measured values of heavy metal concentrations

Table 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 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".