

**Act to Implement Article 8(1) to (7) of Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the Reduction of the Impact of Certain Plastic Products on the Environment<sup>1, 2</sup>**

**of 11 May 2023**

The Bundestag has adopted the following Act:

**Act on the Single-Use Plastic Fund  
(Einwegkunststofffondsgesetz – EWKFondsG)**

**Part 1**

**General provisions**

**Section 1**

**Objective**

The objective of this Act is to prevent and reduce the impact of single-use plastic products as referred to in Annex 1 on the environment, in particular the aquatic environment, and on human health, and to promote innovative and sustainable business models, products and materials. The Act is intended also to regulate market behaviour of the obliged parties to achieve these waste management objectives.

**Section 2**

**Scope**

(1) This Act regulates the product responsibility of producers of single-use plastic products as referred to in Annex 1 as provided for in section 23 (1) to (3) of the Circular Economy Act (*Kreislaufwirtschaftsgesetz*) of 24 February 2012 (Federal Law Gazette I, p. 212), as last amended by Article 20 of the Act of 10 August 2021 (Federal Law Gazette I, p. 3436) as amended.

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<sup>1</sup> [This Act implements] Article 8(1) to (7) and Article 14 of Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p. 1).

<sup>2</sup> Notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

(2) Except where this Act contains derogations, the Circular Economy Act and the statutory instruments adopted on the basis of the Circular Economy Act or the Closed Substance Cycle and Waste Management Act (*Kreislaufwirtschafts- und Abfallgesetz*) applicable until 31 May 2012, as amended, apply. Section 62 of the Circular Economy Act applies accordingly.

### Section 3

#### Definitions

For this Act, the following definitions apply:

1. 'single-use plastic product' means a product that is made wholly or partly from plastic and that is not conceived, designed or placed on the market to accomplish, within its life span, multiple trips or rotations by being returned to a producer or distributor for refill or being re-used for the same purpose for which it was conceived;
2. 'plastic' means a material consisting of a polymer as defined in point 5 of Article 3 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1), as last amended by Regulation (EU) 2020/507 (OJ L 110, 8.4.2020, p. 1), as amended, to which additives or other substances may have been added, and which can function as a main structural component of final products, with the exception of materials consisting of natural polymers that have not been chemically modified;
3. 'producer' means any natural or legal person or a partnership with legal personality which
  - a) is established in the territorial scope of this Act and as manufacturer, filler, seller or importer, irrespective of the selling technique used, including by means of distance contracts as defined in section 312c of the Civil Code (*Bürgerliches Gesetzbuch*), professionally makes available on the market in the territorial scope of this Act single-use plastic products as referred to in Annex 1 for the first time or
  - b) is not established in the territorial scope of this Act and professionally sells in the territorial scope of this Act directly to private households or to users other than private households, by means of distance communication as defined in section 312c (2) of the Civil Code, single-use plastic products as referred to in Annex 1;
4. 'making available on the market' means any supply of a product for distribution, consumption or use on the market in the territorial scope of this Act in the course of a commercial activity, whether in return for payment or free of charge;
5. 'electronic market place' means a website or any other instrument which allows information to be made available on the internet enabling producers or third parties which are not the operator of the market place, acting on their own account, to offer or make available in the territorial scope of this Act single-use plastic products as referred to in Annex 1;
6. 'operator of an electronic market place' means any natural or legal person or a partnership with legal personality which maintains an electronic market place and enables third

parties to offer or make available on this market place in the territorial scope of this Act single-use plastic products as referred to in Annex 1;

7. 'offering' means the presentation or publicly making available in the course of a commercial activity directed at the conclusion of a purchase contract in the territorial scope of this Act of single-use plastic products as referred to in Annex 1; offering also includes the invitation to make an offer;
8. 'fulfilment service provider' means any natural or legal person or a partnership with legal personality offering, in the course of a commercial activity in the territorial scope of this Act, at least two of the following services: warehousing, packaging, addressing or dispatching of single-use plastic products as referred to in Annex 1, without having ownership of the products involved; providers of postal, parcel delivery or other freight transport services are not considered fulfilment service providers;
9. 'authorised representative' means any natural or legal person or a partnership with legal personality established in the territorial scope of this Act which a producer not established in the territorial scope of this Act has appointed to carry out tasks, acting on their own account, in order to comply with certain producer obligations under this Act;
10. 'Central Agency' means the Foundation Central Agency Packaging Register established pursuant to section 24 (1) of the Packaging Act (*Verpackungsgesetz*) of 5 July 2017 (Federal Law Gazette I, p. 2234), as last amended by Article 2 of the Act of 22 September 2021 (Federal Law Gazette I, p. 4363), as amended;
11. 'public collection system' means a collection system operated by or on behalf of a public waste management authority or a legal person under public law and set up in locations generally accessible to the public;
12. 'collection costs' means the costs of waste collection in public collection systems of waste resulting from single-use plastic products as referred to in Annex 1; collection costs include the costs of infrastructure, such as containers, and its operation and the transport and disposal of the waste; collection costs also include the costs of setting up specific infrastructure in common litter hotspots for the waste collection for tobacco products with plastic filters and filters marketed for use in combination with tobacco products;
13. 'cleaning up costs' means the costs, to the relevant extent, of the cleaning up of litter carried out by or on behalf of public waste management authorities or legal persons under public law and aimed at eliminating from the environment the litter resulting from single-use plastic products as referred to in Annex 1; cleaning up costs also include the costs of transport and disposal of the litter;
14. 'awareness raising costs' means the costs, to the relevant extent, of awareness raising measures carried out by or on behalf of public waste management authorities as part of the provision of advice on waste in accordance with section 46 (2) and (3) nos. 2 and 3 of the Circular Economy Act and concerning the single-use plastic products as referred to in Annex 1 or the waste resulting from these products;
15. 'data gathering and reporting costs' means the costs of gathering and reporting data concerning the collection and disposal of the waste resulting from the single-use plastic products as referred to in Annex 1;
16. 'administrative costs' means the costs which the German Environment Agency incurs in implementing the tasks specified in this Act and which, in accordance with commercial principles, are eligible for inclusion in the accounts, in particular personnel and ma-

terial costs, imputed costs, costs for the setting up and operation of the electronic systems for the collection and processing of data and the fees for services provided by third parties.

## Part 2

### Single-Use Plastic Fund

#### Section 4

##### **Single-Use Plastic Fund**

(1) The German Environment Agency administers the Single-Use Plastic Fund. The purpose of the Single-Use Plastic Fund is to implement the reimbursement by producers of the costs mentioned in section 3 nos. 12 to 16.

(2) In the administration of the Single-Use Plastic Fund, due regard must be had to economic efficiency.

#### Section 5

##### **Financing**

(1) The administrative costs are financed from the revenues of the Single-Use Plastic Fund unless other cost reimbursement rules apply. The administrative costs incurred by the German Environment Agency in the 2023 financial year are reimbursed to it in equal proportions in the five financial years starting from 2025 from the revenues of the Single-Use Plastic Fund.

(2) Provision may be made for the revenues of the Single-Use Plastic Fund to be expended beyond the current financial year in accordance with budgetary rules for the purposes of

1. securing the reimbursement of the administrative costs,
2. securing legal claims arising through the enforcement of this Act and
3. smoothing disproportionate fluctuations in the point value provided for in section 20 (1).

Where sentence 1 no. 3 applies, no more than 10 per cent of the revenues arising in a financial year may be reserved for further financial years.

#### Section 6

##### **Annual summary**

(1) Without prejudice to sections 80 to 85 of the Federal Budget Code (*Bundeshaushaltsordnung*) of 19 August 1969 (Federal Law Gazette I, p. 1284), last amended by Article 21 of the Act of 20 August 2021 (Federal Law Gazette I, p. 3932), as amended, the German Environment Agency presents the total revenues and expenditure of the Single-Use Plastic Fund in the annual summary following the end of each financial year.

(2) The German Environment Agency publishes the annual summary on its website in an appropriate form.

## Part 3

### Register of producers, obligations of producers

#### Section 7

##### **Registration of producers**

(1) Producers must register with the German Environment Agency in accordance with subsection (2) before commencing their activity. Amendments to the registration data and the permanent ceasing of the activity are to be notified to the German Environment Agency without delay.

(2) On registering as required by subsection (1) sentence 1, the following particulars are to be stated:

1. name, address and contact details of the producer, in particular postcode and town/city, street and house number, country, telephone number and European or national tax number,
2. where an appointment under the terms of section 10 (1) applies:
  - a) name, address and contact details of the authorised representative in accordance with no. 1 and
  - b) written appointment by the producer,
3. a natural person with power of representation,
4. national identification number and email address of the producer and the same information on the authorised representative, where appointed,
5. trade names under which the producer makes available on the market or sells for the first time the single-use plastic products as referred to in Annex 1,
6. categories of single-use plastic products as referred to in Annex 1 made available on the market or sold for the first time and
7. declaration that all of the information provided is true.

The particulars as defined in sentence 1 nos. 1 to 4 are not applicable where the producer, having stated the producer's registration number, consents to a use of these data held in the register as referred to in section 9 of the Packaging Act.

(3) Registration and notifications of amendments are to be communicated using the IT system provided by the German Environment Agency as required by section 8 (1).

(4) The German Environment Agency

1. confirms the registration,

2. communicates the producer's registration number to the producer,
3. checks the notification of amendment and
4. confirms the record of the amendment notified.

(5) The German Environment Agency publishes on its website the producers registered together with the particulars mentioned in subsection (2) sentence 1 no. 1 and no. 2 (a) and nos. 5 and 6, the registration number and the date of registration. In the case of producers whose registration has ended, the date of market exit is also to be stated. The data published on the German Environment Agency's website are to be deleted automatically from the website three years after the day on which the producer's registration ends.

## Section 8

### **Register of producers**

(1) The German Environment Agency establishes an IT system for the purpose of registering producers as required by section 7 and provides for producers and authorised representatives to have access through its website. The German Environment Agency may issue further instructions for the electronic registration procedure and may specify for the purposes of other communication with producers and authorised representatives electronic transmission, a specific encryption and the establishment of an access for the transmission of electronic documents. The German Environment Agency is authorised to retrieve, collect, store and use the data mentioned in section 7 (2). The data are to be deleted automatically three years following the expiry of the day on which the producer's registration ends.

(2) If the Central Agency already has the particulars as defined in section 7 (2) sentence 1 nos. 1 to 4 by reason of registration in accordance with section 9 of the Packaging Act and the producer's consent as referred to in section 7 (2) sentence 2 has been given, the German Environment Agency is required and authorised to collect, store and use the data available with the Central Agency. The Central Agency makes these data and the necessary technical information on the data transmission process available to the German Environment Agency and documents the retrievals. The documentation may be used only for the purposes of data protection monitoring, data backup or to ensure proper working of the data processing equipment. The documentation is to be deleted automatically after six months.

(3) The German Environment Agency transmits by electronic means the data of all producers registered in the previous calendar year together with the particulars as defined in section 7 (2) sentence 1 nos. 1 to 6 and section 11 (1) to the Central Agency by 31 January of each year where this is necessary to comply with obligations under the Packaging Act. The German Environment Agency and the Central Agency determine by mutual agreement the format of the electronic transmission.

(4) The German Environment Agency transmits by electronic means the data of all producers registered in the previous calendar year together with the particulars as defined in section 7 (2) sentence 1 nos. 1 to 6 to the Federal Statistical Office by 31 January of each year where this is necessary for discharging the Federal Statistical Office tasks as required by section 5a of the Environmental Statistics Act (*Umweltstatistikgesetz*). The German Environment Agency and the Federal Statistical Office determine by mutual agreement the format of the electronic transmission.

## Section 9

### **Single-use plastic products from non-registered or not duly registered producers**

(1) Producers not registered as required by section 7 (1) sentence 1 may not make available on the market or sell for the first time single-use plastic products as referred to in Annex 1.

(2) Single-use plastic products as referred to in Annex 1 may not be offered for sale professionally if their producer is not registered as required by section 7 (1) sentence 1.

(3) Operators of electronic market places may not enable the offering of the single-use plastic products listed in Annex 1 if the producer of these single-use plastic products is not registered as required by section 7 (1) sentence 1.

(4) Fulfilment service providers may not provide the services mentioned in section 3 no. 8 in relation to single-use plastic products as referred to in Annex 1 if the producer of these single-use plastic products is not registered as required by section 7 (1) sentence 1.

## Section 10

### **Appointment of authorised representatives; commissioning of third parties**

(1) Producers not established in the territorial scope of this Act must appoint an authorised representative before commencing their activity; that authorised representative complies with the obligations under this Act with the exception of registration as required by section 7 (1) and the annual notification as required by section 11 (1). The authorised representative is considered the producer within the meaning of this Act in relation to these obligations. The authorised representative complies with these obligations on their own account. A producer may appoint only one authorised representative. The appointment is to be made in writing and done in German.

(2) The producer must nominate the authorised representative as required by subsection (1) sentence 1 to the German Environment Agency without delay following the appointment. The nomination is to be accompanied by a copy of the appointment. The nomination requires confirmation from the German Environment Agency. The German Environment Agency issues the confirmation only if the conditions as referred to in subsection (1) are satisfied. If more than 20 nominations are in place at the same time in relation to the same authorised representative, the German Environment Agency confirms the appointment only if it has previously verified, applying section 37 (7) of the Electrical and Electronic Equipment Act (*Elektro- und Elektronikgerätegesetz*) accordingly, whether the authorised representative offers the necessary guarantee for due compliance with the producer obligations. The producer must notify the German Environment Agency of amendments to the appointment or corrections to the particulars without delay.

(3) If the appointment of an authorised representative as required by subsection (1) is ended, the producer must notify this fact to the German Environment Agency without delay. The nomination ends as soon as the German Environment Agency confirms the ending of the appointment to the producer. When the German Environment Agency confirms the ending of the nomination to a producer, that producer must notify without delay the manufacturers, fillers, sellers or importers supplied by the producer that the nomination of the authorised representative has ended. The obligation of the authorised representative to comply with the producer obligations arising during the period of that representative's appointment is unaffected.

(4) Producers established in the territorial scope of this Act which make available on the market or sell for the first time single-use plastic products as referred to in Annex 1 in another Member State of the European Union or a Contracting Party to the Agreement on the European Economic Area in which they are not established must appoint an authorised representative before making such products available on the market of that Member State or Contracting Party; that authorised representative is responsible for compliance with the cost reimbursement obligation in that other State within the scope of the extended producer responsibility under Article 8(1) to (3) of Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155, 12.6.2019, p. 1), as amended.

(5) Producers may commission third parties to comply with their obligations; section 22 sentences 2 and 3 of the Circular Economy Act applies accordingly. Sentence 1 does not apply for the purposes of registration as required by section 7 (1) and the annual notification as required by section 11 (1).

## Section 11

**Annual notification by producers** Producers must notify the German Environment Agency by 15 May of each year in accordance with sentences 2 and 3 of the single-use plastic products as referred to in Annex 1 made available or sold for the first time by them in the preceding calendar year broken down in terms of the relevant category and mass in kilogram. The notification requires audit and confirmation by a registered expert as defined in section 3 (15) of the Packaging Act or by an auditor, tax consultant or certified accountant registered in accordance with section 27 (2) of the Packaging Act. The confirmation is to be signed with a qualified electronic signature as defined in point 12 of Article 3 of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73) and communicated by the producer together with the notification and audit report to the German Environment Agency by electronic means. The German Environment Agency communicates the particulars notified by the producer without delay to the authorised representative where such representative has been appointed in accordance with section 10 (1).

(2) The German Environment Agency makes available standardised electronic forms for the notification as required by subsection (1) sentence 1, the confirmation, the transmission of the notification and the audit report as referred to in subsection (1) sentence 3 and other communication with producers and determines the detailed procedure. The German Environment Agency publishes on its website by 31 December of each year aggregate data on the single-use plastic products as referred to in Annex 1 made available on the market or sold for the first time in the previous year broken down in terms of the relevant category and mass.

(3) The German Environment Agency may require the producer to submit further documents necessary for verification in the individual case if there are grounds to suspect an inaccuracy or incompleteness in the notification. The notification as required by subsection (1) sentence 1 is considered not to have been made if the documents are not submitted or the documents submitted are not suitable to refute the grounds to suspect an inaccuracy or incompleteness.

(4) Where in the preceding calendar year a producer made available on the market or sold for the first time single-use plastic products as referred to in Annex 1 weighing in total less than 100 kilogram or only beverage bottles on which a deposit has been paid as referred to in section 31 of the Packaging Act, that producer is exempt from the obligation as set out in subsection (1) sentence 2. The German Environment Agency may require at any



time in the cases covered by sentence 1 that an audit as required by subsection (1) sentence 2 be carried out and the confirmation as required by subsection (1) sentence 3 be submitted.

(5) The German Environment Agency is to develop audit guidelines in agreement with the Bundeskartellamt which are to be observed by registered experts and registered auditors, tax consultants and certified accountants in audits under this Act. The German Environment Agency is to notify the Central Agency without delay of infringements of the audit guidelines and to enclose documentary evidence available together with the notification.

## Part 4

### Single-use plastic levy

#### Section 12

##### **Obligation to pay levy**

The producers of single-use plastic products as referred to in Annex 1 pay a special levy annually for the purposes of reimbursing the costs as referred to in Annex 2 (single-use plastic levy).

#### Section 13

##### **Assessment, due date and delay**

(1) The single-use plastic levy is assessed annually by a notice of assessment from the German Environment Agency. The single-use plastic levy is calculated by multiplying the mass of single-use plastic products as referred to in Annex 1 made available on the market or sold for the first time and notified in accordance with section 11 (1) with the rate of levy to be determined in the statutory instrument as required by section 14.

(2) The German Environment Agency estimates on the basis of previous notifications and data available elsewhere the mass of single-use plastic products as referred to in Annex 1 made available on the market or sold for the first time if, contrary to section 11 (1), the producer has not submitted a notification.

(3) The single-use plastic levy is due one month after receipt of the notice of assessment unless that notice determines a different due date.

(4) If the party liable for the levy is delayed in the payment of the single-use plastic levy by more than three working days, that party is to pay a delay penalty of 1 per cent of the amount in arrears, as rounded down, for each month of delay or part thereof. The delay penalty is charged only if the amount in arrears exceeds 50 euros and the delay amounts to more than three days. For the purposes of calculating the delay penalty, the amount in arrears is to be rounded down to the nearest 50 euros. Delay penalties charged are accounted for in the revenues of the Single-Use Plastic Fund.

(5) An administrative appeal against the notice of assessment has no suspensory effect.

(6) A claim to payment of the single-use plastic levy becomes time-barred after five years. The limitation period begins on the expiry of the calendar year in which the claim first became due. The limitation period is suspended for as long as the claim cannot be pursued by reason of force majeure occurring within the final six months of the limitation period. Section 19 of the Federal Fees Act (*Bundesgebührengesetz*) of 7 August 2013 (Federal Law Gazette I, p. 3154), as last amended by Article 2 of the Act of 16 July 2021 (Federal Law Gazette I, p. 3019), as amended, applies accordingly.

## Section 14

### **Determination of the rates of levy, power to make statutory instruments**

(1) The Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection determines by 31 December 2023 by way of statutory instrument, after hearing the groups involved and without the consent of the Bundesrat, a rate of levy for each category of single-use plastic product as referred to in Annex 1 in euros per kilogram in accordance with Annex 2. Section 68 of the Circular Economy Act applies accordingly.

(2) When determining the rates of levy, due regard must be had to the cost recovery requirement, the prohibition on exceeding costs, the principle of cost-efficiency and the requirement of transparency. The weight, volume and number of items of waste resulting from the single-use plastic products may be taken into consideration when establishing the costs as referred to in Annex 2.

(3) The rates of levy are to be reviewed regularly, at least every three years, and adjusted if necessary.

## Part 5

### **Register of entitled entities, obligations of entitled entities**

## Section 15

### **Registration of entitled entities**

(1) Public waste management authorities and other legal persons under public law wishing to claim a reimbursement of their costs as defined in section 3 nos. 12 to 15 must be registered with the German Environment Agency in accordance with subsection (2). Amendments to the registration data and the permanent ceasing of the activity giving rise to the entitlement are to be notified to the German Environment Agency without delay.

(2) On registering as required by subsection (1), the following particulars are to be stated:

1. name, address and contact details of the entitled entity, in particular postcode and town/city, street and house number, country, telephone number and, if applicable, European or national tax number,
2. a natural person with power of representation,

3. bank account details,
4. where the competence results from *Land* law, confirmation of entitlement issued by a competent *Land* authority which specifies the legal basis and
5. geographical area of competence.

(3) Entitled entities as referred to in subsection (1) may appoint another entitled entity to exercise their rights and obligations under this Act. In this case, on registering, the particulars as defined in subsection (2) nos. 1, 4 and 5 are to be stated also in relation to the appointing entitled entity and the appointment is to be evidenced.

(4) Registration and notifications of amendments are to be communicated using the IT system provided by the German Environment Agency as required by section 16.

(5) The German Environment Agency

1. checks the entitlement,
2. confirms the registration,
3. communicates the registration number to the public waste management authority or the legal person under public law,
4. checks the notification of amendment and
5. confirms the record of the amendment notified.

(6) The German Environment Agency publishes on its website the entitled entities together with the particulars mentioned in subsection (2) nos. 1, 4 and 5, the registration number and the date of registration. In the case of entities whose registration has ended, the date on which the activity giving rise to the entitlement ended is also to be stated. The data published on the German Environment Agency's website are to be deleted automatically from the website one year following the expiry of the day on which the entitled entity's registration ends.

## Section 16

### **Register of entitled entities**

The German Environment Agency establishes an IT system for the purpose of registering entitled entities as required by section 15 and provides for entitled entities to have access through its website. The German Environment Agency may issue further instructions for the electronic registration procedure and may specify for the purposes of other communication with entitled entities electronic transmission, a specific encryption and the establishment of an access for the transmission of electronic documents. The German Environment Agency is authorised to collect, store and use the data mentioned in section 15 (2). The data are to be deleted automatically one year following the expiry of the day on which the entitled entity's registration ends.

## Section 17

### **Annual notification of entitled entities**

(1) It is a condition for the reimbursement of costs that the registered entitled entity notifies to the German Environment Agency by 15 May of the relevant year the following data in relation to the preceding calendar year:

1. particulars of the services producing the collection costs,
2. particulars of the services producing the cleaning up costs,
3. particulars of the services producing the awareness raising costs,
4. particulars of the services producing the data gathering and reporting costs.

(2) Payment from the Single-Use Plastic Fund as referred to in section 21 is excluded in relation to the preceding year if notification is not made within the time limit as referred to in subsection (1).

(3) The German Environment Agency determines the nature of the particulars to be notified and the proof to be furnished, makes standardised electronic forms available for the notification and the audit report as required by section 18 (1) and determines the detailed procedure. The German Environment Agency publishes on its website by 31 December of each year data on the aggregate services provided in the previous year and on the costs produced as a result as referred to in subsection (1).

## Section 18

### **Verification of particulars**

(1) The German Environment Agency may order that an entitled entity must have the particulars of its notification verified by an accredited expert at the entity's own expense and must submit the verification report if there are grounds to suspect the inaccuracy of the notification of that entitled entity as required by section 17 (1) which could not be dispelled within a reasonable period despite an appropriate request. If an entitled entity does not comply with this order within the period set, the notification is considered not to have been made.

(2) A person is an accredited expert as referred to in subsection (1) sentence 1 if that person

1. is appointed pursuant to section 36 of the Trade Regulation Code (*Gewerbeordnung*) in the version published on 22 February 1999 (Federal Law Gazette I, p. 202), as last amended by Article 2 of the Act of 10 August 2021 (Federal Law Gazette I, p. 3504), as amended,
2. as an environmental auditor or an environmental audit organisation is permitted to work, by reason of an accreditation as referred to in sections 9 and 10 or section 18 of the Environmental Audit Act (*Umweltauditgesetz*) in the version published on 4 September 2002 (Federal Law Gazette I, p. 3490), as last amended by Article 17 of the Act of 10 August 2021 (Federal Law Gazette I, p. 3436), as amended, in the field defined in Section E Division 38 of Annex I to Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains (OJ

L 393, 30.12.2006, p. 1), as last amended by Regulation (EC) No 295/2008 (OJ L 97, 9.4.2008, p. 13), as amended,

3. has had their qualification established through accreditation from the national accreditation body in a generally accepted procedure or
4. is established in another Member State of the European Union or in another Contracting Party to the Agreement on the European Economic Area and wishes to exercise an activity on domestic territory only on a temporary and occasional basis and has had their professional qualification verified, applying sections 13a and 13b of the Trade Regulation Code accordingly; procedures under this no. may be implemented by a single body.

## Part 6

### Payment

#### Section 19

##### **System of points, power to make statutory instruments**

(1) Payment from the Single-Use Plastic Fund is made in accordance with a system of points which assigns a certain number of points to the services provided by entitled entities in a calendar year.

(2) The Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection determines by 31 December 2023 by way of statutory instrument, after hearing the groups involved and without the consent of the Bundesrat, a system of points as required by subsection (1). Section 68 of the Circular Economy Act applies accordingly.

(3) When determining the system of points, due regard must be had to the cost recovery requirement, the prohibition on exceeding costs, the principle of cost-efficiency and the requirement of transparency.

(4) The system of points is to be reviewed regularly, at least every three years, and adjusted if necessary.

#### Section 20

##### **Announcement and calculation of the point value**

(1) The German Environment Agency calculates the point value annually and announces this at the latest on 30 September. The point value is the quotient which results from dividing the aggregate payment amount by the aggregate number of points.

(2) The aggregate payment amount is arrived at by taking the revenues of the Single-Use Plastic Fund received by 31 August and

1. subtracting
  - a) administrative costs incurred in the preceding calendar year,

b) funds for which provision has been made in accordance with section 5 (2) sentence 1 and

2. adding, if applicable, funds as referred to in section 5 (2) sentence 1 no. 3.

(3) The aggregate number of points is the sum total of the points assigned to all entitled entities for the services provided in the preceding calendar year.

## Section 21

### **Assessment and payment of the funds**

The German Environment Agency assesses the funds to be paid to each entitled entity from the Single-Use Plastic Fund by way of a notice of entitlement. The amount is arrived at by taking the number of points assigned for the services provided, calculated in accordance with the system of points, and multiplying it by the point value. Payments are to be made, as a rule, within one month, at the most, of the notice becoming final.

## Part 7

### **Powers of determination**

## Section 22

### **Determination of classification as a single-use plastic product, determination of producer status**

(1) The German Environment Agency determines on application by a producer or authorised representative or in the due exercise of discretion

1. whether a product constitutes a single-use plastic product as defined in section 3 nos. 1 and 2,
2. to which product category as referred to in Annex 1 the single-use plastic product is to be assigned and
3. whether a natural or legal person or partnership with legal personality constitutes a producer as defined in section 3 no. 3 (a) or (b).

The determination as required by sentence 1 nos. 1 and 2 may be made as a general administrative act.

(2) The German Environment Agency may adopt administrative provisions concerning the situations mentioned in subsection (1).

(3) The German Environment Agency may stipulate further instructions for communication with the applicant, in particular the use of specific electronic forms and input screens, a specific encryption and the establishment of an access for the transmission of electronic documents.

(4) An administrative appeal against the determination as referred to in subsection (1) has no suspensory effect.

## Part 8

# Single-Use Plastic Commission

### Section 23

#### **Establishment, tasks and procedures**

(1) A Single Use-Plastic Commission is established. It advises

1. the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection in relation to the review and adjustment of the rates of levy as required by section 14 (3) and of the system of points as required by section 19 (4) and
2. the German Environment Agency in relation to
  - a) calculation of the point value as required by section 20,
  - b) classification as a single-use plastic product as required by section 22 (1) sentence 1 nos. 1 and 2 and
  - c) design of the studies as required by subsection (2) sentence 4.

The German Environment Agency assists the Single-Use Plastic Commission in carrying out its tasks with a secretariat. The secretariat is responsible for convening and organising the meetings.

(2) The Single-Use Plastic Commission provides its advice as recommendations based on existing data and scientific findings. The recommendations are adopted by a majority of votes cast. Details of the procedure are determined in the rules of procedure as required by subsection (4). The German Environment Agency commissions one or more studies in preparation for the deliberations of the Single-Use Plastic Commission as referred to in subsection (1) sentence 2 no. 1. Decisions taken in the procedures as referred to in subsection (1) sentence 2 no. 1 which depart from the recommendations of the Single-Use Plastic Commission are to be reasoned.

(3) The German Environment Agency may request the Single-Use Plastic Commission to issue a recommendation within a reasonable period. If no recommendation is issued within that period, the procedures as referred to in subsection (1) sentence 2 are continued without the participation of the Single-Use Plastic Commission.

(4) The Single-Use Plastic Commission establishes its own rules of procedure and accepts these by a majority of votes cast. The rules of procedure require the approval of the German Environment Agency. When the German Environment Agency gives its approval, the Single-Use Plastic Commission is established. The German Environment Agency may request the Single-Use Plastic Commission to submit rules of procedure for approval within a reasonable period. If no rules of procedure are submitted within that period, the procedures as referred to in subsection (1) sentence 2 are continued without the participation of the Single-Use Plastic Commission.

## Section 24

### **Appointment and nomination**

(1) The Single-Use Plastic Commission consists of 12 members. The distribution of the members is as follows:

1. six representatives of producers,
2. one representative of the municipal waste management industry,
3. two representatives of the central associations for local government,
4. one representative of other entitled entities not represented by the representatives as referred to in nos. 2 and 3,
5. one representative of environmental associations and
6. one representative of consumer associations.

The members act on an honorary basis. No remuneration or reimbursement of expenses is granted.

(2) The relevant associations and other stakeholders nominate the members and alternates to the German Environment Agency. For those purposes, the German Environment Agency requests the associations and other stakeholders to make a nomination of the members and alternates agreed by consensus within a specified period. If a nomination agreed by consensus is not made within that period, the relevant members and alternates are nominated by the German Environment Agency. Details are determined in the rules of procedure as required by section 23 (4) sentence 1.

## Part 9

### Final provisions

#### Section 25

##### **Supervision**

The Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection is responsible for the legal and operational supervision of the German Environment Agency in relation to the tasks conferred on it under this Act.

#### Section 26

##### **Provisions governing fines**

- (1) A regulatory offence is committed by a party which intentionally or negligently,
1. contrary to section 7 (1) sentence 1, does not register, does not do so correctly, in full or in due time,



2. contrary to
  - a) section 7 (1) sentence 2 or
  - b) section 10 (2) sentence 5,does not submit a notification, does not do so correctly, in full or in due time,
3. contrary to section 9 (1), makes available on the market or sells for the first time a single-use plastic product,
4. contrary to section 9 (2), offers a single-use plastic product for sale,
5. contrary to section 9 (3), enables the offering of a single-use plastic product,
6. contrary to section 9 (4), provides a service mentioned in that provision,
7. contrary to section 10 (1) sentence 1 or (4), does not appoint an authorised representative, does not do so correctly or in due time,
8. contrary to section 10 (2) sentence 1, does not nominate an authorised representative, does not do so correctly or in due time,
9. contrary to section 11 (1) sentence 1, does not submit a notification, does not do so correctly, in full or in due time.

(2) In the instances set out in subsection (1) no. 1, no. 2 (a) and nos. 3 to 6 the regulatory offence may be punished with a fine not exceeding one hundred thousand euros and in the remaining instances with a fine not exceeding ten thousand euros.

(3) For the purposes of section 36 (1) no. 1 of the Act on Regulatory Offences (*Gesetz über Ordnungswidrigkeiten*), the German Environment Agency is the administrative authority.

(4) Fines, including those imposed in court proceedings, and sums confiscated pursuant to a court order as referred to in section 29a of the Act on Regulatory Offences accrue to the Federal Cash Office responsible for bearing the costs imposed on the public purse.

## Section 27

### **Confiscation**

If a regulatory offence as referred to in section 26 (1) has been committed, items may be confiscated

1. to which the regulatory offence relates or
2. which were used in the commission or preparation thereof or which were intended for that purpose.

Section 23 of the Act on Regulatory Offences applies.

## Section 28

### **Evaluation**

The Federal Government evaluates the effects of the rules contained in this Act in relation to the achievement of objectives by 31 December 2027. In the framework of the evaluation, the following in particular are to be examined:

1. the development of sustainable products as alternatives to the single-use plastic products as referred to in Annex 1,
2. the improvement in the cleanliness of urban and rural environments in terms of the litter resulting from the single-use plastic products as referred to in Annex 1,
3. the relief to the general public in terms of the costs of collection, cleaning up and awareness raising which previously had to be borne,
4. the need to extend the scope to include further products having due regard to the results of the review as required by Article 15 of Directive (EU) 2019/904.

## Section 29

### **Transitional provision**

(1) The determination of the revenues and expenditure by way of the annual summary as required by section 6 (1) and the publication as required by section 6 (2) take place for the first time in relation to the 2025 financial year.

(2) Producers taking up their activity before the entry into force of section 7 (1) must register with the German Environment Agency by 31 December 2024.

(3) Producers not established in the territorial scope of this Act and taking up their activity before the entry into force of section 10 (1) must appoint an authorised representative by 31 December 2024; that authorised representative complies with the producer's obligations with the exception of registration as required by section 7 (1) and the annual notification as required by section 11 (1).

## Section 30

### **Participation of the Bundestag on adoption of statutory instruments**

The statutory instrument to be adopted by 31 December 2023 as required by section 14 (1) and section 19 (2) is to be submitted to the Bundestag before promulgation. It may be amended or rejected by resolution of the Bundestag. The resolution of the Bundestag is communicated to the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection. If on the expiry of three sitting weeks following receipt of the statutory instrument the Bundestag has not addressed it, the statutory instrument is communicated without amendment to the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection for promulgation.

## Annex 1

(to sections 1, 2 (1), to section 3 nos. 3, 5 to 8 and 12 to 15, to section 7 (2) sentence 1 nos. 5 and 6, to sections 9 and 10 (4), to section 11 (1) sentence 1, (2) and (4), to sections 12 and 13 (1) sentence 2 and (2), to section 14 (1) sentence 1, section 22 (1) sentence 1 no. 2 and section 28 sentence 2 nos. 1 and 2).

### List of single-use plastic products

1. Food containers, i.e. receptacles such as boxes, with or without a cover, used to contain food, which
  - a) is intended for immediate consumption, either on-the-spot or take-away,
  - b) is typically consumed from the receptacle and
  - c) is ready to be consumed without any further preparation, such as cooking, boiling or heating;beverage containers, cups for beverages, plates and packets and wrappers containing food are not food containers within the meaning of this term;
2. packets and wrappers made from flexible material containing food that
  - a) is intended for immediate consumption from the packet or wrapper and
  - b) does not require any further preparation;
3. beverage containers with a capacity of up to 3 litres, i.e. receptacles used to contain liquid such as beverage bottles on which a deposit has or has not been paid and composite beverage packaging including their caps and lids; glass or metal beverage containers that have caps, lids, labels, stickers or wrapping made from plastic are not beverage containers within the meaning of this term;
4. cups for beverages, including their covers and lids;
5. lightweight plastic carrier bags, i.e. plastic carrier bags with a wall thickness below 50 micrometres, with or without handle, which are supplied to consumers at the point of sale of goods or products;
6. wet wipes, i.e. pre-wetted personal care and domestic wipes;
7. balloons, except balloons for industrial or professional uses and applications that are not distributed to consumers;
8. tobacco products<sup>3</sup> with filters and filters intended for use in combination with tobacco products.

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<sup>3</sup> Tobacco products means tobacco products as defined in Article 2 of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ L 127, 29.4.2014, p. 1).

## Annex 2

(to sections 12 and 14 (1) sentence 1)

### Costs covered according to product category

Product category	Cost category				
	Collection costs	Cleaning up costs	Awareness raising costs	Data gathering and reporting costs	Administrative costs
Food containers (Annex 1 no. 1)	X	X	X	X	X
Packets and wrappers (Annex 1 no. 2)	X	X	X	X	X
Beverage containers (Annex 1 no. 3)	X	X	X	X	X
Beverage bottles on which a deposit has been paid as referred to in section 31 of the Packaging Act (Annex 1 no. 3)	X	X	X	X	X
Cups for beverages (Annex 1 no. 4)	X	X	X	X	X
Lightweight plastic carrier bags (Annex 1 no. 5)	X	X	X	X	X
Wet wipes (Annex 1 no. 6)		X	X	X	X
Balloons (Annex 1 no. 7)		X	X	X	X
Tobacco products with filters and filters for tobacco products (Annex 1 no. 8)	X	X	X	X	X