

**STATUTORY ORDER FROM THE MINISTRY OF ENVIRONMENT
NO. 274 OF 26 APRIL 2008
ON THE COMMUNITY AND THE NORDIC ECO-LABELS**

Pursuant to sections 8, 8a, 8b, 67, 88 (3), 89a and 110 (3) and (4) of the Danish Environmental Protection Act, cf. Promulgation Order No. 1757 of 22 September 2006, and section 1(2) of the Danish Public Administration Act, cf. Promulgation Order No. 1365 of 7 December 2007, and according to negotiation with the Minister of Justice, the following provisions are laid down:

PART 1

Scope, etc.

1. The objective of eco-labelling products is to promote development, marketing, and use of products that are less harmful to the environment than other similar products.

(2) The European eco-label “Flower” and the Nordic eco-label “Swan” are voluntary eco-label Scheme on the subject of eco-labelling products. The term “products” include goods and services.

PART 2

Administration of the European and Nordic Eco-label

2. Administration of the eco-label schemes are conducted by Ecolabelling Denmark and an Ecolabelling board.

(2) The Schemes are managed on the basis of the European and Nordic rules for organization at all times¹; and rules stipulated in this statutory or fees and terms of payments fixed according to article 10.

(3) In Denmark the decisions of the Commission concerning the European Eco-label will take its effect from the beginning of the day following the day in which it appeared on the homepage of Eco-labelling Denmark, www.ecolabel.dk. Every publication on the homepage www.ecolabel.dk must contain the date of publication.

(4) The rules of the Nordic Eco-labelling board about the Nordic eco-label, including criteria for awards for the Nordic eco-label, are available in Danish, Swedish, and Norwegian. A regulation will take its effect from the beginning of the day following the day in which the regulation appears on the homepage of the Ecolabelling Denmark, www.ecolabel.dk. Every publication must contain the date of publication.

3. Ecolabelling Denmark and the Danish Environmental Protection Agency are the competent bodies, in accordance with article 14 in Regulation of the European Parliament and of the Council (EF) No 1980/2000 on a revised Community eco-label award Scheme,

(2) Ecolabelling Denmark is responsible for carrying out the tasks in connection with awarding the European eco-label, and supervising in compliance with European Parliament and the Council (EC) No 1980/2000.

(3) Ecolabelling Denmark shall be the responsible body in accordance with article 2.2 in the Nordic Council of Ministers decision on goals and principals for Nordic ecolabelling of 19 June 2001, and the rules which at all times applies for the Nordic ecolabelling, as declared by the Nordic Ecolabelling board.

PART 3

Ecolabelling Denmark

5. Danish Environmental Protection Agency enters into a performance contract with Danish Standards, concerning the workings of Ecolabelling Denmark, which is a separate area in Danish Standards.

(2) Danish Environmental Protection Agency board annually commits itself to a contract with Danish standards on the financial frame for the following finance year, based on a budget proposal by Danish Standards.

(3) Danish Environmental Protection Agency determines the demands of submission of accounts, including setting the time-limit for accounts.

(4) Danish Standards hold at least one annual meeting with the Ecolabelling board on the enterprise of the Eco-label Schemes.

(5) Danish Standards can, with reference to the fulfilment of contract, appoint a consulting committee on maximum eight people, who are selected independently from authorities and special interest groups, and appointed due to their competences within the fields of business, economy, management, communication and marketing, environment and consumption, together with other areas of relevance. The Minister for Environment can appoint a member of the committee. The committee will draft its own order of business.

6. The tasks of Ecolabelling Denmark are to

- 1) function as secretariat for the eco-label board and implement the decisions made by the board, but not in cases according to section 36(1), no. 7, where the Danish Environmental Protection Agency acts as secretariat,
- 2) assist the eco-label board in negotiations and adoption of sets of criteria for the Nordic eco-label,
- 3) be in charge of the work with development and revision of sets of criteria for product groups within a Nordic framework,
- 4) assist the Danish Environmental Protection Agency with preparation of working plans for the European Eco-label Board and implementation of such working plans,
- 5) assist the Danish Environmental Protection Agency with preparation of new or revised set of criteria for product groups within the European eco-label,
- 6) arrange for a consultation with interested parties and independent experts as part of the development of criteria,
- 7) be in charge of the daily operation with regards to the processing of applications and awarding licenses for the European and the Nordic eco-label, and registration of importers of products of the Nordic eco-label, collection of fees, etc.,
- 8) verify the license or registration-holder's fulfilment of the criteria in force, including withdrawal of a license or registration for use of the European and the Nordic eco-label,
- 9) supervise and respond to wrongful use of the European and the Nordic eco-label,

- 10) market the European and the Nordic eco-label and arrange campaigns and other information activities,
- 11) ensure that the rules in force of the European and Nordic eco-label, including fee rates, are always available on the homepage of Ecolabelling Denmark www.ecolabel.dk.

PART 4

The eco-label board

7. The Minister for Environment and Energy will set up an eco-label board.

(2) The object of the eco-label board is to promote the European and Nordic eco-label. The eco-label board must contribute in assuring that the manufacturers, importers, retailers, etc., including professional buyers and private consumers, gain familiarity with the European and Nordic eco-label. The eco-label board shall, moreover, ensure that the Schemes are developed on a professionally, technically and environmentally high level in accordance with existing and new knowledge of the environment, and to increase the turnover of eco-labelled products.

8. The eco-label board consists of a chairman and up to ten other members, including a potential vice-chairman, cf. article 5. The chairman and the members are appointed by the Minister for Environment and Energy who shall also appoint deputies for all members. Efforts will be made to compose the board so that it shall have versatile knowledge of trade and commerce, technology, environment, labour environment and consumer information. The aim is to have equal representation of both trade and industry and environmental and consumer interests. The following organizations and authorities thus recommend as follows:

- 1) The Confederation of Danish Industry nominates one member and one deputy,
- 2) The Danish Chamber of Commerce nominates one member and one deputy,
- 3) The Danish Society for Nature Conservation nominates one member and one deputy,
- 4) The Danish Consumer Council nominates one member and one deputy,
- 5) LO-Denmark nominates one member and one deputy,
- 6) National Procurement Ltd. - Denmark (SKI) nominates one member and one deputy,
- 7) The Ministry of Economic and Business Affairs Denmark nominates one member and one deputy,
- 8) The Ministry of Climate and Energy nominates one member and one deputy,
- 9) The Danish Ministry of the Environment nominates one member and one deputy,

(2) The Minister for Environment and Energy appoints a retail chain with an active eco-label policy to nominate one member and one deputy.

(3) The Ministry of Employment participates with one representative without voting right in the meetings of the board.

(4) The Minister for Environment and Energy can appoint as much as four organisations for participation in the board's work, without a vote, after nomination from the board.

(5) The Minister for Environment and Energy can for one year after nomination by the chairman of the board appoint a deputy chairman, after nomination from the board.

(6) The chairman shall be independent of authorities and trade organizations.

(7) The chairman of the board, the deputy chairman and members appointed according to section 2 and 5, are all appointed for a term of 3 years. Re-appointment may take place.

(8) The Minister for Environment and Energy is exempt from the abovementioned rules.

9. The tasks of the eco-label board are to

- 1) lay down the mandate of the board for negotiations of criteria and guidelines for the Nordic eco-label,
- 2) negotiate about the Nordic eco-label according to the board's mandate on behalf of Denmark by the chairman or his deputy,
- 3) evaluate sets of criteria and advise the Danish Ministry of the Environment about negotiation mandate for the European eco-label,
- 4) promote the co-ordination between the European and the Nordic eco-label,
- 5) make recommendations to Ecolabelling Denmark and Danish Standards about on issues of principle concerning administration of the eco-label Schemes, e.g. listing priorities with regard to product groups, communication, marketing, monitoring strategies, etc.,
- 6) consider and make final decisions of complaints about decisions made by Ecolabelling Denmark,
- 7) consider and make recommendations to Ecolabelling Denmark with regards to fix the fees or make drafts for an annual action plan for eco-label work.

PART 5

The fixing, billing and administering of fees for the European and the Nordic eco-label

10. Within the framework of the rules mentioned in section 2 (2), and after a hearing by the eco-label board, Ecolabelling Denmark fix the price of a fee and the conditions relating, regarding payment of said fees in connection with application for and use of the European and the Nordic eco-label. In accord to this, Ecolabelling Denmark can determine a fee for processing a request about an extension or changes in an existing license.

(2) The increasing and introducing of fees according to section 1 must be approved by the Minister for Environment and Energy, before these can be enforced.

(3) Ecolabelling Denmark collects fees for late payment of annual fees according to the rules set in the Environmental Protection Act, section 88 (3), and furthermore determines a separate fee for reminders on annual statements and on payment of fees.

(4) Ecolabelling Denmark will allow a discount on fees fixed according to section (1) and (2), within the framework of the rules mention in section 2.

(5) Rates of fees and conditions for payment must be released for publication on Ecolabelling Denmark's homepage www.eco-label.dk and will be in force from the beginning of the day following the day in which it was made public on the homepage of Eco-labelling Denmark, www.ecolabel.dk. Every publication on the homepage www.ecolabel.dk must contain the date of publication.

(6) To existing license-holders the higher rates of annual fees and new payment conditions will take effect three months from the date of publication according to section (5).

11. Ecolabelling Denmark collect fees fixed according to section 10.

(2) The proceeds from the fees are spent in accordance with article 8 (4) in the Environmental Protection Act, which is developed further in the existing performance contract with Ecolabelling Denmark and Danish Standards.

PART 6

Marketing of Eco-labels and of Nordic Eco-labelled products.

12. The use of any label or logo which may lead to confusion with the Nordic Ecolabel is not allowed.

(2) The use of false or in any other way misleading advertising of the Nordic Ecolabel or of Nordic ecolabelled products is not allowed, provided that the intension is to markedly twist the consumers or other professionals financial behaviour on markets, cf. the Marketing Practices Act, section 3.

(3) Reference to the Nordic eco-label or use thereof in advertisements etc. is only allowed in connection with a certain product, and only if the brand has been awarded a license or has a registered licence and this registration has not expired, terminated or withdrawn.

(4) The Danish Environmental Protection Agency will supervise the marketing of Ecolabelling Denmark's European and Nordic Eco-label.

PART 7

Opportunity for complaining

13. The decisions made by Ecolabelling Denmark according to this Statutory Order, and according to the European and Nordic rules, may be brought before the eco-label board by the addressee of the decision.

(2) A complaint shall be made in writing to Ecolabelling Denmark within four weeks of notification of the decision. Immediately after the expiry of the deadline for complaints, Ecolabelling Denmark will send the complaint to the eco-label board accompanied by the decisions complained of and the material included in the evaluation of the case.

14. Decisions made by the eco-label board cannot be brought before another administrative authority.

PART 8

Penalties

15. Unless heavier penalty is due pursuant to other legislation, the punishment for the following infringements shall be a fine for:

- 1) use of any label which may lead to confusion with the Nordic eco-label,
- 2) use of false or misleading advertising of the Nordic eco-label, cf. article 9(2),
- 3) use of or reference to the European or Nordic eco-label although no license has been issued on the product or the product is not registered in Denmark, cf. article 9 of Regulation of European Parliament and of the Council (EC) No. 1980/2000, and section 3 and 5 conversely in the Regulation of the Council of 12 December 2001 for the Nordic ecolabelling of products, or

4) use of any label or logo which may lead to confusion with the Community eco-label, cf. article 9(2) of Regulation of European Parliament and of the Council (EC) No. 1980/2000.

(2) Criminal liability may imposed on companies, etc. (legal persons) in accordance with the rules of Part 5 of the Danish Criminal Code.

PART 9

Entry into force

16. This Statutory Order enters into force on April 27, 2008,

(2) On 27 April 2008, Statutory Order No. 700 of 27 June 2001 on the European and the Nordic Eco-labels shall be repealed.

17. The decisions, including decisions regarding licenses awarded or registrations made according to Statutory Order No. 700 of 27 June 2001 on the European and the Nordic Eco-labels, and performance contracts made before April 27, 2008 maintain their validity². Any violation of such decisions is punishable by the existing rules in force till now.

(2) Pending complaint cases regarding eco-labels that were lodged with the eco-label board before the entry into force of this Statutory Order shall be finalised in accordance with the existing rules.

(3) Fees according to section 3 and section 7 in Statutory Order No. 700 of 26 June 2001 shall keep their validity until new fees are in force according to article 10, section 6 in this Statutory Order.

Danish Ministry of the Environment

April 18, 2008

TROELS LUND POULSEN

This document is an unofficial translation of the original in Danish. In case of dispute, the original document should be taken as authoritative.

¹ European Parliament and of the Council of 17 July 2000 (EC) No. 1980/2000 on a revised Community eco-label award Scheme, passed in accordance herewith, and the rules for the Nordic eco-label by the Nordic Eco-label board, in accordance with the Nordic Council of Ministers' directions of 19 June 2001.

² European Parliament and of the Council Regulation (EC) No. 1980/2000 of 17 June 2000, EFT L 237, 21.9.2000,s.1