STATUTORY ORDER FROM
THE MINISTRY OF ENVIRONMENT AND FOOD
No. 680 of 19 May 2020 on
the European ecolabel “Flower”
and the Nordic ecolabel “Swan”

Pursuant to articles 8 (1-3 + 6), 8a (2), 8b, 67, 88 (3), 89a (1-3) and 110 (3) of the Danish Environmental Protection Act, cf. Consolidation act No. 1218 of 25 November 2019, and article 1 (3) of the Danish Public Administration Act, cf. Consolidation act No. 433 of 22 April 2014, and according to negotiation with the Minister of Justice, the following provisions are laid down:

PART 1
Scope, etc.

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

(2) The European ecolabel “Flower” and the Nordic ecolabel “Swan” are voluntary ecolabel scheme on the subject of ecolabelling products. The term “products” include goods and services.

PART 2
Administration of the European and Nordic ecolabel

2. Administration of the ecolabel schemes are conducted by Ecolabelling Denmark and an ecolabelling board.

(2) The schemes are managed based on:
   1. the European and Nordic rules for organization at all times
   2. rules stipulated in this statutory and
   3. fees and terms of payments fixed according to article 11.

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

(4) The rules of the Nordic Ecolabelling Board about the Nordic ecolabel, including criteria for awards for the Nordic ecolabel, 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 Ministry of Environment and food are the competent bodies in Denmark, in accordance with the European Parliament and the Council’s regulation on the European ecolabel.

(2) Ecolabelling Denmark is responsible for carrying out the tasks in connection with awarding the European ecolabel and supervising in compliance with European Parliament and the Council’s regulation on the European ecolabel.
(3) Ecolabelling Danmark is the responsible body in accordance with article 5 in the Nordic Council of Ministers decision on goals and principals for Nordic Ecolabelling of 22 October 2014, and the rules which at all times applies for Nordic Ecolabelling, as declared by the Nordic Ecolabelling Board.

4. The Danish Public Administration Act applies to cases where there is or will be decided by Ecolabelling Denmark.

**PART 3**

*Ecolabelling Denmark*

5. The Ministry of Environment and food enters a performance contract with Danish Standards, concerning the workings of Ecolabelling Denmark, which is a separate area in Danish Standards.

(2) The Ministry of Environment and food 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) The Ministry of Environment and food determines the demands of submission of accounts, including setting the time-limit for accounts.

6. The tasks of Ecolabelling Denmark are to

1) function as secretariat for the Ecolabelling Board and implement the decisions made by the board, but not in cases according to article 9 (6), where The Ministry of Environment and food acts as secretariat,
2) assist the Ecolabelling Board in negotiations and adoption of sets of criteria for the Nordic ecolabel,
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 Ministry of Environment and food with preparation of working plans for the European Ecolabelling Board and implementation of such working plans,
5) assist the Ministry of Environment and food with preparation of new or revised set of criteria for product groups within the European ecolabel,
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 ecolabel, and registration of importers of products of the Nordic ecolabel, collection of fees, etc.,
8) verify the license or registration-holder’s fulfilment of the criteria in force, conditions of use, including withdrawal of a license or registration for use of the European and the Nordic ecolabel,
9) supervise and respond to wrongful use of the European and the Nordic ecolabel,
10) market the European and the Nordic ecolabel and arrange campaigns and other information and network activities to promote the ecolabels, and
11) ensure that the rules in force of the European and Nordic ecolabel, including fee rates, are always available on the homepage of Ecolabelling Denmark www.ecolabel.dk.
PART 4
The ecolabelling board

7. The Minister for Environment will set up an ecolabelling board.

(2) The object of the Ecolabelling Board is to promote the European and Nordic ecolabel. The Ecolabelling Board must contribute to assuring that the manufacturers, importers, retailers, etc., including professional buyers and private consumers, gain familiarity with the European and Nordic ecolabel. The Ecolabelling 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 ecolabelled products.

8. The Ecolabelling Board consists of a chairman and up to 10 members. The chairman and the members are appointed by the Minister for Environment 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, communication and marketing, technology, environment, labour environment, consumer information, and public procurement. 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 1 member and 1 deputy,
   2) The Danish Chamber of Commerce nominates 1 member and 1 deputy,
   3) The Danish Society for Nature Conservation nominates 1 member and 1 deputy,
   4) The Danish Consumer Council nominates 1 member and 1 deputy,
   5) Danish Trade Union Confederation nominates 1 member and 1 deputy,
   6) National Procurement Ltd. - Denmark (SKI) nominates 1 member and 1 deputy,
   7) The Ministry of Industry, Business and Financial Affairs nominates 1 member and 1 deputy,
   8) The Ministry of Climate, Energy and Utilities nominates 1 member and 1 deputy,
   9) The Ministry of Environment and food nominates 1 member and 1 deputy,

(2) The Minister for Environment appoints a retail chain with an active ecolabel policy to nominate 1 member and 1 deputy.

(3) The Ministry for Employment participates with 1 representative without voting right in the meetings of the board.

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

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

(6) The chairman of the board and the member appointed according to (2) are both appointed for a term of 3 years. Re-appointment may take place.

(7) The Minister for Environment can exempt from the abovementioned rules.

9. The tasks of the Ecolabelling Board are to
   1) lay down the mandate of the board for negotiations of criteria and guidelines for the Nordic ecolabel,
   2) negotiate about the Nordic ecolabel according to the board’s mandate on behalf of Denmark by the chairman or his deputy,
3) evaluate sets of criteria and advise the Ministry of Environment and food about negotiation mandate for the European ecolabel,
4) promote the co-ordination between the European and the Nordic ecolabel,
5) make recommendations to Ecolabelling Denmark and Danish Standards on issues of principle concerning administration of the ecolabel schemes, e.g. listing priorities regarding 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, and
8) submit an annual report on the work with the ecolabels, including the development of the number of ecolabelled products and the knowledge to the ecolabels. The report is to be published on Ecolabelling Denmark’s website www.ecolabel.dk.

10. Ecolabelling Denmark is obliged to comply with the rules of procedures set out in Annex 1.

PART 5

The fixing, billing, and administering of fees for the European and the Nordic ecolabel

11. Within the framework of the rules mentioned in article 2 (2), and after a hearing by the Ecolabelling 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 ecolabel. 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 and 3 must be approved by the Minister for Environment, before these can be enforced. Ecolabelling Denmark can however, without approval of the Minister for Environment, annually from January 1st price and salary adjust fees. The adjustment of price and salary is calculated based on the Ministry of Finance’s general price and salary index as one year’s development for the first time on January 1st, 2021.

(3) Ecolabelling Denmark collects fees for late payment of annual fees according to the rules set in the Environmental Protection Act, article 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 article 2 (2).

(5) Rates of fees and conditions for payment must be released for publication on Ecolabelling Denmark’s homepage www.ecolabel.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 Ecolabelling Denmark, www.ecolabel.dk. Every publication on the homepage www.ecolabel.dk must contain the date of publication.

(6) For existing license holders the higher rates of annual fees and new payment conditions will take effect on the date it was made public on the homepage of Ecolabelling Denmark www.ecolabel.dk. Higher rates of annual fees and new payment conditions will be in force no earlier than 3 months from the date of publication according to section (5).
12. Ecolabelling Denmark collect fees fixed according to article 11.

(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 the Ministry of Environment and food and Danish Standards.

**PART 6**

*Marketing of ecolabels and of Nordic Swan ecolabelled products.*

13. 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, article 3.

(3) Reference to the Nordic ecolabel 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 Ministry of Environment and food will supervise the marketing of Ecolabelling Denmark’s European and Nordic ecolabel.

**PART 7**

*Opportunity for complaining*

14. The decisions made by Ecolabelling Denmark according to this Statutory Order, and according to the European and Nordic rules, may be brought before the Ecolabelling Board by the addressee of the decision.

(2) A complaint shall be made in writing to Ecolabelling Denmark within 4 weeks of notification of the decision. Immediately after the expiry of the deadline for complaints, Ecolabelling Denmark will send the complaint to The Ministry of Environment and food, that acts as a secretariat for the Ecolabelling Board, accompanied by the decisions complained of and the material included in the evaluation of the case.

15. Decisions made by the Ecolabelling Board cannot be brought before another administrative authority.

**PART 8**

*Penalties*

16. 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 ecolabel, cf. article 13 (1),
2) use of false or misleading advertising of the Nordic ecolabel, cf. article 13 (2), or
3) use of or reference to the Nordic ecolabel although no license has been issued on the product or the product is not registered in Denmark, cf. section 13 (3)
(2) Criminal liability may impose on companies, etc. (legal persons) in accordance with the rules of Part 5 of the Danish Criminal Code.

**PART 9**

*Entry into force*

17. This Statutory Order enters into force on 1 July 2020.

(2) Statutory Order No. 447 of 23 April 2010 on the European and the Nordic ecolabels shall be repealed.

(3) Statutory Order No. 34 of 19 January 1998 on rules of procedures for the Ecolabelling Board shall be repealed.

18. The decisions, including decisions regarding licenses awarded or registrations made according to Statutory Order No. 274 of 18 April 2008 on the European and the Nordic ecolabels, and performance contracts made before 1 May 2010 maintain their validity. Any violation of such decisions is punishable by the existing rules in force till now.

(2) The decisions, including decisions regarding licenses awarded or registrations made according to Statutory Order No. 447 of 23 April 2010 on the European and the Nordic ecolabels, and performance contracts made before 1 July 2020 maintain their validity. Any violation of such decisions is punishable by the existing rules in force till now.

19. Pending complaint cases regarding ecolabels that were lodged with the Ecolabelling Board before the entry into force of this Statutory Order shall be finalised in accordance with the existing rules.

(2) Fees according to chapter 5 in Statutory Order No. 274 of 18 April 2008 shall keep their validity until new fees are in force according to article 11 (6) in this Statutory Order.

(3) Fees according to chapter 5 in Statutory Order No. 447 of 23 April 2010 shall keep their validity until new fees are in force according to article 11 (6) in this Statutory Order.

20. Members of the Ecolabelling Board appointed before 1 July 2020 will continue as members of the board by the entry into force of this Statutory Order

*Ministry of Environment and food*

*Denmark, 19 May 2020*

*Lea Wermelin*

*This document is an unofficial translation of the original in Danish. In case of dispute, the original document should be taken as authoritative.*
Annex 1

Rules of procedures for Ecolabelling Denmark, cf. article 10

The overall framework for the Ecolabelling Board

1. The Ecolabelling Board is composed as described in article 8.

2. The Ecolabelling Board is obliged to comply the rules of procedures, cf. article 10 in the Statutory Order.

   Resilience and voting rules

3. The Ecolabelling Board is resilience when as a minimum half of the members or deputies are present. It is not possible to use proxy.

4. The aim is to reach utmost agreement on the decisions. Each member has one vote in case of a voting. Decisions are taken by simple majority. The Chairman shall be the vote decisive in the event of an equality of votes. In case of a voting the number of votes and dissenting views is noted in the summary.

5. The chairman directs and organizes the work and the meetings of the Ecolabelling Board.

   (2) The Ecolabelling Board choose a replacement to lead the meeting if the chairman is prevented from attending due to absence or incompatibility.

Meetings

6. Meeting for the year, will be set at the beginning of the year.

   (2) Extra meetings can be scheduled as needed. Such extraordinary meetings must be convened with a notice as long as possible.

7. If it is not possible for neither member nor deputy to attend a meeting, written comments prior to a meeting may be forwarded. The other members may include such views in their own assessments in connection with the board’s decisions. Forwarded views may be noted at request in an appendix to the summary. Written comments should be forwarded no later than 2 working days before the meeting.

8. No longer than 5 working days before each meeting Ecolabelling Denmark sends out the agenda with associated annexes. The agenda is agreed by the chairman together with Ecolabelling Denmark.

9. No later than 5 working days before a meeting member of the board may send proposal for items to the agenda to the chairman and Ecolabelling Denmark. At the meeting, a decision will be made whether the proposal is urgent, or it will be addressed at a later meeting.

10. The first item at each meeting is the approval of the final agenda.

11. Over all agenda and material for consideration of proposals for establishing a Danish mandate for a meeting in Nordic Ecolabelling Board must be available for the Ecolabelling Board no later than 10 working days before the meeting.
12. Employees in Ecolabelling Danmark may attend the board meetings, however without voting rights.

13. The meetings of the Ecolabelling Board are not public. However, the board may invite experts or representatives for particularly concerned interests to attend a board meeting without voting right.

14. Ecolabelling Denmark takes summery of the board meetings and administers an action plan, where status of current and deferred items is listed. A draft of the summary together with updated action list are sent to the members after the meeting. Any comments should be sent to Ecolabelling Denmark as well to the other members of the board no later than 10 working days of receipt. If necessary, Ecolabelling Denmark will forward a corrected summery. The summery will be approved at the following meeting. In case of any comments related to the approval these will be noted in the summary of the meeting in question.

15. The summary must be available no later than 3 weeks after the meeting. The progress of the meetings in the Nordic Ecolabelling Board will be a part of this summary.

Legal capacity and professional secrecy

16. Everyone participating in the work of the board is subject to the rules of the Danish Public Administration Act, including the provisions on professional secrecy and legal incapacity.

(2) Any board member shall notify the chairman and the rest of the board when situations arise which could give rise to legal incapacity, including matters of doubt.

(3) The board decides whether a member of the board has such an interest in a matter, that they must be excluded from taking part of the proceedings, cf. the Danish Public Administration Act. The member in question will not take part in this decision.

(4) The summary of the meeting shall state the position of the board in legal incapacity.

17. The Ecolabelling Board must inform persons invited to participate in the meeting of the Ecolabelling Board, cf. article 13, on the applicable rules of professional secrecy and legal capacity and the obligation to draw attention to circumstances that may justify legal incapacity.

18. All confidential material, including business secrets and any personal data protected material, held by the members of the Ecolabelling Board in its capacity as a member of the Ecolabelling Board, must be shred at the termination of the board or deleted if the material is stored in electronic form.