

ACT

of 4 December 2001

on Packaging and Amendments of Some Related Acts (Act on Packaging)

Parliament has passed the following Act of the Czech Republic:

PART ONE
ACT ON PACKAGINGCHAPTER I
GENERAL PROVISIONS

Section 1

Purpose and Object of the Act

(1) The purpose of this Act is to protect the environment by preventing the incidence of packaging waste, in particular, by reducing the weight, volume, and harmfulness for the environment of packaging and chemical substances¹⁾ (hereinafter referred to as 'substances') contained in the packaging in accordance with European Community law.²⁾ This Act stipulates the rights and obligations of legal and natural persons carrying on business activities (hereinafter referred to as a 'person') and the competence of administrative authorities concerning packaging management, the placing of packaging and packaged products on the market or into circulation, and the return and recovery system; it also stipulates fees and protective measures, remedy measures, and penalties.

(2) This Act applies to the management of all packaging which is placed on the market or into circulation in the Czech Republic, with the exception of containers used in road, railway, or air transport or in sea or inland waterway transportation pursuant to international conventions which are binding upon the Czech Republic and which are published in the Official Journal of International Conventions or in the Collection of Laws.³⁾

(3) Unless stipulated otherwise by this Act, packaging waste management shall be governed by the legislative regulations in force for waste management.⁴⁾

(4) Other requirements concerning packaging stipulated by separate legislative regulations shall not be affected by this Act.⁵⁾

¹⁾ Act No. 157/1998 Coll., on Chemicals and Chemical Substances, in the wording of later regulations.

²⁾ European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste.

³⁾ Convention on international railway transport (COTIF), published in the Collection of Laws under No. 8/1985 Coll.

Convention on International Civil Aviation, published in the Collection of Laws under No. 147/1947 Coll.

European Convention on International Road Transport of Dangerous Substances, published in the Collection of Laws under No. 64/1987 Coll.

⁴⁾ Act No. 185/2001 Coll., on Waste and amendments of Some Related Acts.

⁵⁾ E.g. Act No. 22/1997 Coll., on Technical Requirements on Products and changes and amendments of some related acts, in the wording of later regulations, Act No. 157/1998 Coll., on Chemicals and Chemical Agents, in the wording of later regulations, Act No. 79/1997 Coll., on Pharmaceuticals and changes and amendments of some related acts, in the wording of later regulations, Act No. 167/1998 Coll., on Addictive Substances

Section 2 Definitions

For the purposes of this Act:

a) packaging shall mean any product made of any material or of any nature to be used for the containment of a single product or a certain number of products or for the protection or fixation of products or for the handling of products or for facilitating the handling thereof or for placing products into circulation or for the delivery thereof to the consumer⁶⁾ or for the presentation, display or offer of products to the consumer where the packaging is also intended for:

1. the immediate protection of an individual product or group of products which constitutes an inseparable part of an offer to the consumer at the point of purchase (hereinafter referred to as a 'sales unit') and for the sale of this sales unit (hereinafter referred to as 'consumer packaging'); or

2. the grouping of a certain number of sales units at the point of purchase irrespective of whether it serves for the sale of the grouping to the consumer in this form or whether it serves as a means to replenish the products on offer at the point of purchase, and can be removed from the product without affecting its characteristics (hereinafter referred to as 'grouped packaging'); or

3. facilitating the handling of sales units or grouped packagings or for facilitating the transportation thereof in order to prevent physical handling of sales units or grouped packagings and to prevent damage thereto during transport (hereinafter referred to as 'transport packaging');

b) product shall mean any item manufactured, extracted, or acquired otherwise, irrespective of the level of its processing, which is intended to be placed on the market or into circulation;

c) packaging management shall mean packaging manufacturing, placing packaging or packaged products on the market or into circulation, and the use, adjustment and reuse of packaging;

d) marketing of packaging shall mean the moment when the packaging, whether alone or together with a product, is delivered or offered for delivery with or without charge in the Czech Republic for the first time for the purposes of distribution or use or when the ownership rights related to the packaging are transferred for the first time; the import of packaging shall also be considered marketing of packaging or a packaged product;

e) placing packaging into circulation shall mean the delivery to another person of packaging with or without charge, alone or together with a product, for the purposes of distribution or use, with the exception of cases of packaging marketing;

f) the import of packaging or a packaged product shall mean the release of the packaging into the free circulation regime or into the regime of inward processing⁷⁾,

g) packaging reuse shall mean any operation whereby packaging which has been conceived and designed to accomplish a minimum number of trips or rotations within its life cycle (hereinafter referred to as 'reusable packaging') is refilled or used for the same purpose for which it was conceived,

and amendments of some related acts, in the wording of later regulations, Act No. 258/2000 Coll., on Public Health Care and amendments of some related acts, Act No. 18/1997 Coll., on Peaceful Utilization of Nuclear Energy and Ionizing Radiation (the Nuclear Act) and changes and amendments of some related acts, in the wording of later regulations.

⁶⁾ Act No. 634/1992 Coll., on Consumer Protection, in the wording of later regulations.

⁷⁾ Act No. 13/1993 Coll., the Customs Act, in the wording of later regulations.

with or without the support of auxiliary products enabling that the packaging be refilled, such as, in particular, replacement refills and means for their use;

h) returnable packaging shall mean packaging for which a method of returning used packaging to the person which places it into circulation exists which is conceived specifically for this packaging;

i) return shall mean collection of used packaging from consumers in the territory of the Czech Republic for the purposes of reuse of packaging or for the purposes of recovery⁴⁾ or disposal ⁴⁾ of packaging waste.

CHAPTER II ESSENTIAL OBLIGATIONS APPLICABLE TO PACKAGING AND PACKAGING WASTE MANAGEMENT

Section 3 **Prevention**

(1) A person who places packaging on the market shall ensure that the packaging volume and weight be limited to the minimum possible amount while respecting the requirements placed on a packaged product and while maintaining the product's acceptability for the consumer in order to reduce the amount of packaging waste which is to be disposed of.

(2) The procedure for defining the minimum weight and volume of packaging shall be stipulated by an implementing decree.

Section 4 **Conditions of Placing Packaging on the Market**

(1) The person who places packaging or a packaged product on the market shall be obligated ensure that

a) the concentration levels of substances specified in the List of Classified Hazardous Chemical Substances⁸⁾ as constituents of the packaging material shall comply with the limits for these substances stipulated by separate legislative regulations⁹⁾, with respect to the presence of these substances in emissions, ash or leachate in cases where packaging waste is incinerated or landfilled;

b) the sum of concentration levels of lead, cadmium, mercury and hexavalent chromium present in packaging or packaging components shall not exceed the limit stipulated by an implementing decree;

c) packaging, after being used for the purpose for which it is designed and after the removal of the product or all its residues in a usual manner, shall be reusable, or that the packaging waste shall be recoverable under usual conditions by at least one of the following methods:

⁸⁾ Act No. 157/1998 Coll., on Chemicals and Chemical Agents, in the wording of later regulations. Government Decree No. 25/1999 Coll., which Defines the Procedure of Evaluating the Danger of Chemicals and Chemical Agents, the Method of Their Classification and Marking and Publishes the List of Existing Classified Dangerous Chemicals.

⁹⁾ E.g. Act No. 309/1991 Coll., on Air Pollution Control (the Act on Air), in the wording of later regulations, Act No. 254/2001 Coll., on Waters and Amendments of Some Related Acts (the Water Act), Act No. 185/2001 Coll., on Waste and Amendments of Some Related Acts.

1. a process where packaging waste or its residues and other substances, if appropriate, are reprocessed into a product or raw material (hereinafter referred to as 'recycling'),
2. direct incineration, with or without other waste, where energy is generated through combustion and the heat generated is used (hereinafter referred to as 'energy recovery');
3. aerobic or anaerobic treatment, under controlled conditions and using micro-organisms, of the biodegradable parts of packaging waste, which produces stabilized organic residues or methane (hereinafter referred to as 'organic recycling'); landfill shall not be considered a form of organic recycling.

(2) The provisions of subsection (1)(c) shall not affect the provisions applicable to waste management pursuant to a separate legislative regulation⁴⁾.

(3) The manner of evaluating the concentration level of substances stipulated in subsection (1)(a) in the packaging shall be specified by an implementing decree.

(4) The manner of evaluating packaging recoverability shall be specified by an implementing decree.

Section 5

Certificate of the Fulfilment of Requirements to Place Packaging on the Market

(1) A person who places packaging on the market shall draw up a certificate in writing that the obligations stipulated in Sections 3 and 4 had been fulfilled when the packaging was placed on the market, and shall deliver this declaration to the person who shall place the packaging into circulation. A certificate specimen constitutes a part of Annex 1 to this Act.

(2) The person who places the packaging into circulation shall take receipt of the certificate under subsection (1).

(3) The person who places the packaging on the market or into circulation shall submit the certificate under subsection (1) on request to control bodies for inspection (Sections 35 to 41).

(4) In the case of registered pharmaceutical products¹⁰⁾, the person issuing the certificate under subsection (1) shall also deliver this certificate to the holder of the registration decision¹⁰⁾ or to the holder's authorized representative¹⁰⁾, if the holder of the decision does not have permanent residence or his seat in the Czech Republic.

(5) The obligations stipulated in subsections (1) and (2) shall not apply to packaging which is to be taken delivery of by pharmacies, other health care institutions or dealers of selected pharmaceuticals¹⁰⁾; nevertheless, the certificate shall be provided on request.

(6) The certificate under subsection (1) shall not be issued for pharmaceutical products prepared in a pharmacy or in the nuclear medicine departments of health care institutions, transfusion products manufactured in transfusion departments, and non-registered pharmaceutical products prescribed by physicians¹⁰⁾.

¹⁰⁾ Act No. 79/1997 Coll., on Pharmaceuticals, in the wording of later regulations.

Section 6 **Packaging Marking**

(1) A person who places packaging or a packaged product on the market or into circulation shall ensure that the following is marked on the packaging or packaged product, or on the label thereof, when the packaging is placed into circulation by sale to the consumer:

- a) the material (substance) from which the packaging is manufactured; and
- b) how to handle the used packaging.

(2) The marking under subsection (1) must be clearly visible and easily legible. The marking shall be appropriately durable and lasting, including when the packaging is opened.

(3) The extent and manner of packaging marking pursuant to subsections (1) and (2) shall be stipulated by an implementing decree.

Section 7 **Reusable Packaging**

(1) A person who places on the market or into circulation products the packaging of which is reusable shall adopt organizational, technical, or financial measures complying with the criteria stipulated in Annex 2 to this Act and which enable the reuse of the packaging.

(2) The formalities of these measures and the method and procedure applied to the reuse of packaging shall be stipulated by an implementing decree.

Section 8 **Returnable Packaging**

A person who places on the market or into circulation packaged products the packaging of which is returnable shall ensure the reuse of the packaging pursuant to item B.1 or B.2 of Annex 2 to this Act, or packaging waste recovery pursuant to Section 12.

Section 9 **Returnable Deposit Packaging**

(1) If the measure pursuant to Section 8 includes payment of a specific financial deposit (hereinafter referred to as 'deposit') which is directly related to a returnable packaging used when selling a product and the refund of which on return of this packaging is guaranteed to the buyer on purchase of the product, this packaging shall be considered a returnable deposit packaging pursuant to this Act.

(2) Persons shall adhere to the deposit amount applicable to returnable deposit packaging specified by an implementing decree.

(3) A person who places on the market products in returnable deposit packaging shall mark the packaging as returnable deposit packaging in the manner specified by an implementing decree.

(4) A person who places on the market or into circulation products in returnable deposit packaging shall repurchase the returnable deposit packaging without any quantity limitation and without conditioning the refund on the purchase of goods.

(5) A person who places on the market or into circulation products in returnable deposit packaging by selling them to the consumer in an outlet¹¹⁾ shall ensure that the returnable deposit packaging is repurchased in this outlet at any time during its working hours.

(6) A person who places on the market or into circulation products in returnable deposit packaging in a manner other than by selling them to the consumer shall inform the persons who shall place products in this packaging on the market or into circulation by selling them to the consumer of any changes being prepared in the type of returnable deposit packaging or of the termination of refunds for the returnable deposit packaging at least 6 months prior to enforcing this change or terminating refunds; the refund of returnable deposit packaging may not be suspended during this period.

(7) Should a person who placed on the market or into circulation returnable deposit packaging announce that he is ceasing to use the hitherto returnable deposit packaging, he shall collect this returnable deposit packaging under the conditions valid for this hitherto returnable deposit packaging for a minimum period of 1 year as of the last placing of this packaging on the market or into circulation.

(8) The provisions of separate legislative regulations⁶⁾ shall not be affected by the provisions of subsections (3) to (7).

(9) An implementing decree shall stipulate the amount of the deposit for selected types of returnable deposit packaging or for returnable deposit packaging intended for selected types of products.

(10) A person who puts into circulation beverages¹²⁾ in packaging which is not returnable deposit packaging shall offer identical beverages also in returnable deposit packaging, provided these beverages are placed on the market in such packaging. This obligation shall not apply to persons placing these beverages into circulation on retail premises of an area smaller than 200 m².

Section 10

Return

(1) A person who places on the market or into circulation packaging or packaged products shall ensure the return of the packaging or this packaging waste. This person shall ensure recovery directly from the consumer without making a charge for such return. This person shall ensure, especially, that there is a sufficient number of collection points and that they are accessible to consumers.

(2) Persons who place on the market or into circulation products by selling them to consumers and authorized packaging companies (Section 16) within the scope stipulated in a decision on authorization (Section 17) shall inform customers and consumers of the manner in which they ensure collection pursuant to subsection (1).

Section 11

Packaging for the Transport of Hazardous Products

(1) With respect to packaging for the transport of hazardous products¹³⁾, the person who first filled the packaging with the hazardous product or placed into circulation this packaging filled with a hazardous

¹¹⁾ Section 17(1) of Act No. 455/1991 Coll., on Trade Licences (the Trade Licensing Act), as amended by Act No. 237/1995 Coll., Act No. 280/1995 Coll., Act No. 286/1995 Coll. a Act No. 356/1999 Coll.

¹²⁾ Section 23(2) of Act No. 258/2000 Coll.

¹³⁾ Regulation No. 64/1987 Coll., on the European Agreement on International Road Transport of Dangerous Substances (ADR), as amended.

product shall ensure the withdrawal from circulation and from the market of any such emptied packaging and the recycling thereof.

(2) A manufacturer or importer of packaging intended for the transport of hazardous products shall ensure the withdrawal of such packaging from the market and the recycling thereof, provided this manufacturer or importer placed this packaging on the market and provided he is requested to do so by the person who, after the filling of this packaging with the hazardous product, withdraws the packaging from circulation when it has been emptied and carried out or ensured, at his own expense, the neutralization, decontamination, or deactivation of the interior of the packaging or its residues.

(3) The obligations arising from the provisions of this Act remain unaffected in the case of packaging which is not filled with a hazardous product.

Section 12 **Packaging Waste Recovery**

A person who places on the market or into circulation packaging or packaged products shall ensure that waste from packaging placed by this person on the market or into circulation is recovered within the scope stipulated by Annex 3 of this Act.

Section 13

(1) A person who places on the market or into circulation packaging shall meet the obligations stipulated in Sections 10 and 12:

- a) individually by organizational and technical measures at this person's account; or
- b) by transferring these obligations to a third person together with the transferral of the ownership rights to the packaging to which the obligations are related for the purposes of the repeated placing of the packaging into circulation, where the agreement on transferring the ownership rights explicitly stipulates; or
- c) by concluding an agreement with an authorized packaging company (Section 16) on providing the performance of obligations concerning the return and recovery of packaging waste pursuant to this Act (hereinafter referred to as 'agreement on associated performance').

(2) Should reusable packaging be placed on the market or into circulation whereby the organizational aspect of reuse is implemented in the manner under item B.1 or B.2 of Annex 2 to this Act, return and recovery shall be deemed to have been provided for this packaging if at least 55% of the weight of packaging newly placed on the market or into circulation is reused.

Section 14 **List of Persons**

(1) A person who places on the market or into circulation packaging or packaged products shall apply for registration in the List of Persons who are bound by the obligation relating to the return and recovery of packaging waste (hereinafter referred to as the 'List') in the scope pursuant to subsection (3).

(2) An application for entry in the List shall be submitted to the Ministry of the Environment in four hard copies in the Czech language and on a technical data carrier, or by electronic mail, within 60 days of the emergence of the obligation pursuant to subsection (1).

(3) The following particulars shall be contained in and attached to the application for entry in the List:

- a) the first name and surname, permanent registered address, location of business activity, identification number, and verified copy of a trade licence in the case of a natural person; should the natural person be listed in the Commercial Register, a statement from the Commercial Register issued no more than 3 months prior to the date of application shall also be attached;
- b) the commercial company or name, legal form, registered office, registration number, and statement from the Commercial Register issued no more than 3 months prior to the date of application in the case of a legal person;
- c) a description of how the return pursuant to Section 10(1) is to be ensured;
- d) the method applied to inform consumers pursuant to Section 10(2);
- e) a description of how the recovery of returned packaging waste pursuant to Section 12 is to be ensured;
- f) a receipt confirming payment of the registration fee [Section 30(1)].

(4) Should an applicant be a natural person residing outside the territory of the Czech Republic or a legal person with a registered office outside the territory of the Czech Republic, the application pursuant to subsection (1) may be submitted in the English language.

(5) Should the application fail to meet the formalities pursuant to subsections (2) and (3), the Ministry of the Environment shall demand that additional required information be supplied.

(6) The Ministry of the Environment shall enter the applicant in the List after receiving an application meeting all the formalities pursuant to subsections (2) and (3), and shall inform the applicant thereof in writing within 14 days of making the entry.

(7) A person entered in the List shall notify the Ministry of the Environment of any changes in the particulars submitted pursuant to subsection (3) within 14 days of their effectiveness. This person shall notify the Ministry of the Environment within the same time period that legal grounds for this person's being entered in the List have ceased to exist.

(8) On the basis of a notification pursuant to subsection (7) or on the basis of its own investigation, the Ministry of the Environment shall make a change to an entry in the List or shall delete from the List a person whose legal grounds for being entered therein cease to exist.

(9) The List is a public list. Anyone has the right to inspect it or make copies or excerpts therefrom.

(10) The obligation pursuant to subsection (1) shall not apply to a person who:

- a) has concluded an agreement on associated performance; or
- b) has placed packaging on the market or into circulation exclusively by sale to consumers, provided another person demonstrably fulfils the obligations pursuant to Section 10 and 12 in relation to all packaging placed by this person on the market or into circulation.

Section 15
Records

(1) A person obliged to apply for registration in the List pursuant to Section 14 shall:

a) keep records

1. of the quantity and characteristics of the packaging placed by this person on the market or into circulation and the quantity of returnable packaging therefrom;
2. of the quantity of returned packaging and the quantity of returnable packaging therefrom;
3. of the management of the returned used packaging; and shall report particulars from these records for the preceding calendar year to the Ministry of the Environment by 15 February;

b) verify the truthfulness of the particulars reported pursuant to letter (a) at the request of the Ministry of the Environment and/or the Czech Environmental Inspection Agency;

c) file documents with the particulars reported pursuant to letter (a) for a minimum period of 5 years.

(2) The Ministry of the Environment shall keep aggregate records of the particulars collected pursuant to subsection (1)(a). These aggregate records shall be open to the public; anyone has the right to inspect the records and to make copies and/or excerpts therefrom.

(3) The extent and manner of keeping records and reporting particulars from these records shall be stipulated by an implementing decree.

CHAPTER III
AUTHORIZED PACKAGING COMPANY

Section 16
Authorized Packaging Company

(1) An authorized packaging company (hereinafter referred to as 'authorized company') shall be a legal person with its seat in the Czech Republic, established in the form of a public limited liability company which has been awarded a decision on authorization pursuant to Section 17. For the purposes of this Act, authorization shall mean the competence to provide associated performance of the obligation to guarantee the return and recovery of packaging waste and to conclude agreements of associated performance for this purpose pursuant to Section 13(1)(c).

(2) Unless stipulated otherwise by this Act, the provisions of the Commercial Code¹⁴⁾ shall apply to an authorized company.

¹⁴⁾ The Commercial Code, in the wording of later regulations (the complete wording published under No. 63/2001 Coll.).

Section 17

Authorization to Provide Associated Performance

(1) A decision on authorization shall be issued by the Ministry of the Environment on the basis of an application submitted by a public limited liability company and after discussion of the issue with the Ministry of Industry and Trade and the Ministry of Agriculture.

(2) An application for the issue of an authorization decision shall be submitted to the Ministry of the Environment in 4 hard copies in the Czech language and concurrently on a technical data carrier. If the application is being submitted on behalf of an established company which has not yet been entered in the Commercial Register, the application shall be submitted by the founders thereof.

(3) An application for the issue of an authorization decision shall include the commercial name and seat of the public limited liability company which is applying for the issue of an authorization decision (hereinafter referred to as the 'applicant') and a complete list of the applicant's shareholders, including their share in the registered capital; the following documents shall be attached to the application:

- a) the articles of association of the public limited liability company;
- b) a statement from the Commercial Register issued no earlier than 7 days prior to the date the application is submitted, provided the company is already entered therein;
- c) the applicant's declaration that it meets the conditions stipulated in Section 20(4) and (9);
- d) the latest annual report, or the founder's deed or partnership agreement, if no annual report exists, and detailed information on the applicant's activities since its establishment;
- e) a project on associated performance which shall include, in particular, the following:
 1. a description of technical, organizational and financial measures which shall guarantee the associated performance, including particulars on whether cooperation with municipalities shall be used to provide associated performance;
 2. a specification of the type of packaging the applicant intends to provide associated performance for in the individual years the authorization decision is in force;
 3. the estimated number of concluded agreements on associated performance and the estimated quantity of packaging for which associated performance shall be ensured in the individual years the authorization decision is in force;
 4. the estimated quantity of packaging waste for which recycling, energy recovery, organic recycling and/or disposal shall be ensured in the individual years the authorization decision is in force;
 5. the proposed structure of packaging records and records of packaging waste;
 6. a detailed description of the estimated financial security for associated performance over the first year the authorization decision is in force and documents proving the authenticity of the financial security, in particular financial statements and a credit agreement where it is anticipated that credit shall be drawn on.

(4) An authorization decision shall be issued by the Ministry of the Environment on the basis of an assessment of the particulars given in the application and the documents attached thereto. An application for the issue of an authorization decision shall be rejected if any of the applicant's

shareholders fails to meet the requirements stipulated in Section 18 (1), (3) and/or (4) or if the applicant fails to meet the requirements stipulated in Section 20(1), (4) and/or (9).

(5) An authorization decision shall be granted for a fixed period up to a maximum of ten years, and shall not be transferable to another legal or natural person.

(6) An authorization decision include the following:

a) the commercial name, registration number, and seat of the public limited liability company for which the authorization decision is being issued;

b) the period for which the authorization decision shall remain in force;

c) types of packaging for which the authorized company shall be entitled to provide associated performance;

d) the required proportion of recovery and recycling, or energy recovery and organic recycling of waste out of the total amount of packaging placed on the market or into circulation by persons who have concluded an agreement on associated performance with the authorized company; these requirements may be specified differently for the individual years the authorization decision is in force; the basis for the appointment of these requirements shall be the waste management plan pursuant to a separate legislative regulation⁴;

e) requirements concerning the manner in which the records pursuant to Section 23 are to be kept and reported;

f) requirements concerning the reporting of information to consumers on their role in contributing to the return and recovery of packaging waste.

(7) The force of an authorization decision may be renewed provided the authorized company applies for renewal at least 1 year prior to the expiry of the force of the authorization decision. The provisions of subsections (1) to (6) shall apply mutatis mutandis to the proceedings for the renewal of the force of an authorization decision. Should the authorized company prove that it meets the requirements prescribed by law and it manages its operations in due manner, this person shall be entitled to have the force of its authorization decision renewed.

Section 18

Obligations of Shareholders of an Authorized Company

(1) Only persons entered in the Commercial Register may become shareholders of an authorized company.

(2) A shareholder of an authorized company shall conclude an agreement on associated performance with the authorized company whose shareholder he is.

(3) The share of an individual shareholder or shareholders who acting in concert in the registered capital of an authorized company may not exceed 33%. Should this share be exceeded, the respective shareholder or shareholders shall report this fact immediately to the Ministry of the Environment and reduce his or their share to a maximum of 33% within 1 year of exceeding this limit.

(4) A shareholder of an authorized company must not carry on business activity in the sector of waste management⁴.

(5) In cases of breach of the conditions stipulated in subsections (1) to (4), the Ministry of the Environment may decide to suspend exercise of a shareholder's right to attend and cast votes at the general meeting or exercise of the right to demand the convening of the extraordinary general meeting.

Section 19 **Conflict of Interests**

(1) An executive officer employed by an authorized company and appointed to the position by a statutory body of the authorized company may not be a statutory body or member of a statutory body of another legal person, which is an entrepreneur as set forth in the Commercial Code.

(2) Shareholders, members of the bodies of an authorized company and employees of an authorized company may not act on behalf of other persons whose scope of business activity is waste management, in particular, packaging waste, or persons whose activity is directly related to waste management.

Section 20 **Some Restrictions of an Authorized Company**

(1) An authorized company may issue only common shares, such being exclusively in the form of uncertificated registered shares. The shares may be subscribed exclusively on the basis of a financial contribution. An authorized company must not request that its shares be listed on the public market.

(2) The profit of an authorized company must not be distributed among its shareholders.

(3) An authorized company must not reduce its registered capital for any other purpose other than to cover a loss or to fulfil the obligations stipulated by law and it must not increase its registered capital by a contingent manner.

(4) An authorized company must not participate in the bodies or business activities of another legal person, with the exception of a legal person grouping together subjects with a similar business activity.

(5) An authorized company must not hold a general meeting without submitting to the Ministry of the Environment a statement from the register of the issuer of uncertificated shares. This statement, which shall be issued 7 days prior to the date of the general meeting, shall be submitted to the Ministry of the Environment on the date of its issue. The Ministry of the Environment shall indicate in the excerpt those shareholders whose shareholders rights are suspended pursuant to Section 18(5) and shall return the statement to the authorized company within 6 days of delivery thereof. Should the Ministry of the Environment fail to return the statement within the stipulated time limit, it shall be deemed that the Ministry does not have any objections to the exercise of the rights, listed in the statement, to participate and vote at the general meeting of shareholders. An authorized company shall submit to the Ministry of the Environment the resolutions of each general meeting within thirty days of the day the general meeting is held.

(6) An authorized company must not permit participation at the general meeting to a person whose shareholder rights are suspended by the Ministry of the Environment pursuant to Section 18(5), or to a person not listed in the statement from the issuer's register.

(7) An authorized company must not conclude with a legal or natural person, which has a specific relation to the company [see subsection (8)], an agreement which, by its nature, purpose or risk, would not be concluded with all due care for the authorized company's assets with another legal or natural person; an authorized company must not secure liabilities of such legal or natural person or transfer assets free of charge to this legal or natural person. Agreements concluded in contradiction with this

provision shall not be considered invalid if the second contracting party acted in good will. The person who concluded such an agreement on behalf of an authorized company shall be liable for the damage thereby caused, cannot be relieved of responsibility. This person's responsibility shall be governed by the Commercial Code in other cases.

(8) The following persons shall be considered legal or natural persons who have a specific relation to an authorized company:

- a) members of the board of directors, members of the supervisory board and employees of the authorized company appointed to their position by a statutory body of the authorized company;
- b) shareholders of the authorized company who are natural persons entitled to carry on business activity and members of statutory bodies of legal persons which are shareholders of the authorized company;
- c) persons close¹⁵⁾ to the persons specified under letter (a) or (b);
- d) legal persons in which any of the persons specified under letter (a) or (b) has a share in the registered capital exceeding 33%;
- e) shareholders of the authorized company who are legal persons and other legal persons controlled by them;
- f) employees of the Ministry of the Environment, Ministry of Agriculture, or Ministry of Industry and Trade or employees of organizational units established by these ministries¹⁶⁾.

(9) An authorized company must not conclude any agreement with a shareholder of the authorized company, a legal person controlled by this shareholder or a person controlling any of the shareholders of the authorized company other than an agreement on associated performance or an agreement pursuant to Section 22.

(10) A resolution of the general meeting on the winding-up of an authorized company during the period the authorization decision is valid, on the merger of the authorized company by acquisition with another legal person, or on the division of the authorized company, or on a change in the scope of activity of the authorized company shall be possible only with the prior consent of the Ministry of the Environment, which shall be issued pursuant to discussion with the Ministry of Industry and Trade.

(11) The Ministry of the Environment may petition a court within 60 days as of the date of the general meeting of an authorized company and to decide on the invalidity of a resolution of the general meeting if it is deemed that this resolution contradicts the legislative regulations or articles of association of the authorized company.

Section 21

Conditions for Ensuring Associated Performance

(1) The authorized company shall:

- a) specify the terms for concluding an agreement on associated performance in a uniform manner for all persons and in such a way that no type of packaging shall be unreasonably disadvantaged in economic competition;

¹⁵⁾ Section 116 of the Civil Code.

¹⁶⁾ Act No. 219/2000 Coll., on the Property of the Czech Republic and its Acting in Legal Relations, as amended by Act No. 492/2000 Coll.

b) conclude an agreement on associated performance with any person who expresses an interest in concluding such an agreement and who does not have any outstanding liabilities due to the authorized company;

c) conclude an agreement on associated performance for all types of packaging placed on the market or into circulation by a person pursuant to letter (b) provided the authorized company is entitled to provide associated performance for this packaging under its authorization decision;

d) provide, in accordance with the authorization decision, the return and recovery of packaging to which agreements on associated performance concluded by the authorized company relate in accordance with the conditions stipulated by this Act and by the authorization decision.

(2) An authorized company may not disclose to third persons information on the amount of packaging placed on the market or into circulation by individual persons with whom the authorized company has concluded an agreement on associated performance, with the exception of information disclosed to a competent administrative authority.

(3) Should an authorized company provide associated performance in cooperation with municipalities on the basis of agreements concluded therewith the authorized company shall conclude the agreement with any municipality that will express an interest therein under terms similar to terms with other municipalities.

Section 22

Additional Activity of an Authorized Company

Apart from activity related to the provision of associated performance, the authorized company must not carry on any other activity, except for the consulting intended to prevent the emergence of packaging waste and for packaging labelling, or research, publicity and promotional activities in the field of the return and recovery of packaging. An authorized company may carry on research, publicity and promotional activities exclusively in the form of a subsidiary activity.

Section 23

Record and Information Obligations

(1) An authorized company shall keep and report the following particulars to the Ministry of the Environment in the manner stipulated in the authorization decision:

a) records of persons with whom the authorized company has concluded an agreement on associated performance;

b) records of the quantity of packaging and the quantity of packaging waste to which agreements on associated performance concluded by the authorized company are related, and of the manner of their use within the scope stipulated by Annex 4 to this Act, and it shall ensure, by means of an auditor¹⁷⁾, verification of the records and the production of an auditor's report; a person having a specific relation to the authorized company pursuant to Section 20(8) must not be the auditor.

(2) The Ministry of the Environment shall ensure that aggregate records are kept of the particulars collected pursuant to subsection (1)(a) and (b) from all authorized companies. A special part of these records is a list of persons with whom the individual authorized companies have concluded

¹⁷⁾ Act No. 254/2000 Coll., on Auditors and amendment of Act No. 165/1998 Coll.

agreements on associated performance. These aggregate records are open to the public; anyone has the right to inspect them or to make copies or excerpts therefrom.

(3) An authorized company shall also publish its abridged financial statements for the previous calendar year in the Commercial Journal by 30 June of the calendar year.

Section 24 **Supervision of the Activities of an Authorized Company**

(1) The Ministry of the Environment shall supervise the activities of authorized companies, the Ministry shall be governed by Act on State Control¹⁸⁾.

(2) Should the Ministry of the Environment find any defects in the activity of an authorized company, depending on the significance and character of the defect it discovers, the Ministry may:

- a) order that the authorized company redress the imperfection within a stipulated time period; an appeal against this resolution shall not have suspensory effect;
- b) file a motion to the Czech Environmental Inspection Agency to commence proceedings to levy a penalty on the authorized company;
- c) decide, after discussion with the Ministry of Industry and Trade and Ministry of Agriculture, on a change in or on the revocation of the authorization decision.

(3) A defect in the activity of an authorized company shall mean any breach of an obligation of the authorized company stipulated by this Act or a breach of an obligation of a public limited liability company stipulated by other legislative regulations¹⁹⁾ or a breach of the terms stipulated in the authorization decision.

Section 25 **Change in an Authorization Decision**

The Ministry of the Environment may also change an authorization decision:

- a) on the basis of a request from an authorized company; or
- b) on the basis of changes in liabilities relating to the amount of proportion of the recovery and recycling of packaging waste if they ensue from European Community law²⁾.

Section 26 **Revocation of an Authorization Decision**

(1) The Ministry of the Environment, after discussion with the Ministry of Industry and Trade and Ministry of Agriculture, shall revoke an authorization decision, if

- a) an authorized company fails to conclude any agreement on associated performance, with the exception of agreements concluded pursuant to Section 18(2), within 3 months of the date the authorization decision enters into force;

¹⁸⁾ Act No. 552/1991 Coll., on State Inspection, in the wording of later regulations.

¹⁹⁾ E.g. The Commercial Code, in the wording of later regulations (the complete wording published under No. 63/2001 Coll.).

- b) an authorized company is granted an authorization decision on the basis of false particulars stated in the application or in documents attached thereto;
- c) an authorized company fails to make redress ordered pursuant to Section 24(2)(a) even in an additionally set time period; or
- d) an authorized company is declared bankrupt in accordance with a separate legislative regulation²⁰⁾.

(2) The Ministry of the Environment, after discussion with the Ministry of Industry and Trade and Ministry of Agriculture, may revoke an authorization decision, if:

- a) an authorized company fails to attain at least 15% recovery of packaging waste for which the company has concluded agreements on associated performance within 1 year as of the date the authorization decision enters into force;
- b) an authorized company fails to attain the recovery of packaging waste in the scope of at least two thirds of the quantity stipulated in the authorization decision during the first year of its activity;
- c) after one year as of the date the authorization decision enters into force, the total amount of packaging for which the company has concluded agreements on associated performance does not constitute at least 10% of all packaging placed on the market or into circulation in the Czech Republic to which the authorization decision applies.

(3) If the general meeting of an authorized company decides that the authorized company shall no longer carry on the activities for which the authorization decision was issued, the authorized company shall notify the Ministry of the Environment thereof without delay; the Ministry shall cancel the authorization within 30 days of delivery of this notification.

Section 27

Only the applicant shall be a party to the proceedings under Sections 25 and 26.

Section 28

Extinction of an Authorization Decision

(1) An authorization decision shall become extinct:

- a) by cancellation;
- b) on expiry the period of its validity;
- c) on the winding-up of an authorized company without liquidation or winding-up with liquidation.

(2) The extinction of an authorization decision pursuant to subsection (1)(a) shall not affect the entitlement of persons who have an agreement on associated performance with the authorized

²⁰⁾ Act No. 328/1991 Coll., on Bankruptcy and Composition, in the wording of later regulations (the complete wording published under No. 45/2001 Coll.).

company at the date the authorization decision becomes extinct regarding the settlement of rights and obligations with the authorized company.

Section 29
Publication of an Authorization Decision

A list of granted authorization decisions, decisions on changes thereto or the revocation thereof, and the content of these resolutions, with the exception of the particulars which are subject to trade secrecy or personal data protection, shall be published by the Ministry of the Environment in its Journal.

CHAPTER IV
REGISTRATION AND RECORD FEES

Section 30

(1) A registration fee in the amount of CZK 5,000 shall be collected for entry into the List (Section 14) and a fee for keeping records therein in the same amount shall be paid in all subsequent years by 31 December of the current year.

(2) An applicant shall pay a registration fee in the amount of CZK 5,000 for the issue of an authorization decision pursuant to Section 17, and a fee for keeping records in the amount of CZK 2,000 each subsequent year per person with whom the authorized company has concluded an agreement on associated performance, whereby the fee for keeping records shall be paid in quarterly instalments of CZK 500 each by 31 March, 30 June, 30 September and 31 December of the current year.

(3) Should a person default in a fee or part thereof pursuant to subsection (1) or (2) this person shall pay a penalty in the amount of 0.1% of the outstanding sum per day of default.

(4) Registration fees and fees for keeping records pursuant to subsection (1) and (2) and penalties pursuant to subsection (3) shall be paid to the account of the State Environmental Fund²¹⁾, whose income they constitute.

(5) Unpaid fees shall be recovered by the State Environmental Fund in accordance with separate legislative regulations²²⁾.

CHAPTER V
PERFORMANCE OF STATE ADMINISTRATION WITHIN THE SCOPE OF PACKAGING AND
PACKAGING WASTE MANAGEMENT

Section 31

Administrative Authorities within the Scope of Packaging and Packaging Waste Management

State administration in the sector of packaging and packaging waste management shall be performed by:

a) the Ministry of the Environment;

²¹⁾ Act No. 388/1991 Coll., on the State Environmental Fund of the Czech Republic, as amended by Act No. 334/1992 Coll.

²²⁾ Act No. 99/1963 Coll., the Civil Procedure Act, in the wording of later regulations (the complete wording published under No. 69/2001 Coll.).

- b) the Ministry of Industry and Trade;
- c) the Ministry of Agriculture;
- d) the Ministry of Health;
- e) the Czech Trade Inspectorate;
- f) the Czech Agricultural and Food Inspectorate;
- g) the Czech Environmental Inspection Agency;
- h) the State Institute for Drug Control;
- i) the Institute for the State Control of Veterinary Biologicals and -Medicaments;
- j) customs authorities.

Section 32

The Ministry of the Environment

The Ministry of the Environment as a central administrative office in the field of packaging and packaging waste management:

- a) shall keep the List pursuant to Section 14;
- b) shall issue authorization decisions after discussion with the Ministry of Industry and Trade and the Ministry of Agriculture pursuant to Section 17(1) and shall decide on renewing the validity of authorization decisions pursuant to Section 17(7);
- c) shall keep a list of granted authorization decisions, decisions on a change to or the revocation of an authorization decision and publish this list in the Journal of the Ministry of the Environment pursuant to Section 29;
- d) shall indicate in the register of the issuer those shareholders whose shareholders' rights are suspended pursuant to Section 20(5);
- e) shall decide, after discussion with the Ministry of Industry and Trade and Ministry of Agriculture, on preliminary consent to the winding-up of an authorized company during the force of an authorization decision, to a merger of an authorized company with another legal person, or to the division of an authorized company pursuant to Section 20(10);
- f) shall petition a court for a ruling on the invalidity of a resolution of the general meeting of an authorized company pursuant to Section 20(11);
- g) shall process and keep aggregate records pursuant to Section 15(2) and Section 23(2);
- h) shall supervise the activities of authorized companies pursuant to Section 24(1);
- i) shall impose measures on an authorized company to make redress pursuant to Section 24(2)(a);
- j) shall file a motion with the Czech Environmental Inspection Agency to commence proceedings regarding the levying of a penalty on an authorized company pursuant to Section 24(2)(b);

- k) shall make decisions on changes to authorization decisions pursuant to Section 24(2)(c) and Section 25;
- l) shall make decisions on the revocation of authorization decisions pursuant to Section 24(2)(c) and Section 26;
- m) shall issue a statement to the Ministry of Industry and Trade when the latter is making decisions, in cases of doubt, as to whether or not a product is packaging pursuant to Section 47;
- n) shall make decisions on appeals against rulings of the Czech Environmental Inspection Agency;
- o) shall provide the European Commission with particulars on packaging management and packaging waste management in the Czech Republic in the required scope and in the required manner;
- p) shall ensure that the total amount of recovered packaging waste complies with international obligations by which the Czech Republic is bound,²³⁾
- q) shall appoint, after discussion with the Ministry of Industry and Trade, representatives of the Czech Republic to committees, commissions, professional and working groups and other bodies established in accordance with European Community law in the field of packaging and packaging waste management¹⁾,
- r) shall ensure, in cooperation with the Ministry of Industry and Trade, that the public is kept informed in an appropriate manner of the role of consumers in contributing to the reuse, return, recovery and recycling of packaging and packaging waste.

Section 33

The Ministry of Industry and Trade

The Ministry of Industry and Trade

- a) shall issue statements to the Ministry of the Environment regarding applications for the issue of an authorization decision pursuant to Section 17(1), regarding applications to renew the force of an authorization decision pursuant to Section 17(7), regarding applications for preliminary permission pursuant to Section 20(10), regarding changes to an authorization decision pursuant to Section 24(2)(c) and Section 25, and regarding the revocation of an authorization decision pursuant to Section 24(2)(c) and Section 26(1) and (2);
- b) shall make decisions, after discussion with the Ministry of the Environment, in cases of doubt, as to whether or not a product is packaging pursuant to Section 47.

Section 34

The Ministry of Agriculture

The Ministry of Agriculture

- a) shall issue statements to the Ministry of the Environment regarding applications for the issue of an authorization decision pursuant to Section 17(1), regarding applications to renew the force of an authorization decision pursuant to Section 17(7), regarding applications for preliminary permission

²³ Article 6(1) of European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste

pursuant to Section 20(10), regarding changes to an authorization decision pursuant to Section 24(2)(c) and Section 25, and regarding the revocation of an authorization decision pursuant to Section 24(2)(c) and Section 26(1) and (2)

b) shall issue a statement to the Ministry of Industry and Trade when the latter is making decisions, in cases of doubt, as to whether or not a product is packaging pursuant to Section 47.

Section 35 **The Ministry of Health**

The Ministry of Health shall supervise the fulfilment of obligations related to prevention, the placing of packaging on the market or into circulation, packaging labelling and reuse in the case of cosmetic product packaging²⁴⁾; on discovering a breach of these obligations, the Ministry of Health shall impose protective measures, remedy measures and penalties. During inspections the Ministry of Health shall proceed in accordance with separate legislative regulations²⁵⁾.

Section 36 **The Czech Trade Inspectorate**

The Czech Trade Inspectorate

a) shall supervise the fulfilment of obligations related to prevention, the placing of packaging on the market or into circulation, and packaging labelling and reuse, with the exception of cosmetic product packaging²⁴⁾, packaging which comes into direct contact with food products, pharmaceutical packaging¹⁰⁾, and the packaging of raw materials for the preparation of human pharmaceuticals¹⁰⁾;

b) shall supervise the implementation of packaging return by persons who place packaging or packaged products on the market or into circulation by selling them to consumers; these persons shall demonstrate, on request, how they ensure the return of packaging;

c) shall supervise the sale of beverages in returnable deposit packaging in the case of legal persons and natural persons licensed to engage in business who place packaged beverages on the market or into circulation by sale to consumers;

d) on ascertaining a breach of these obligations in inspections under letter (a), (b), or (c), the Czech Trade Inspectorate shall impose protective measures, remedy measures and penalties.

During inspections the Czech Trade Inspectorate shall proceed in accordance with separate legislative regulations²⁶⁾.

Section 37 **The Czech Agricultural and Food Inspectorate**

The Czech Agricultural and Food Inspectorate shall supervise the fulfilment of obligations related to prevention, the placing of packaging on the market or into circulation, packaging labelling and reuse in the case of packaging which comes into direct contact with food products; on ascertaining a breach

²⁴⁾ Act No. 258/2000 Coll., on Public Health Care and amendments of some related acts.

²⁵⁾ Act No. 258/2000 Coll., on Public Health Care and amendments of some related acts.
Act No. 552/1991 Coll., on State Control, in the wording of later regulations.

²⁶⁾ Act No. 64/1986 Coll., on the Czech Trade Inspectorate, in the wording of later regulations.
Act No. 552/1991 Coll., on State Control, in the wording of later regulations.

of these obligations, the Czech Agricultural and Food Inspectorate shall impose protective measures, remedy measures and penalties. During inspections the Czech Agricultural and Food Inspectorate shall proceed in accordance with separate legislative regulations²⁷⁾.

Section 38

The State Institute for Drug Control

The State Institute for Drug Control shall supervise the fulfilment of obligations related to prevention, the placing of packaging on the market or into circulation, packaging labelling and reuse in the case of the consumer packaging of human pharmaceuticals and the packaging of raw materials used for the preparation of human pharmaceuticals; on ascertaining a breach of these obligations, the State Institute for Drug Control shall impose protective measures, remedy measures and penalties. During inspections the State Institute for Drug Control shall proceed in accordance with separate legislative regulations¹⁰⁾.

Section 39

The Institute for the State Control of Veterinary Biologicals and Medicaments

The Institute for the State Control of Veterinary Biologicals and Medicaments shall supervise the fulfilment of obligations related to prevention, the placing of packaging on the market or into circulation, packaging labelling and reuse in the case of the consumer packaging of veterinary pharmaceuticals and the packaging of raw materials used for the preparation of veterinary pharmaceuticals; on ascertaining a breach of these obligations, the Institute for the State Control of Veterinary Biologicals and Medicaments shall impose protective measures, remedy measures and penalties. During inspections the Institute for the State Control of Veterinary Biologicals and Medicaments shall proceed in accordance with separate legislative regulations¹⁰⁾.

Section 40

The Czech Environmental Inspection Agency

The Czech Environmental Inspection Agency²⁸⁾ shall supervise the fulfilment of the obligation to return packaging, with the exception of the obligation to return packaging stipulated in Section 36(b), and the obligation to recover packaging waste and other obligations related thereto; on ascertaining a breach of these obligations, the Czech Environmental Inspection Agency shall impose protective measures, remedy measures and penalties. Persons subject to these obligations shall demonstrate, on request, that they are fulfilling the obligation to return and recover packaging waste.

Section 41

Customs Authorities

(1) Customs authorities shall be authorized to inspect, during customs proceedings⁷⁾, whether packaging or packaged products imported into the Czech Republic meet the requirements stipulated by this Act.

²⁷⁾ Act No. 63/1986 Coll., on the Czech Agricultural and Food Inspectorate, in the wording of later regulations.

Act No. 552/1991 Coll., on State Control, in the wording of later regulations.

²⁸⁾ Act No. 282/1991 Coll., on the Czech Environmental Inspection Agency and its Powers in Forest Protection.

(2) Customs authorities shall not release into the free circulation regime or into the regime of inward processing⁷⁾ any packaging which fails to meet the requirements stipulated by this Act.

(3) In cases of doubt as to whether the conditions for prohibiting the release of packaging or packaged products into the regimes pursuant to subsection (2) are met, customs authorities shall request professional assistance from the competent inspection authority.

Section 42

Authorization and Obligations of Inspectors and Authorized Employees of Administrative Authorities

(1) Unless stipulated otherwise by a separate legislative regulation, inspectors and authorized employees of administrative authorities performing activities in the sector of packaging and packaging waste management pursuant to this Act shall be entitled in the performance of their inspection activity:

- a) to have pedestrian or vehicular access as required to private land or private structures used for business activity or the operation of other economic activity;
- b) to verify the identity of natural persons, if they are persons subject to inspection, or, if appropriate, the identity of natural persons representing inspected persons during an inspection, and the authorization of these persons act as representatives;
- c) to demand the necessary documents, particulars, or written or verbal explanations related to the subject of inspection, including the certificate of fulfilment of the conditions for placing packaging on the market pursuant to Section 5;
- d) to perform a local inspection, take samples, and acquire photographic documentation.

(2) Unless stipulated otherwise by a separate legislative regulation, inspectors and authorized employees of the Ministry of the Environment and other administrative authorities performing activities in the sector of packaging management pursuant to this Act shall, in the performance of their inspection activity:

- a) prove their identity by producing a certificate from the competence inspection authority;
- b) keep confidential facts which are subject to trade or professional secrecy, of which they learn in connection with the performance of their inspection activity;
- c) respect operational, safety and other regulations which regulate activities on the premises under inspection;
- d) draw up a report on inspections done, including photographic documentation;
- e) be considerate to the property of the entity being inspected.

CHAPTER VI PROTECTIVE MEASURES, REMEDY MEASURES AND PENALTIES

Section 43

Protective and Remedy Measures

(1) Unless stipulated otherwise by a separate legislative regulation, the competent administrative authority may, on ascertaining a breach of obligations pursuant to this Act and depending on the significance and character of the breach:

a) prohibit the placing on the market or into circulation of packaging or products in packaging which fail to meet the requirements stipulated under Section 4(1)(a), (b) or (c), Section 6 or Section 10(1) or suspend the placing of such packaging or products on the market or into circulation, until such time as redress is made;

b) impose the obligation to inform forthwith the persons who may be exposed to danger ensuing from failure to meet the requirements specified under letter (a) of this danger.

(2) An appeal against prohibition or suspension pursuant to subsection (1) does not carry suspensory effect.

(3) The Czech Environmental Inspection Agency shall impose, under the conditions stipulated by this Act, remedy measures on a person who fails to meet an obligation pursuant to Section 10 or 11.

(4) The competent administrative authority pursuant to subsections (1) to (3) shall mean the body authorized to impose a protective measure or a remedy measure in accordance with Sections 35 to 40.

(5) The imposition of a measure pursuant to subsection (1) or (3) shall not affect Section 44.

Section 44 Penalties

(1) The competent administrative authority shall levy a penalty of up to CZK 500,000 on a person who:

a) places packaging on the market if the person breaches the obligation of prevention pursuant to Section 3;

b) places packaging on the market or into circulation if the person breaches any of the obligations related to a certificate of fulfilment of the requirements for placing packaging on the market or into circulation pursuant to Section 5,

c) places packaging on the market or into circulation if the person breaches the obligation to mark the packaging pursuant to Section 6,

d) places on the market or into circulation products in reusable packaging, if the person fails to ensure the reuse of this packaging pursuant to Section 7,

e) places on the market or into circulation products in returnable packaging, if the person fails to ensure the reuse of this packaging or recovery of the corresponding packaging waste pursuant to Section 8;

f) places on the market or into circulation products in returnable deposit packaging, if the person breaches any of the obligations related to returnable deposit packaging pursuant to Section 9; or

g) places packaging on the market or into circulation if the person breaches the obligation to apply for registration in the List pursuant to Section 14(1).

(2) The competent administrative authority shall levy a penalty of up to CZK 1,000,000 on a person who places on the market or into circulation packaging if the person breaches the obligation related to records pursuant to Section 15.

(3) The competent administrative authority shall levy a penalty of up to CZK 10,000,000 on a person who:

a) places packaging on the market if this person breaches any of the conditions for placing packaging on the market pursuant to Section 4,

b) places packaging on the market or into circulation if this person fails to ensure the return of packaging pursuant to Section 10(1); or

c) places packaging on the market or into circulation if this person fails to ensure the recovery of packaging waste from the packaging placed by this person on the market or into circulation pursuant to Section 12.

(4) The Czech Environmental Inspection Agency shall levy a penalty of between CZK 10,000,000 and 50,000,000 on:

a) a legal or natural person if this person carries on activity which requires an authorization decision pursuant to Section 17 without such decision or if, without an issued authorization decision, this person offers the conclusion of agreements containing such activity to third persons; or

b) an authorized company, on the basis of a motion from the Ministry of the Environment, if the authorized company fails to fulfil an obligation stipulated by this Act or by the authorization decision (Section 17).

(5) The Czech Environmental Inspection Agency shall levy a penalty of up to CZK 1,000,000 on a person who breaches any other obligation stipulated by this Act or an obligation imposed on the person by a decision issued on the basis of this Act.

(6) A penalty pursuant to subsection (3)(b) and (c) cannot be levied on a person who has concluded an agreement on associated performance with an authorized company if the authorization decision granted to this company is revoked, provided the breach of obligations pursuant to Section 10(1) or Section 12 occurred within 3 months of the date a decision enters into force revoking the authorization decision.

(7) The competent administrative authority under subsections (1) to (3) shall mean the body which is authorized to levy a penalty in accordance with Sections 35 to 40.

Section 45

(1) The seriousness of the risk to the environment and to human health, and the manner, duration and consequences of illegal action, in particular, shall be taken into consideration when specifying the amount of a penalty.

(2) Should more than one administrative authority be entitled to levy a penalty pursuant to Section 44, the penalty shall be levied by the administrative authority which commences proceedings on the levying of a penalty first. The competent administrative authorities shall inform each other of the commencement of proceedings.

(3) The proceedings on levying a penalty may be commenced not later than 1 year as of the date the competent administrative authority learnt of the breach of an obligation, but not later than 3 years as of the date the breach of the obligation occurred.

(4) A penalty is payable within 30 days of the date the decision on the levying of the penalty enters into force.

(5) Should a person or authorized company breach the same obligation for which a penalty has already been levied within a period of 1 year as of the date the first decision to levy a penalty enters into force pursuant to this Act, the competent administrative authority shall levy another penalty up to an amount of double the upper limit of the penalty range.

Section 46

(1) The collection and exaction of penalties levied by the Ministry of Health, Czech Trade Inspectorate, Czech Agricultural and Food Inspectorate, State Institute for Drug Control or Institute for the State Control of Veterinary Biologicals and Medicaments shall be governed by separate legislative regulations²⁹⁾. Penalties levied by the Czech Environmental Inspection Agency shall be levied and collected by this Inspection Agency and exacted by the competent revenue authority³⁰⁾. The collection and exaction of penalties levied by the Czech Environmental Inspection Agency shall be governed by a separate legislative regulation³¹⁾.

(2) Penalties levied by the Czech Environmental Inspection Agency shall be the income of the State Environmental Fund.

(3) The relevant provisions of the Criminal Code shall not be affected by the levying of penalties for breaching obligations ensuing from this Act.

CHAPTER VII JOINT, AUTHORIZATION AND TRANSITIONAL PROVISIONS

Section 47

The Ministry of Industry and Trade, after discussion with the Ministry of the Environment and Ministry of Agriculture, shall make decisions in cases of doubt as to whether or not a product is packaging.

Section 48

For the purposes of meeting the obligations to recover packaging waste under Section 12 and to keep records under Section 15, packaging where a certain material constitutes at least 70% of the packaging by weight shall be deemed to be packaging made from a single material.

²⁹⁾ Act No. 258/2000 Coll., on Public Health Care and amendments of some related acts, Act No. 64/1986 Coll., on the Czech Trade Inspectorate, in the wording of later regulations, Act No. 63/1986 Coll., on the Czech Agricultural and Food Inspectorate, as amended by Act No. 110/1997 Coll. a Act No. 145/2000 Coll., Act No. 337/1992 Coll., on Administration of Taxes and Charges, in the wording of later regulations.

³⁰⁾ Act No. 531/1990 Coll., on Regional Revenue Authorities, in the wording of later regulations.

³¹⁾ Part Six of Act No. 337/1992 Coll., in the wording of later regulations.

Section 49
Relation to Administrative Procedure Act

The proceedings pursuant to this Act shall be governed by the Administrative Procedure Act³²⁾, with the exception of Section 14 of this Act.

Section 50
Authorization Provisions

- (1) The Government shall issue a decree to enforce Section 9(9).
- (2) The Ministry of the Environment shall issue a regulation to enforce Section 15(3).
- (3) The Ministry of Industry and Trade, in accord with the Ministry of the Environment and Ministry of Health Care, shall issue a regulation to enforce Section 3(2), Section 4(1)(b), Section 4(3) and (4), Section 6(3), and Section 7(2).
- (4) The Ministry of Industry and Trade shall issue a regulation to enforce Section 9(3).

Section 51
Transitional Provisions

- (1) Persons who place packaging or packaged products on the market or into circulation shall fulfil the obligations stipulated in Section 3, Section 4(1)(a) and (c), Section 5, Section 10 and Section 14 within 6 months as of the date this Act enters into effect.
- (2) Proceedings commenced pursuant to Sections 18 and 19 of Act No. 125/1997 Coll., on Waste, in the wording of later regulations, before this Act entered into effect shall be completed in accordance with hitherto legislative regulations.
- (3) Requirements concerning the placing on the market or into circulation of packaging produced before this Act entered into force, shall be assessed in accordance with hitherto legislative regulations.

PART TWO

Amendment of Consumer Protection Act

Section 52

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

Subsections (1), (2), (3), (5), (6) and (8) in Section 18 shall be repealed.

The existing subsections (4) and (7) shall be indicated as subsections (1) and (2).

³²⁾ Act No. 71/1967 Coll., on Administrative Procedure (the Administrative Procedure Act), as amended by Act No. 283/1993 Coll., Act No. 29/2000 Coll. and Act No. 227/2000 Coll.

PART THREE

Amendment of Trades Licensing Act

Section 53

In Act No. 455/1991 Coll., on Trade Licensing (the Trades Licensing Act), in the wording of Act No. 231/1992 Coll., Act No. 591/1992 Coll., Act No. 600/1992 Coll., Act No. 273/1993 Coll., Act No. 303/1993 Coll., Act No. 38/1994 Coll., Act No. 42/1994 Coll., Act No. 136/1994 Coll., Act No. 200/1994 Coll., Act No. 237/1995 Coll., Act No. 286/1995 Coll., Act No. 94/1996 Coll., Act No. 95/1996 Coll., Act No. 147/1996 Coll., Act No. 19/1997 Coll., Act No. 49/1997 Coll., Act No. 61/1997 Coll., Act No. 79/1997 Coll., Act No. 217/1997 Coll., Act No. 280/1997 Coll., Act No. 15/1998 Coll., Act No. 83/1998 Coll., Act No. 157/1998 Coll., Act No. 167/1998 Coll., Act No. 159/1999 Coll., Act No. 356/1999 Coll., Act No. 358/1999 Coll., Act No. 360/1999 Coll., Act No. 363/1999 Coll., Act No. 27/2000 Coll., Act No. 29/2000 Coll., Act No. 121/2000 Coll., Act No. 122/2000 Coll., Act No. 123/2000 Coll., Act No. 124/2000 Coll., Act No. 149/2000 Coll., Act No. 151/2000 Coll., Act No. 158/2000 Coll., Act No. 247/2000 Coll., Act No. 249/2000 Coll., Act No. 258/2000 Coll., Act No. 309/2000 Coll., Act No. 362/2000 Coll., Act No. 409/2000 Coll., Act No. 458/2000 Coll., Act No. 61/2001 Coll., Act No. 100/2001 Coll., Act No. 120/2001 Coll., Act No. 164/2001 Coll., Act No. 256/2001 Coll., and Act No. 274/2001 Coll., in Section 3(3) at the end of subparagraph ad) the full stop shall be substituted by a comma and a new letter (ae) shall be added which, together with the footnote No. 231, shall read as follows:

'(ae) the activity of authorized packaging companies pursuant to a separate legislative regulation²³¹⁾.

²³¹⁾ Act No. 477/2001 Coll., on Packaging and on Amendments of Some Related Acts (Act on Packaging).'

PART FOUR

Amendment of Waste Act

Section 54

Act No. 185/2001 Coll., on Waste and Amendments of Some Related Acts, is amended as follows:

1. In Section 3(3)b) the words 'without the immediate arise of some other purpose of use' are repealed.
2. In Section 38(7)a) the words 'individually, i.e.' are substituted by the word 'thereby'.
3. In Section 42(1) the words 'approved by the Government' are substituted by the words 'declared by government decree'.
4. In Section 42, subsections 5, 6 and 7 are repealed.

The hitherto subsection 8 is relabelled as subsection 5.

5. In Section 43(6) the words ' of publication of the binding part of the Czech Republic's waste management plan or changes thereto in the Collection of Laws' are substituted by the words ' of the date the government regulation promulgating the Czech Republic's waste management plan or changes thereto enters into effect'.

6. In Section 72(1), subparagraph m) is repealed.

The hitherto subparagraphs n) to r) are relabelled as subparagraphs m) to p).

7. In Section 89, the words 'on 1 January 2003' are substituted by the words 'on 23 February 2002'.

8. In Section 89, the following sentence is added: 'Section 38(1)f) becomes effective on 1 January 2003.'

PART FIVE

Amendment of Value Added Tax Act

Section 55

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

The numerical code of the Harmonized System 'ex 7010 91', name of goods 'Glass bottles for beverages', is added.

PART SIX

EFFECT

Section 56

This Act shall take effect on 1 January 2002.

Klaus, in his own hand

Havel, in his own hand

Zeman, in his own hand

SPECIMEN. CERTIFICATE OF FULFILMENT OF THE CONDITIONS FOR PLACING PACKAGING ON THE MARKET

Commercial company or name of legal person / First name and surname of natural person or specification of business name

.....
 Registered office of the legal person / Business location of the natural person

.....
 hereby declares that the packaging specified below meets the marketing conditions stipulated by Act No. 477/2001 Coll., on Packaging and on Amendments of Some Related Acts.

The packaging specified below was designed and manufactured in accordance with the specified technical standards in force.

The above-mentioned person has at his disposal all technical documentation relating to the compliance certificate and is able to submit such documentation to the competent inspection authority.

Description of the packaging^{x)}

.....

- | | |
|---|--------------------------|
| 1. Prevention of a reduction in resources (CSN EN 13428, CSN EN 13427) | <input type="checkbox"/> |
| 2. Reuse (CSN EN 13429) | <input type="checkbox"/> |
| 3. Recycling of material (CSN EN 13430) | <input type="checkbox"/> |
| 4. Energy recovery (CSN EN 13431) | <input type="checkbox"/> |
| 5. Recovery by composting and biodegrading (CSN EN 13432, CSN EN 13428) | <input type="checkbox"/> |
| 6. Dangerous substances (CSN EN 13428, CSN EN 13695-2) | <input type="checkbox"/> |
| 7. Heavy metals (CSN EN 13695-1) | <input type="checkbox"/> |

Produced on

In (location)

Signature of responsible person
 and seal of legal or natural person

*) Type (structure) of packaging and components

SYSTEMS TO ENSURE PACKAGING REUSE

A. Systems to ensure the reuse of packaging are:

1. Closed system - a system in which reused packaging is placed into circulation by a person or organized group of persons;
2. Open system – a system in which reused packaging is placed into circulation among non-specified persons;
3. Mixed system - a system consisting of two parts:
 - a) reused packaging which remains at the end consumer for which no system of return distribution exists which would lead to commercial refilling;
 - b) one-way packaging which shall be used as an auxiliary product for the transportation of the contents for the refilling of the packaging.

B. Criteria to ensure the system of reused packaging

The requirements for reused packaging are set as a combination of requirements regarding the packaging itself and regarding the system of reuse of the packaging in which it is functional.

1. Criteria for a closed system:

- a) reusable packaging is constantly in the ownership of a person or organized group of persons;
- b) packaging is repeatedly placed on the market by a person or group of persons which owns it;
- c) the construction type of the packaging is defined as a specification approved by the participants in this system and is used in accordance with the specification;
- d) the systems of collecting and redistributing of the packaging are in a suitable collection place;
- e) persons or organized groups of persons are obliged to take receipt of reusable packaging used in accordance with agreed specifications;
- f) all persons placing a packaged product on the market shall provide information on use of the packaging and places where the packaging may be left for the purposes of reuse;
- g) a control system based on the agreed specification approved by the participants in the system is used.

2. Criteria for an open system:

- a) the user of the packaging may decide by himself whether the packaging will be reused;
- b) reusable packaging is in the ownership of the person who is currently using it;
- c) the construction type of the packaging is defined by generally adopted specifications;
- d) the renewal of the packaging for reuse may be provided by the user of the packaging or is available on the market;
- e) the systems of collecting and redistributing of the packaging may be in a suitable collection place;
- f) a control system based on generally adopted specifications is being used.

3. Criteria for a mixed system:

- a) reusable packaging always remains with the end user, it is in his ownership and is refilled by him by using an auxiliary product (refills);
- b) auxiliary products are available on the market (refills);
- c) all persons placing a packaged product on the market shall provide information on how to use a reusable packaging (refill).

Annex 3 to Act No. 477/2001 Coll.**REQUIRED SCOPE OF RECYCLING AND RECOVERY OF PACKAGING WASTE**

A: recycling

B: general recovery

PACKAGING	31. 12. 2002		31. 12. 2003		31. 12. 2004		31. 12. 2005	
	A	B	A	B	A	B	A	B
	%	%	%	%	%	%	%	%
Paper	30	35	35	45	40	50	45	55
Glass	32	32	50	50	65	65	80	80
Plastic	10	12	10	15	12	20	15	25
Metal	11	11	15	15	20	20	25	25
TOTAL	25	30	32	39	38	45	45	52

Packaging where a certain material constitutes at least 70% of the packaging by weight shall be deemed to be packaging made from a single material.

Table No. 2 (Specimen)

Quantity of packaging waste and the method used to manage it (in tonnes)

Authorized company:

Company registration number:

Material		Total	Selected for recycling	Recovered						Disposed
				organic recycling	other forms of recycling	recycling total	energy recovery	other forms of recovery	recovery total	
(4)		(5)	(6)							
GLASS										
PLASTIC	PET									
	PE									
	PVC									
	PP									
	PS									
	Others									
	Total									
PAPER AND FIBREBOARD										
METALS	Aluminium									
	Steel									
	Total									
COMBINED MATERIALS										
WOOD										
OTHERS										

