

# Guidance for Authorised representatives

Procedure according to Finnish legislation

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## 1. Introduction

Pirkanmaa ELY Centre acts as the national authority for producer responsibility and supervises the compliance with provisions concerning producer responsibility, with the exception of Åland.

This guidance is aimed at stakeholders which, according to WEEE Directive 2012/19/EU and the Finnish Waste Act 2011/646, have either mandatory requirement or voluntary possibility to appoint authorised representative to Finland.

In typical situation when electrical or electronic equipments are put into Finnish market and equipments arrive from other Member states or from third countries, the Finnish importer (a Finnish company or a foreign entrepreneur's Finnish branch) is a producer and has to fulfill all the responsibilities of a producer including registering, reporting, arranging collection and treatment of the EE-waste. Producer can take care of its responsibilities either by registering straight to Pirkanmaa ELY Centre and taking care of the waste management responsibilities or by joining to approved producer organisation. Producer organisation takes care of all the responsibilities on behalf of its members.

There are however few cases, according to WEEE-directive and Finnish Waste Act, when a foreign company can appoint an authorized representative to Finland to take care of the producer responsibilities on behalf of themselves (in case of the foreign distant seller) or on behalf of the importers (in case of another foreign company than distant seller).

Authorised representative is defined in the Directive Art 16, 17 and Annex X and in the Finnish Waste Act Art 66a.

Producer is defined in the Directive Art 3 f sub point i-iv and in the Finnish Waste Act Art 48 and in the Governmental Decree Art. 2 point 6.

## 2. Producer

A producer under the obligation of producer responsibility is defined in sections 48 and 66a of the Waste Act (646/2011) and in the Government Decrees on Waste Electronic and Electrical Equipment (519/2014). In the definition of responsible producer, the following considerations have to be taken into account:

- The definition of responsible producer has to be based on law
- Each product shall have no more than one responsible body
- The Waste Act is applicable only in Finland
- One brand may be imported by several companies; parallel import

**Based on the above, a *producer* is:**

- ***a Finnish\* producer or a foreign entrepreneur's Finnish branch\*\*, which manufactures products for the Finnish market;***
- ***a Finnish\* importer or a foreign entrepreneur's Finnish branch\*\*, which imports products to the Finnish market;***
- ***a Finnish distributor which sells electrical and electronic equipment on the Finnish market under their own name or brand;***
- ***a business operator which is established in another EU member state or a third country and which sells electrical and electronic equipment via distance selling directly to users in Finland.***

\*A Finnish company refers in this context to a company entered into the Trade Register maintained by the National Board of Patents and Registration; said company must have a Finnish business ID and be domiciled in Finland.

\*\* A branch of a foreign entrepreneur refers to the part of a foreign corporation or foundation that engages in continuous business or trade activities in Finland from a permanent establishment in Finland in the name of the foreign corporation or foundation; said branch must be entered as a branch in the Trade Register maintained by the National Board of Patents and Registration. This definition is applicable in continental Finland. In Åland, definition can be drawn up by the Åland authorities, based on the local legislation.

### **3. Authorised representative**

#### **3.1. Mandatory appointment of authorised representative**

According to article 17 point 2 of the WEEE Directive and article 66a paragraph 1 of Finnish Waste Act:

Company situated in another Member State or third country selling EEE to Finnish end user by means of distance communication, has to appoint an authorised representative to Finland.

Finnish company, which is selling EEE to end users in another Member State by means of distance communications, has to appoint authorised representative to all those MS they sell to.

Companies above are according to WEEE Directive article 3 f sub point iv and Governmental Decree on Waste Electrical and Electronic Equipment article 2 point 6 defined as producers and by appointing authorised representative they take care of their producer responsibilities.

### 3.2 Voluntary appointment of authorised representative

According to article 17 point 1 of the WEEE Directive a foreign company, which is defined in article 3 f subpoints i-iii to be producer in that Member State, may voluntarily choose to appoint an authorised representative to another Member State, where they are not established and not defined as producers. If foreign companies choose this option, Directive obliges each Member State to ensure they can proceed. This is confirmed in Waste Act article 66a.

Because those companies are not producers in Finland, authorised representative cannot take the producers responsibility of that foreign company (because it does not have the responsibility) but instead of producer responsibility of the Finnish importers of those products.

Only one authorised representative can be appointed by each company.

Note, that companies located outside of Member States are not able to voluntarily nominate authorised representatives to Finland.

### 3.3. Authorised representative – role and responsibilities

By accepting the appointment and signing the mandate the authorised representative accepts that he is responsible for acting in the name and behalf of foreign exporter in the case of distance selling and local importer in the case on other foreign company. Those responsibilities include, inter alia,

- fulfilling all waste management obligation of the producer(s) either individually or collectively
- registering to producer register or joining the approved producer organisation and giving the information, which producers obligation he is taking care of. This has to be proofed by a signed document of this
- provision of all relevant producer/AR information to national register/producer organisation
- responsibility for payment of any fees etc.
- accepting prosecutions and administrative enforcements in the event of non-compliance

## 4 How to appoint authorized representative?

Appointment of an authorised representative shall be done by written mandate. Written mandate shall be submitted to national register (if producer takes care of the responsibilities individually, usually B-to-B producer) or to producer organisation (in case of collective system, mainly B-to-C producer).

Example of the mandate can be found in Annex 1

Together with the written mandate mentioned above the foreign company, which is not a distant seller, must also submit the document showing, that the foreign company and the importer/importers in concern have agreed on transferring the importers producer responsibilities to the authorised representative named by that foreign company. This agreement has to be proofed by the signed document.

At least following producer organisations service companies can act as an authorised representatives in Finland:

Elker Oy [www.elker.fi/en](http://www.elker.fi/en)  
ERP Services Finland Oy [www.en.erp-recycling.fi](http://www.en.erp-recycling.fi)  
Serty Services Oy [www.serty.fi/en/home](http://www.serty.fi/en/home)

#### 4.1. Termination of the contract

If authorised representative mandate is cancelled in case of Voluntary appointment of authorised representative, all the producer responsibilities fall back to the importer/importers. In that case the national producer register or producer organisation has to be informed immediately.

If a new authorised representative has not been appointed simultaneously at the time when previous agreement expires, registration shall be cancelled immediately. The foreign company has to inform the importer/importers immediately of those products which they have the producer responsibility and have to register/join producer organisation or in case of being already registered due to other imported products, take care of the waste management and its expenses and reporting immediately.

Additional information is available at out internet-page: [www.ymparisto.fi/en-US/Consumption and production/Waste and waste management/Producer responsibility](http://www.ymparisto.fi/en-US/Consumption%20and%20production/Waste%20and%20waste%20management/Producer%20responsibility)

## **ANNEX 1 –Example of a written mandate**

### **Case 1 – foreign distant seller**

A Ltd

Seller Street, Seller City, State

Appointment

B Ltd AR Street, AR Town, Finland

is appointed as authorized representative in Finland according to Finnish Waste Act 66 a § to take care all the EE producer responsibilities in Finland of the producer mentioned above.

This mandate, signed by the both parties, starts on the date of signature and will cease once either of the party informs national register/producer organisation that it has been terminated.

Producer signature

AR signature

Date

**Case B – other foreign company than distant seller**

B Ltd

Export Street, Export City, State

Appointment

C Ltd AR Street, AR Town, Finland

is appointed as authorized representative in Finland according to Finnish Waste Act 66 a § to take care all the EE producer responsibilities of the Finnish importers of the EE-products of the company mentioned above.

This mandate, signed by the both parties, starts on the date of signature and will cease once either of the party informs national register/producer organisation that it has been terminated.

Producer signature

AR signature

Date

Annex 1 (compulsory)

List (name, business code) and signed agreements of the importers