

## **ENVIRONMENT**

### **Decree Law n.º 152-D/2017**

**From December 11th**

The Government decided, in the Retirement National Program, as priority to the public waste policy, to promote the prevention and management of waste integrated in the products' life cycle. This policy, based in an economy which is progressively circular, aligned with the Action Plan for the Circular Economy in Portugal, approved by Resolution of the Council of Ministers nº xx/2017, aims at increasing the rate for waste preparation for reuse and recycling, deflecting the waste susceptible of multi-material recovery of being deposited in a landfill.

To deliver such intention, it is of special importance the application of judicial regimes related to specific waste flows that foresee the operationalization of management compliance schemes based on the producers' extended responsibility and that, through the respective compliance schemes, take on the responsibilities of the economic operators that put products on national market.

The articulation and cooperation amongst the referred compliance schemes and other intervenient in the market, namely the waste management operators, is crucial to achieve the reuse, recycling and recovery goals to which the Portuguese Republic is bound to by the European and national legislation.

Nevertheless, the judicial regimes mentioned before, relating to specific waste flows, are diffused through autonomous diplomas that define the norms applicable to the management flow per type of waste and which, along with Decree Law nº 178/2006, from September 5<sup>th</sup>, approves the waste management general regime, unites the judicial discipline and the definition of policies referring to waste management.

Seen that judicial diffusion is, on its own, a generator of judicial uncertainty, the diplomas related to packaging, used oils, used tires, electric and electronic waste, batteries and accumulators waste and end of life vehicles have been revoked under the scope of the legislative simplification and consolidation program that the Government has been promoting, as well as other regulation legislation, concentrating in one sole diploma the judicial regime of waste specific flows, based on the principle of the producers' extended responsibility. This consolidation aims to contribute for a bigger transparency and easier access to knowledge, by the economic operators, particularly the ones that are of a smaller dimension, such as is the case of small and medium companies which demonstrate bigger difficulty in knowing the applicable legislation.

However, the revision that was started was not limited to concentrating obligations and applicable procedures in terms of specific waste flows with producers' extended responsibility, but also introduced rationalization and coherence in the judicial system defining, on one hand, a set of common norms for managing these flows and, on the other hand, the norms which reflect the specific nature of each of those waste flows.

The goal of this legislative initiative is to move away the procedures responsible for creating dysfunctions in the waste management system as well as in what relates to competition, which shows to be fundamental in an economic sector that is clearly expanding. It is important to point out that the sector has been creating internal capacity for treating waste as well as conceptualizing the waste as a resource, which explains its growth and very significant professionalization in the last few years, a sector which is intended to grow.

The present decree law, joining, as mentioned before, the judicial discipline applicable to managing specific waste flows mentioned above, also ensures the transposition to internal judicial order of several directives, as well as of their latter changes, such as: Directive nº 94/62/CE, of the European Parliament and Council, from December 20<sup>th</sup>, relating to packaging and packaging waste; Directive nº 2000/53/CE, of the European Parliament and Council, from September 18<sup>th</sup>, relating to end of life vehicles; Directive nº 2006/66/CE, of the European Parliament and Council, from September 6<sup>th</sup>, relating to batteries and accumulators, as well as their respective waste; Directive nº 2008/98/CE, of the European Parliament and Council, from November 19<sup>th</sup> 2008, relating to waste, in what concerns used oils and Directive nº 2012/19/UE, of the European Parliament and Council, from July 4<sup>th</sup>, relating to electric and electronic waste.

With this diploma the co-responsibility of all the intervenient in the products' life cycle is reinforced, namely the producers, packers, retailers, traders and users and, especially, the operators directly involved in the collection and treatment of specific waste flows, with the introduction of factors that aim to boost their environmental performance. This co-responsibility aims at contributing for a more sustainable production and consumption, as well as for the prevention and reduction of the quantity of waste to be eliminated. This diploma also aims at an efficient use of resources and obtainment of secondary raw material with economic value.

On the other hand, by basing the judicial regime in the principle of the producers' extended responsibility, the present decree law promotes the conception and production which facilitate and optimize reuse, dismantling, recycling and other forms of recovery.

In this scope, it is determined that each producer or packer is responsible for financing the management of waste coming from their own products or packaging. They may choose to fulfill this obligation individually – by rendering financial guarantees that ensure the costs of managing waste from their products so these will not fall upon other producers or consumers – or by joining a waste compliance scheme to which they transfer their responsibility to.

The selective collection is also considered a previous condition to ensure the waste specific treatment, without prejudice of the importance of the retailers' contribution for the success of the waste collection, as well as the active contribution of the consumers for the success of that collection. It is intended that retailers have all necessary information and adequate premises to receive specific waste, free of charge, according to the principles of territorial proximity and easy access.

The opportunity is also taken to ensure the clarification of essential concepts to the application of the judicial regimes as well as the norms relating to the nature, constitution and judicial form of the compliance scheme and the ones relating to their responsibility for managing waste,

creating transparency and equity mechanisms in order to avoid conflicts and contribute towards the continuous improvement of the waste prevention and management system. As such, and in order to guarantee coherence and harmony amongst the compliance schemes, norms are introduced that establish regulatory models for defining fees as well as instalment amounts and financial responsibility of the compliance schemes.

It is important to highlight, in what relates to the specific flow of managing packaging and packaging waste, that the management of primary, secondary and tertiary packaging was cleared up, being that the use of these kinds of packaging results in the production of non-urban waste. Further on, it is no longer mandatory to mark the primary packaging, with an adequate transitional period. As such, we eliminate the system costs associated to this marking, which are frequently re-directed to the consumer, while we allow for bigger mobility for the economic operators in what refers to the compliance scheme they want to transfer their packaging waste responsibility to.

The present decree law does not contradict what is established in the offenses' regime in the scope of sea pollution in marine spaces under national jurisdiction, approved by Decree Law nº 235/2000, from September 26<sup>th</sup>. The present Decree Law was submitted to the information procedure in what concerns technical regulations and rules related to the information society services, established in Directive nº 2015/1535/UE, of the European Parliament and Counsel, from September 9<sup>th</sup>, 2015.

The following entities were heard: the government organs of the Autonomous Regions, the Portuguese Municipalities' National Association and the Waste Management Monitoring Commission (CAGER), created by article 50 of Decree Law nº 178/2006, from September 5<sup>th</sup>.

As such,

In the terms of paragraph a) of nº 1 of article 198 of the Constitution, the Government declares the following:

## **CHAPTER I**

### **General dispositions and principles**

#### **Article 1**

##### **Object**

1 The current Decree Law establishes the legal regime to which the management of the following specific flows are subject to:

- a) Packaging and Packaging Waste;
- b) Oils and used oils;
- c) Tires and used tires;
- d) Electric and electronic equipment as well as electric and electronic equipment's waste;
- e) Batteries and accumulators as well as batteries and accumulators waste;
- f) Vehicles and end of life vehicles.

2 — The present decree law also establishes environmental and human safety measures with the goal of preventing and reducing adverse impacts resulting from these waste production and management, decrease global impact of the use of these resources, improve the efficiency of that usage as well as contribute to the sustainable development, transposing to the internal juridical order the following Directives:

- a) Directive nº 94/62/CE, of the European Parliament and Counsel, from December 20th, relating to packaging and packaging waste, with changes to Regulations (CE) nº 1882/2003, from September 29th and 219/2009, from March 11th and Directive nº 2004/12/CE, from February 11th, 2005/20/CE, from March 9th, 2013/2/UE, from February 7th and 2015/720/UE, from April 29th;
- b) Directive nº 2000/53/CE, of the European Parliament and Counsel, from September 18th, relating to end of life vehicles, with changes to Directives nº 2008/112/CE, from December 16th, 2011/37/UE, from March 30th, 2013/28/UE, from May 17th, 2016/774/UE, May 18th and 2017/2096/UE, from November 15th;
- c) Directive nº 2006/66/CE, of the European Parliament and Counsel, from September 6th, relating to batteries, accumulators and respective waste, with changes to Directives nº 2008/12/CE, from March 11th, 2008/103/CE, from November 19th and 2013/56/UE, from November 20<sup>th</sup>;
- d) Directive nº 2008/98/CE, of the European Parliament and Counsel, from November 19<sup>th</sup>, relating to waste, in what concerns used oils;
- e) Directive nº 2012/19/UE, of the European Parliament and Counsel, from July 4<sup>th</sup>, relating to electric and electronic equipment's waste.

## **Article 2.º**

### **Scope**

1 The present Decree Law is applicable to:

- a) The packaging placed in the market, regardless the fact that is used for domestic, industrial, agricultural, trade or for services' purposes, or the material they are made of or, also, to the waste of that packaging susceptible to be collected and treated by the existing systems or others to be created;
- b) To the electric and electronic equipment (EEE) belonging to the following categories and respective waste:
  - i) Category 1: Large Appliances;
  - ii) Category 2: Small Appliances;
  - iii) Category 3: IT and Telecommunication Equipment;
  - iv) Category 4: Consumer Equipment and photovoltaic panels;
  - v) Category 5: Lighting Equipment;
  - vi) Category 6: Electric and electronic tools except for large dimension fixed industrial tools;

- vii) Category 7: Toys and sports and leisure equipment;
  - viii) Category 8: Medical Appliances except for all implemented and infected products;
  - ix) Category 9: Monitoring and Control Instruments;
  - x) Category 10: Automatic Dispensers.
- e) To EEE placed in the market and classified in the following categories and respective waste:
- i) Category 1: Temperature regulation equipment;
  - ii) Category 2: Screen, monitors and equipment with screens with a surface bigger than 100 cm<sup>2</sup>;
  - iii) Category 3: Lamps;
  - iv) Category 4: Large dimension equipment with any external dimension bigger than 50 cm such as home appliances, IT and telecommunications equipment, consumer equipment, lamps, equipment to reproduce sounds or images, music equipment, electric and electronic tools, toys, sports and leisure equipment, medical devices or accessories, monitoring and control instruments, automatic dispensers and equipment for generating electric current, with exception to the equipment stated in Categories 1, 2 and 3 stated in the present paragraph;
  - v) Category 5: Small dimension equipment with no external dimension bigger than 50 cm, such as home appliances, consumer equipment, lamps, equipment to reproduce sounds or images, music equipment, electric and electronic tools, toys, sports and leisure equipment, medical devices or accessories, monitoring and control instruments, automatic dispensers and equipment for generating electric current with exception to the equipment stated in Categories 1, 2, 3 and 6 stated in the present paragraph;
  - vi) Category 6: Small dimension IT and telecommunication equipment with no external dimension bigger than 50 cm;
  - f) Batteries and accumulators placed in the market, regardless their form, volume, weight, type of material they are made or type of use, and respective waste;

2 The indicative lists of EEE stated in paragraphs d) and e) of the previous number are mentioned in Additament I of the present decree law, of which it is part of.

3. The following EEE are excluded from the scope of the present decree-law in what concerns the EEE flow and EEE's waste (WEEE):

- a) The EEE necessary for the protection of the essential interests of the security of the State, including arms, munitions and war material intended for specific military purposes;
- b) Equipment specifically designed and installed as part of another type of equipment that is excluded from or that are not part of the scope of the present decree law, which can only fulfil their function if it they are part of other equipment;

- c) Filament bulbs;
- d) Equipment conceived to be sent to space;
- e) Large-scale stationary industrial tools;
- f) Large-scale fixed installations, except any equipment which is not specifically designed and installed as part of those installations;
- g) Means of transport for persons or goods, excluding electric two-wheel vehicles which are not type-approved;
- h) Non-road mobile machinery made available exclusively for professional use;
- i) Equipment specifically designed solely for the purposes of research and development that is only made available on a business-to-business basis;
- j) Medical devices and in vitro diagnostic medical devices, or accessories in case it is foreseen that such devices are expected to be infective prior to their end of life period;
- k) Active implanting medical devices.

4 — The following are excluded from the scope of the present decree law, in what concerns the flow of batteries and accumulators as well as the batteries and accumulators that are used in:

- a) The EEE necessary for the protection of the essential interests of the security of the State, including arms, munitions and war material intended for specific military purposes;
- b) Equipment conceived to be sent to space;

### **Article 3.º**

#### **Definitions**

1- For the effects of the disposed in the present decree-law, the following definitions were established:

- a) «Accessory» - an article that, although, is not a medical device, is specifically destined by his manufacturer to be used jointly with a device, in order to allow its use according to the proper objective
- b) «Funding agreement» - any agreement or mechanism referring to the loan, leasing or differed sale of any equipment, regardless the fact that the terms of that agreement or disposition foresee the possibility of transferring that equipment' property or even the possibility of that transference;
- c) «Device» any electric or electronic equipment defined in the terms of paragraph u), that is fed by batteries or accumulators or is susceptible of being so;

- d) «Preliminary Storage» - the controlled deposition of waste in the place where they are produced, for a period no longer than one year, before collection, on premises where the waste is produced or unloaded in order to be prepared for future transportation to another location, for treatment;
- e) «Set of batteries» - the series of batteries or accumulators connected to one another or closed in a wrapper forming a complete unit, not destined to be separated nor open by the end user;
- f) «Industrial battery or accumulator» - a battery or accumulator conceived exclusively for professional industrial purposes or used in any type of electric vehicles, namely the ones used as source of emergency energy or reservation energy at hospitals, airports or offices, the ones conceived exclusively for portable payment terminals at stores and restaurants and for bar code readers at stores, the ones used in instrumentation or in different types of measurement devices, the ones used in the application of renewable energies such as solar panels, as well as those used in electric vehicles, namely, cars, wheel chairs, bicycles, vehicles used at the airport and automatic transport vehicles;
- g) «Battery or accumulator for automotive vehicles» - a battery or accumulator used for supplying energy to the starting motor, to the lights or to the ignition;
- h) «Waste Receiving center» the licensed premises, in the terms of Decree Law 178/2006, of September 5th, in its current wording, that approved the General Waste Management Regime (RGGR) and which is part of the collective compliance schemes' network or individual specific waste management flows, where WEEE storage and WEEE storage sorting takes place for future guidance for treatment;
- i) «Placing on the market» - the first time a product is made available in the Portuguese market as a professional activity;)
- J) «Sales person» - individual or juridical person that carries out the activity of selling new or used goods to the end user which may, simultaneously, be considered producer of the product if it acts as such, as established in paragraph nn):
- k) ....
- l) «Placing in the market» - the availability of a product for distribution, consumption or use in the market, in Portugal, in the scope of a commercial activity, either being onerous or free of charge;
- m) «Medical device» - any medical instrument, appliance, equipment, software material or article used, isolated or combined, including the software produced by its producer to be used, specifically, for diagnosis or therapeutical means, that is necessary for the well-functioning of the medical device whose primary desired effect in the human body is not reached through pharmacological, immunological or metabolic means, although its function may be supported by those same means, destined by the producer to be used in human beings for the effect of:
- i) Diagnosis, prevention, control, treatment or relief of a lesion or disease;

- ii) Diagnosis, control, treatment, relief or compensation of a lesion or malformation;
  - iii) Study, substitution or change in, either the anatomy or in a physiological process;
  - iv) Conception control.
- n) «Active implanting medical device» - any active medical device that is produced to be, either partially or completely introduced, through a surgical or medical intervention in the human body, in a natural hole and is destined to stay implanted;
- o) «In vitro diagnostic Medical device» - any medical device that consists of a reagent, reactive product, calibrator, control equipment, set, instrument, device, equipment or system, used isolated or jointly, destined by its manufacturer to be used in vitro for analysing samples from the human body, including blood and tissues that are donated, exclusively or with the main objective of obtaining data relating to the physiological or pathological state, congenital abnormalities, determination of security and compatibility with possible receivers or the control of therapeutic measures, as well as the samples' receivers which will or will not support the vacuum, specifically destined by its manufacturer to contain and preservation the samples taken directly from the human body, for a diagnosis study to be made, in vitro.
- p) «Retailer» - is any natural or legal person that sell or resells new or used goods, in a considerable amount, to other economic operators, being that a Retailer may also be considered, simultaneously, a «producer», if it acts as such, according to the established in paragraph nn);
- q) «Packer» the one that, as a professional, packs his products or sends them to be packed or imports packed goods, being responsible for putting them on national market;
- r) «Packaging», any product made up of materials of any nature used to contain, protect, move, manoeuvre, deliver and present merchandise, from raw materials to transformed products, from the producer to the user or consumer, including all disposable articles used for the same purposes, and having in mind the disposed in additament II of the present decree law, of which it is part of, in the following categories:
- i) Sales packer or primary packaging, which comprehends any packaging conceived to be used as a sales unit for the consumer or end user in a point of purchase;
  - ii) Groupage packaging or secondary packaging, which includes any packaging conceived to constitute, in the point of purchase, a groupage of several sales units, in case they are sold as such to the consumer or end user or used as means to re-provision of the point of purchase and that may be taken out of the product without affecting its characteristics;
  - iii) Transportation packaging or tertiary package which includes any packaging conceived to facilitate moving and transportation of a series of sales units or grouped packaging to avoid physical damage during their moving and transport, with exception to the containers for road, train, sea and air transportation;
- s) «Service packaging» - packaging destined for filling or stuffing a point of sale to accommodate or transport products to or by the consumer;

- t) «Reusable packaging» - package or any component conceived and placed in the market to fulfil, during its life cycle, a minimum number of routes or rotations per refill or reuse for the same means for which it was created for;
- u) «Electric or Electronic Equipment», or EEE, equipment which depends of electric current or electromagnetic fields in order to function correctly, as well as equipment for generating, transferring or measuring those currents and fields and conceived to be used with a nominal tension no higher than 1000 V for alternating current and 1500 V for direct current;
- v) «Wireless electric tool» - any portable device, charged by batteries or accumulators and destined to construction, maintenance or gardening activities;
- w) «Large-scale stationary industrial tools» - large size assembly of machines, equipment and/ or components functioning together for a specific application, permanently installed and uninstalled by professionals at a given place, and used and maintained by professionals in an industrial manufacturing facility or in a research and development facility;
- x) «Supplier of a service packaging» - the producer of service packaging as established in paragraph nn), as responsible for putting the product in the market for the first time;
- y) «WEEE fractions» - material which is separated through WEEE treatment, including decontamination, dismantling or any other treatment procedure;
- z) ...
- bb) «Large-scale fixed installation» - a large-size combination of several types of devices and where applicable, other devices, which, cumulatively:
- i) Are assembled, installed and uninstalled by professionals;
- ii) Are intended to be used permanently as part of a building or a structure, at a pre-defined and dedicated location;
- iii) Can only be replaced by the same equipment specifically designed for the effect.
- cc) «Non-road mobile machinery» - any mobile machinery, transportable equipment or vehicle, with or without bodywork or wheels, not destined to road transportation of passengers or merchandise, including the machinery installed in the vehicles' chassis, destined to road transport of passengers or merchandise;
- dd) ...
- ee) «Operator in the scope of waste flows» any producers of the product, packers, manufacturers and suppliers of products' materials and components, product and product components' transformers, importers, retailers, traders, users, waste collection operators, waste management operators, reception, dismantling, fragmentation, recovery centers' operators, as well as other premises for treatment of end of life vehicles, including their components and materials, entities that carry out vehicles' maintenance and repair, as well as authorities and public organs competent about the subject, mainly the municipalities, police authorities and car insurance companies;

gg) «Button battery» - small cylindrical and portable battery or accumulator with a diameter bigger than its height, used for special means, namely hearing aids, watches, small portable devices and reservation supply devices;

hh) «Battery or accumulator» - any source of electric power obtained through direct transformation of chemical energy, constituted by one or more non-rechargeable primary cells or by one or more rechargeable secondary elements;

ii) «Portable battery or accumulator» – any battery, button battery, set of batteries or accumulator that is hermetically sealed, that may be carried in hand and is not an industrial battery or accumulator, nor a battery or accumulator for automotive vehicles, namely the batteries constituted by one element only, such as the AA and AAA batteries, as well as the batteries and accumulators used in mobile phones, laptops, wireless electric tools, toys and home appliances;

jj) «Plastic» polymer as described in nº 5 of article 3 of Regulation (CE) nº 1907/2006, from the European Parliament and Council, of December 18<sup>th</sup> 2006, to which may have been added additives or other substances and that may be the main structural component of bags;

ll) «Collection point» - place where the preliminary WEEE reception and storage of specific waste takes place, as part of the collection process, and which integrates the collective or individual management schemes' collection network;

mm) «Take-back point» - the place of the sales' facilities and/ or retailers of EEE which take back the WEEE resulting from those products, either by legal obligation or voluntarily, and where they are their preliminary storage takes place, as part of the collection process;

nn) «Products' Producer» - natural or legal person that, regardless the sales technique used, including long distance communication in the terms of Decree Law nº 143/2001, of April 26<sup>th</sup>, in its current wording, not including those who exclusively provide financing in the terms of a financing contract, unless it also acts as a producer as stated in the paragraphs below:

i) Is established in national territory and manufactures the product, including those incorporated into devices, equipment or vehicles, under his own name or trademark, or has the product designed or manufactured under his name or trademark, in Portugal.

ii) Is established on national territory and resells, rents or makes products available in the market through any other means, in Portugal, under his own name or trademark, including those incorporated into devices, equipment or vehicles produced by other suppliers. In this case the reseller is not considered a producer in case the brand of the producer appears on the equipment, as established in the previous paragraph;

iii) Is established on national territory and places products in the market, including those incorporated into devices, equipment or vehicles, coming from a third country or from another Member State of the European Union;

iv) Sells, rents or makes products available in the market through any other means, including those incorporated into devices, equipment or vehicles, through long distance

communication techniques, directly to private households or to users other than private households, in Portugal, and is established in another country belonging to the European Union or any other third party country. and is established in another Member State of the European Union or any other third-party country.

pp) «Removal» is the manual, mechanical, chemical or metallurgic treatment according to which substances, mixtures and dangerous components are confined in an identifiable flow or identifiable part of a flow in the treatment process. A substance, mixture or component is identifiable in case it can be monitored in order to verify that the treatment is environmentally secure;

qq) «Batteries and accumulators waste coming from private end users» - batteries and accumulators waste coming from the domestic sector, as well as waste coming from commercial, industrial, corporate and other sectors which, due to their nature and quantity, are similar to the batteries and accumulators waste coming from the domestic sector;

rr) «WEEE» - any EEE that constitute waste, including all the components, sub-assemblies and consumables which are part of the product at the time it is discarded;

ss) « WEEE coming from private households» - WEEE which comes from private households as well as from commercial, industrial, institutional and other sources which, due to its nature and quantity, are similar to those coming from private households. WEEE likely to be used by both private households and users other than private households shall in any event be considered to be WEEE from private households;

tt) «Urban Waste»:

i) The mixture of waste or waste selectively collected from housing, as well as others which due to its nature and composition may be similar, namely paper and cardboard, glass, metals, plastic, bio waste, wood, textile, packaging, WEEE, batteries and accumulators waste and bulky urban waste; or

ii) The mixture of waste or waste selectively collected from other edifications and sources, including the streets' and markets' cleaning services that are comparable to domestic waste, in its nature and composition;

uu) «Bulky urban waste» - waste coming from housing which, due to its volume, dimensions, form or other characteristics may not be collected through the normal means of removal, such as furniture, mattresses and large dimension EEE;

vv) «Packaging reuse» - any operation through which a packaging, conceived and projected to fulfil, during its life cycle, a minimum number of trips or rotations, is reused for the same objective for which it was conceived or refilled, with or without support of auxiliary products available in the market that allow for a refill of that same package;

xx) «Plastic Bag» - a bag with or without a handle, made of plastic, which is given to the consumer in a point of sale of merchandise or products;

yy) «Light Plastic Bag» - a plastic bag which the width of the wall is less than 50 µm;

zz) «Very light plastic bag» - a plastic bag which the width of the wall is less than 15 µm, necessary for hygiene purposes or supplied as primary packaging of food sold in bulk, whenever that helps prevent food wasting;

aaa) «Retail Sector» - activity sector that sells a product;

bbb) «Housing Sector» - sector related to housing;

ccc) «HORECA Sector» - activity sector related to touristic enterprises, local housing and restaurant and drinks' establishments;

ddd) «Individual System» - system through which the products' producer or service packaging supplier assumes, individually, the responsibility for managing the waste in which the product or packaging turns into;

eee) «Compliance Scheme» - system through which the products' producer, the packer or the service packaging supplier assumes collective responsibility, and transfers to a management entity licensed for the effect, the responsibility for managing the waste in which the product or packaging turns into;

fff) ...

hhh) «Packaging organic recovery» - recycling that results from aerobic treatment (composting) or anaerobic (biomethanization), through microorganisms and in controlled conditions, of the biodegradable parts of packaging waste, with production of stabilized or methane organic waste. The deposit in landfills is not considered a form of organic recycling;

2 — The urban waste mentioned in paragraph uu) of the previous number do not include end of life vehicles, used tires, industrial and automobile accumulators. Used oils, construction and demolition waste, as well as the waste coming from industrial production, agriculture, silviculture, septic tank, sewerage systems and treatment, such as depuration muds.

## **Article 4**

### **General principles of waste specific flows**

1 — Preventing the production of these waste, in quantity and noxiousness, and the reduction of their production through the creation of reuse and recycling systems as well as other forms of recovery are considered general principles of managing products and their respective waste, as established in the present decree law.

2 — The principles established by RGGR also constitute general principles of managing products and their respective waste, in the scope of the present decree law, namely the principles of self-sufficiency and proximity, of the hierarchy of the waste management operations, protection of human health and of the environment, guaranteeing that the collection, transportation, storage and waste treatment operations are carried out using the best available techniques, as well as the principles of efficiency and effectiveness, in compliance with the competition principle.

## **Article 5**

### **Responsibility for management**

- 1 In the specific flows managed according to the Producers' extended responsibility, established in nº 1 of article 1, the financial or financial and operational responsibility for managing the phase of the products' life cycle when they reach their end of life and become waste, in the terms defined in the present decree law, is granted, totally or partially, to the product producer, to the packer and to the service packaging's supplier.
- 2 The intervenient in the product life cycle, from its conception, production, distribution, sale and use, up to the handling of the respective waste, are co-responsible for managing them and shall contribute, in the proportion of their respective intervention and responsibility, for the functioning of the compliance schemes, in the terms established in the present decree law.
- 3 Citizens shall actively contribute for the smooth running of the compliance schemes created in the scope of the present decree law, namely by adopting preventive behaviors in what concerns waste production, procedures that facilitate their respective reuse and recovery and carrying out the correct guidance of these waste they hold, through their delivery or deposit in the existing selective collection networks.

## **Article 6**

### **Waste transportation requirements**

1. The collection and transportation of waste selectively collected shall be made so that it guarantees the best conditions for reuse, recycle and confinement of dangerous substances.
2. Waste transportation is subject to electronic registry to be made by the waste producers, detainers, transporters and receivers through waste electronic follow-up note (e-GAR), in the terms established in article 21 of RGGR.
3. ...
4. In the specific case of WEEE, the storing and transportation of electric and electronic temperature regulation equipment which contains substances that impoverish the ozone layer, shall be carried out according to the conditions established in Decree Law nº 152/2005, from August 31st, in its current wording.
5. The collection and take back points are not subject to the licensing or registry requirements in the terms, respectively, of articles 23 and 45 of RGGR, and shall, in the specific case of WEEE, used tires and automobile and industrial batteries, satisfy the storage requirements established in nº 1 of additament III to the present decree law, of which it is part of.
6. The WEEE take back points that collect waste, voluntarily, not resulting from the legal obligations established in paragraph a) and b) of nº 4 of article 13, are excluded from the established in the previous number, whenever that collection does not occur in the scope of a contract relation with a licensed compliance scheme in the terms of the same article.
7. The dispositions referred in the previous numbers do not apply to situations in which

the vehicle is driven by the respective owner or holder for a reception center or for a dismantling operator.

## **CHAPTER II**

### **Common rules for managing specific waste flows of waste in the scope of the producer's extended responsibility**

#### **SECTION I**

#### **Compliance Schemes**

##### **Article 7**

##### **Compliance schemes of waste specific flows**

- 1 For the effect of fulfilling the obligations established in the present decree law, the products' producers, packers and service packaging's suppliers are obliged to submit the respective waste management to an individual system or to a compliance scheme, subject to authorization or permit, respectively, in the terms of the present decree law or, yet, through the celebration of voluntary deals between the product producer and the Portuguese Environment Agency, I.P. (APA, I. P.), which shall be open to every partner that wishes to follow up on it.
- 2 Except for the packaging referred to in nº 2 of article 22, only the products whose producers, packers or service packaging's suppliers have adopted the systems established in the previous number may be put and made available in the market.

##### **Article 8**

##### **Qualification of the waste treatment operators**

1. The waste treatments operators that want to operate in the scope of the specific waste flows are subject to the fulfilment of the qualification requirements with the goal of an effective control and treated waste traceability, according to the objectives and goals defined in the present decree law.
2. The requirements referred in the previous number, as well as their scope of application, are established by APA, I. P, according to the technical quality and efficiency criteria, to be published in its website, and being part of the respective permits.
3. The requirements referred in the present article shall consider the rules defined by the European Commission.

## **SECÇÃO II**

### **Sistema Individual**

#### **Artigo 9**

## **SECTION III**

### **Compliance Scheme**

#### **Article 10**

#### **Compliance scheme of the waste specific flows' management**

1 The compliance scheme is the system through which the producer, the packer or the service packaging supplier of the product transfer their responsibility for the managing of the waste in which the product or the packaging, depending on the case, turns into, to an entity licensed for that effect, that collectively assumes this responsibility.

2 The product producer, packer or service packaging supplier, in the case of the packaging flow and packaging waste, transfer their responsibility in exchange for the payment of a fee to the compliance scheme referred to in article 14.

3 The responsibility transfer referred to in nº 1 is subject to a signed contract with the same duration for which the compliance scheme's permit is in force, with the possibility to be cancelled or revised, and which shall contain the following:

- a) Identification and characterization of the products and packaging, as applicable, that are under the contract's scope;
- b) The control actions to be carried out by the compliance scheme to verify the fulfilment of the conditions established in the contract;
- c) The fees due to the compliance scheme and the way they shall be updated;
- d) The compulsoriness of transmitting periodic information by the product producer, packer or service packaging supplier as well as their responsibility for the quality and truthfulness of that information, foreseeing the need to certify the sent data in a proportionate manner, according to its dimension;
- e) The obligation of the product producer, packer or service packaging supplier to participate and collaborate in the activities established in the compliance scheme's waste prevention plan;
- f) Mechanisms that guarantee the transmission of data by the product producer, packer or service packaging supplier, as applicable, to the compliance scheme, in order not to compromise the compliance scheme's information reporting to APA, I. P.;
- g) The compulsoriness of the compliance scheme to render information about the activities that were carried out and the results that were achieved;

h) The obligation of the product producer, packer or service packaging supplier, to render information to the treatment facilities in the terms established in the present decree law.

4 The responsibility referred to in nº 1 only ceases upon declaration of assumption of responsibility for the effect of the disposed in nº 6 of article 5 of RGGR.

## **Article 11**

### **Compliance Scheme**

1 The compliance scheme is a private law juridical person, of associative or society nature;

2 The compliance scheme is compulsorily constituted by product producers, packers and packed goods importers, in the case of the packaging specific flow, which representativeness shall not be lower than 70%, or by entities constituted by them in which their representativeness is no lower than the percentage mentioned above. The compliance scheme may not integrate entities whose activities are susceptible to generating conflict of interests with the compliance scheme's functions.

3 The compliance scheme shall constitute non-cumulative reserves until the limit established in the respective permit to face occasional negative results.

4 The compliance scheme may constitute non-cumulative provisions until the limit established in the respective permit, to face market value fluctuations in what concerns waste take back during the annual exercise.

5 The compliance scheme's positive net results shall be reinvested or used in its activity or related activities or in reserves for future operations. It is strictly forbidden to distribute results, dividends or profit by its members, shareholders, partners or associates.

6 The compliance scheme is obliged to present a guarantee which may be done through a bank guarantee or an insurance collateral in favour of APA, I. P., in the terms established in nº 7 of article 16.

7 In case the compliance scheme's net positive results surpass the limit defined for the reserves, these shall be used for decreasing the fee paid by the product producers, packers, importers of packed goods and service packaging suppliers.

8 Without prejudice of other forms of management that may be created, the compliance scheme takes on the responsibility for managing the phase of the product life cycle when these reach their end of life and become waste. The compliance scheme guarantees the following:

- a) The waste financial management; or
- b) The waste financial and operational management, in this case keeping them in its possession.

9. In order to achieve the recycling goals, the compliance schemes shall evolve in the sense of guaranteeing the waste financial and operational management, where the compliance scheme assumes the possession of the waste and these shall be, compulsorily, guided to the waste management operators through contest procedures that observe the transparency, equality and competition principles. These procedures and respective results shall be published

in the compliance scheme's website, upon validation of the results by an independent entity.

10. The contest procedures carried out through a licensed platform in the scope of the Organized Waste Market do not need to be validated by an independent entity.

11. As an exception, in the case of deserted contest procedures or whenever there is no award, the compliance scheme may resort to direct award in order to pursue its respective goals.

12. The compliance schemes may not celebrate contracts with waste management operators which prevent free access to the waste management activity by other operators.

## Article 12

### Compliance schemes' obligations

- 1 — The following are obligations of the compliance scheme of the integrated system:
  - a) To ensure the prevention, recycling, recovery and collection goals, applicable to the respective wastes flow;
  - b) To organize the reception network, selective collection, transportation and waste treatment by celebrating the necessary contracts with the Retailers, the sellers, the municipalities or with the municipal, inter-municipal and multi-municipal systems, when applicable, with the waste management operators as well as with other entities such as the HORECA sector, which shall fixate, both, the income and burdens associated with this activity;
  - c) To provide the financial instalment to civic amenities (SGRU) destined to handle the cost increase due to selective collection and sorting of urban waste specific flows, as well as the costs of sorting urban waste specific flows in the mechanic treatment and mechanic and biologic treatment stations, as well as the organic recovery and treatment of metal slag resulting from the incineration of urban waste and other fractions considered recycling, for which it should establish a contract;
  - d) Carry out awareness, communication and education campaigns, targeting the different intervenient in the integrated system, on best practices of managing waste specific flows as well as about other negative impacts for health and for the environment, due to their inadequate management;
  - e) Promote technical follow up of the waste management operations and carry out clarification activities as well as training, on these subjects;
  - f) Promote studies and investigation projects for new prevention and waste recovery processes, to be implemented at national level;
  - g) Ensure the monitoring of the integrated system, namely in what concerns the number of products placed in the market, or the quantity of packaging, in the case of the packaging and packaging waste specific flow, to the flow of the respective waste and the materials resulting from their treatment, as well as following up of the system's intervenient;
  - h) Send to APA, I. P. the annual activities' report, in digital format, until April 15<sup>th</sup> of the year after the one it reports to, demonstrating the activities carried out and the results achieved in the scope of the obligations established in its permit, which shall contain the elements referred to in the list published in APA,

- I. P.'s and DGAE's website, accompanied by the Annual Management Report, upon being approved by the shareholders' general assembly, and duly audited;
- i) Enrol and register data in APA, I. P.'s waste electronic registry integrated system, as established in RGGR;
- 2 The terms and conditions for the fulfilment of obligations, refereed in the previous number, are established in the respective permits.

### **Article 13**

#### **Waste selective reception and collection network**

1 The selective reception and collection network is considered adequate to pursue the goals of the present decree law whenever it fulfils, at the least, the followings requirements:

- a) Is of national comprehensive scope, taking into consideration the population density of the respective area of influence and according to proximity criteria susceptible to incite the waste guidance to the integrated system;
- b) Is of easy access for waste deposit and collection;
- c) Contributes towards adequate waste sorting;
- d) Promotes reuse and guidance of waste that may not be reused for recycling or others forms of recovery;
- e) Prevents risks for the environment, public health and security of people's and goods;

2 The selective reception and collection network is structured in the terms to be established in the permits of the compliance schemes belonging to the integrated systems, constituted from the conjugation of:

- a) Municipalities, municipalities' associations, companies that manage multi-municipal, and inter-municipal systems or SGRU, competent to collect urban waste;
- b) Retailers and/ sellers which ensure waste collection or take back;
- c) Other points of sale, namely, the compliance schemes' own collection network installed by it selves, licensed in the terms of the present decree law or under its responsibility;
- d) Waste management operators;

3 The delivery and reception of the waste in the respective selective reception and collection network are made without charge to the respective holder.

4 In the particular case of EEE's flow, sellers are obliged to ensure the following:

- a. Free of charge WEEE reception for end users, in the reason of one to one, in the scope of supplying a new EEE, as long as the waste are equivalent equipment and have the same purpose than the equipment that is delivered;
- b. In establishments with an EEE sales area with at least 400m<sup>2</sup>, the reception of very small dimension WEEE with no external dimensional superior to 25cms, is free of charge for end users and present no obligation to buy an equivalent EEE. This collection

may occur in the establishments themselves or somewhere nearby;

c. The guidance, through the compliance scheme, of the collected WEEE to licensed waste management operators in order for the WEEE to be treated;

d. Whenever the sales implies EEE delivery at clients' house, free transportation of WEEE to its premises or directly to licensed operators for the WEEE to be treated.

5 Sellers may become exempt from fulfilling the obligation established in paragraph b) of the previous number as long as they prove, through an evaluation, that the existing alternative collection systems are equally efficient. It is up to APA, I. P to approve these exceptions and make the evaluations available to the general public.

6 The selective collection network shall allow private users and sellers to deliver those WEEE free of charge.

7 Without prejudice of WEEE separation for reuse, in the terms of nº 1 of article 62, the WEEE collected in the selective collection network, established in the previous number, shall be guided to reception centers which will sort them by category in order to transport them to a treatment facility.

8 Sellers of portable batteries and accumulators are obliged to accept the return of the respective waste, no matter their chemical composition or its origin, free of charge for the end users and without obligation of them having to acquire new batteries or accumulators.

9 For effect of the disposed in the previous number, the sellers of portable batteries and accumulators are obliged to have, in their premises, specific containers for portable batteries and accumulators selective collection, in a well identified and accessible place.

10 The sellers of industrial batteries and accumulators and batteries and accumulators for automotive vehicles are obliged to accept the return of the respective waste, no matter their chemical composition, at the reason of one for one, in the scope of supplying a new battery or accumulator.

11 The return of batteries and accumulators waste from individual non-commercial vehicles in the collection points referred in the previous number is free of any charge for the end user and does not imply the acquisition of new batteries and accumulators.

12 The collection of portable batteries and accumulators may be done together with the WEEE management systems. In this case the compliance schemes shall agree on the conditions of their respective participation.

13 The collection of portable batteries and accumulators for automotive vehicles may be done together with the ELV management systems. In this case the compliance schemes shall agree on the conditions of their respective participation.

## **Article 14**

### **Compliance scheme's financing**

1. The compliance scheme is funded, namely, through the fee to be paid by the producers or packers, importers of packed goods and service packaging suppliers, in the case of packaging and packaging waste specific flow.

2. The amounts of the fee are established according to the quantity of products or packaging, in the case of packaging and packaging waste specific flow, put on national market each year, characteristics of the products or packaging and material present in the waste. The

amounts are obtained through the application of the model referred to in the following article.

3. The compliance scheme shall establish specific conditions to be agreed upon with the producers, packers and service packaging suppliers, in the case of packaging and packaging waste specific flow, in accordance with the dimension of their activity as well as in isolated situations of putting products in the market, in the terms to be defined in the respective permit.
4. In case the products are transferred to be placed in a market outside national territory, the product producer, packer and service packaging supplier have a maximum period of 90 days, from the date of the sales transaction, to obtain from their client, a declaration stating that the products were not put on national territory.
5. In case the product producer, packer or service packaging supplier do not obtain the declaration referred to in the previous number, they shall pay the amounts of the respective fees.
6. The producers and retailers discriminate, along the chain, in the transactions amongst economic operators, in a specific item to be specified in the respective invoice, the amount corresponding to the fixed fee in favour of the compliance scheme.
7. In the specific case of tires and used tires, the obligation established in the previous number is also applied to transactions with the end user.
8. The disposes in nº 6 is not applicable to portable batteries.
9. ...

## **Article 15**

### **Financing model**

1. In the scope of the licensing request referred to in nº 1 of the following article, it is up to the compliance scheme to propose to APA, I. P. and to DGAE a model for determining the value of the fees for the total period the permit is in force, with the following elements:
  - a. Model for calculation the fees, with discrimination of inputs and outputs, calculation formula and respective variables;
  - b. Main concepts and principles implicit to the presented model, being that one of the principles must be the fact that prices shall reflect the costs, that is, the fees shall correspond to the rendering of a service
  - c. Breakdown and characterization of direct and indirect costs, as well as the system's profit, keeping in mind the inputs and assumptions that make up the model, dully separated per material and item;
  - d. Evolution perspective on the waste specific flow in terms of the quantity of product or packaging, in the case of specific flow of packaging and packaging waste, placed in the market, as well as generated waste;
  - e. Sensitivity analysis of the assumptions used in the proposed calculation model;
  - f. Provisional statement account which shows the system's economic and financial balance, resulting from the proposed option;
  - g. Presentation of the fees obtained with the application of the model.
- 3 The model referred in the previous number shall not allow the financing of a material or product category by other material or product category, including cross subsidizing, nor compromise nor distort competition amongst materials or product categories. The Model shall be structured to promote the maximum economic and financial efficiency in managing the

integrated system.

4 The model shall foresee differentiated fees according to the products' environmental impact and the real cost of managing the respective waste, namely in what concerns the use of substances or dangerous mixtures, incorporation of recycled materials, susceptibility to be dismantled, reuse and recovery and the easiness to recycle the products and secondary raw material, with the economic value they have.

5 APA I.P and DGAE approve the model for determining the fees amounts, in a period of 60 days upon its reception, according to previous counsel from the Autonomous Regions.

6 APA I.P and DGAE may request additional substantiating studies about the basis of the model that was presented.

7 The compliance scheme publishes in its website the values of the fees in force, in a maximum period of 3 week days from the date of the approval by APA I.P and DGAE.

8 The compliance scheme may update the annual values of the fees by applying the model established in nº 1, informing APA I.P and DGAE with a minimum period of 30 days prior to its publication in the respective website.

9 The annual variation of the fees' values, resulting from the application of the model approved in nº 4, which corresponds to a reduction or increase higher than 10%, determines a revision of the calculation model previously approved.

10 Without prejudice to the previous number and in case the evolution of circumstances so advises it, APA I.P and DGAE may determine the revision of the model established in nº 3.

11 The compliance scheme may not charge the products' producers, packers, importers of packed goods or service packaging suppliers, in the case of the specific packaging flow and packaging waste, any additional values other than the fees established in nº 1 of the previous article.

## **Article 16**

### **Compliance scheme licensing**

1 The waste management integrated system is subject to a permit granted by dispatch of the Government members responsible for the economy and environment areas, for a period no longer than 5 years, and it may be extended for one year, which establishes the conditions of the flow's management, namely the ones related to:

- a) The embraced waste;
- b) The waste collection area;
- c) The waste collection network;
- d) The management goals and objectives;
- e) The prevention, awareness and communication and investigation and development plans;
- f) The economic and financial balance;
- g) The relationship with the waste management operators and other intervenient in the integrated system;
- h) The integrated system's activity monitoring which guarantees the management of the information related to producers or packers and service packaging suppliers, as applicable, collection spots, transport operators and management and respective quantitative of products placed in the market and collected and treated waste, as well as

the destinies of the material resulting from treatment;

i) The value of the guarantee for the period the permit is in force, with possibility of annual revision after the presentation of a request, duly founded, from the compliance scheme;

j) To the value of the guarantee for the period the permit is in force, with the possibility of an annual revision after presentation of a duly founded request, by the compliance scheme.

2 The procedure of granting the permit appears in the decree to be approved by the Government members responsible for the areas of economy and environment.

3 The permit is granted as long as the candidate to compliance scheme demonstrates to have technical and financial ability to implement a waste collection network as well as guide waste to treatment, in order to fulfil the goals set in the present decree law.

4 The requirement for granting the permit is submitted, in a digital format, in APA, I. P.'s electronic platform, to which DGAE has direct access. It is APA, I. P.'s responsibility to coordinate the authorization process and report the final decision.

5 The requirement referred to in the previous number is accompanied by an application document, which shall contain, at least, the following information:

a. Constituent bylaws;

b. Personnel board with identification of the respective technical competences;

c. Integrated system's activity time and territorial scope;

d. Detail of the rules and established regulations to be observed by the producers or packers and service packaging suppliers, as applicable, that are members of the compliance scheme;

e. Detail of the rules established for publishing relevant information to the producers or packers and service packaging suppliers that are members of the compliance scheme, in a precise and opportune manner;

f. Scope of the products' or packaging types and characteristics, as applicable;

g. Prevision of the quantity of products and packaging, as applicable, to put on national market, by the member producers, annually, by category and/ or type of material, as applicable, and respective assumptions;

h. Prevision of the quantities of product and packaging waste to collect or take back, annually, by category and/ or type of material, as applicable, and respective assumptions;

i. Management goals and objectives to reach annually;

j. Definition and structuring of the collection network and its evolution with identification, whenever possible, of the different intervenient and the respective estimate of the quantity of products and packaging waste, as applicable, that were collected;

k. The way they propose to ensure the correct treatment of the products and packaging waste, as applicable, including the technical follow up of the products and packaging waste management operations, as applicable, and the promotion of the best available techniques;

l. Articulation conditions with the other intervenient in the system and the way they propose to ensure the products and packaging waste management, as applicable;

m. The articulation conditions with other licensed compliance schemes for the

same waste flow and for other waste specific flows, namely, in order to avoid double charge of the fees due to the compliance schemes as well as cost duplication with audits, for example;

n. In the scope of the requirement established in the previous number, the compliance scheme shall prove that it has carried out the necessary consultations to the interested parties in order to plan the integrated system's activity, namely ensuring the established articulation conditions.

6 The calculation of the value of the guarantee, by the compliance scheme, corresponds to 0.05 of the total income of the fees, estimated according to the established in the financing model referred to in article 15.

## **Article 17**

### **Articulation amongst compliance schemes**

1. The compliance schemes from the different waste flows may, whenever justifiable and in the strict respect of the competition rules, articulate amongst themselves in order to create synergies, minimize global costs of waste management and fulfill the management goals;
2. Whenever possible and in the strict respect of the competition rules, the compliance schemes of the same waste flows shall also promote the necessary articulation in the sense of avoiding duplication of audits and share the financing of those audits, taking into consideration the respective parcel, in weight, of products or packaging declared by each compliance scheme.
3. Whenever possible and in the strict respect of the competition rules, the compliance schemes shall promote joint awareness activities and investigation projects.

## **Article 18**

### **Allocation and compensation mechanism**

1. Whenever there is more than one compliance scheme working in the same waste specific flows, there is space for applying allocation and compensation benefits to be defined by the President of the Waste Management Monitoring Commission (CAGER), in order to compensate the compliance scheme that assumes the responsibility for waste management.
2. The application development and the functioning of the allocation and compensation mechanisms, as well as other management costs associated with these mechanisms, are funding in the terms established in nº 7 of article 44 of RGGR.
3. It is APA, I. P's responsibility to collect from the compliance schemes, the amount referred in the previous number, through the issuing of a unique charge document (DUC), to be made until the end of the first semester of the year it reports to.
4. The payment is due in 15 days upon reception of the notification made by APA, I. P, electronically.
5. The amount charged is exclusively destined to support charges associated with

managing the allocation and compensation mechanism, referred to in nº 2.

## **SECTION IV**

### **Registry system**

#### **Article 19**

##### **Registry of producers and other intervenient**

1. The product producers as well as packers and service packaging suppliers, in what refers to packaging specific flow and packaging waste, are obliged to communicate to APA, I. P, through the waste integrated electronic registry system, the necessary information to follow up on the application of the disposed in nº 1 of article 5, namely, the type and quantity of products or the material and the quantity of packaging put on national territory as well as the management system they have chosen for each type of waste, with no prejudice of other specific information for each waste specific flow.
2. The collection and treatment of the data from the obligations established in the previous number is subject to the legislation of personal data protection.
3. The entities referred to in nº 1 may delegate the responsibility for filling in the data declaration, related to placement in the market, as long as it is foreseen in the contract. The responsibility of registry may not be delegated.
4. In the case of the specific EEE flow:
  - a. The products' producer shall identify the respective registry number in the invoices they issue, in the transportation documents as well as in other equivalent documents;
  - b. Each producer, or each authorized representative that is nominated under the scope of nºs 1, 2 and 3 of article 20, shall introduce the information established in parts A and B of additament V of the present decree law, of which it is part of;
  - c. Without prejudice of the disposed in the previous paragraph, the authorized representative shall give periodical information about the national distributors to which it supplies EEE, as well as the respective quantities and EEE categories placed in the market;
  - d. For the effect of assessing the fulfilment of national WEEE collection goals, the following intervenient in selective collection are subject to registry as well as periodic data reporting:
    - i. Producers;
    - ii. Retailers;
    - iii. Waste treatment operators;
    - iv. Urban waste management systems;
    - v. Entities that carry out WEEE collection activities or campaigns, in the terms of nº 2 of article 59;
    - vi. Other individual or juridical person that collect WEEE;
  - e. For the effect of the periodic data reporting, the intervenient in the selection collection shall maintain chronological registry, namely of the quantity, in

weight, of collected WEEE, as well as their origin and destiny. The registries shall be maintained for a minimum period of three years and made available to the competent authorities whenever requested.

5. In the specific flow of batteries and accumulators, the producers of these products register the information that is established in additament VI to the present decree law, of which it is part of.
6. ...
7. The products' producers, as well as packers, importers of packed goods and service packaging suppliers shall communicate to APA, I. P., in a maximum period of 30 days upon its occurrence, any changes relating to information transmitted in the scope of the registry referred in the present article, as well as cancel their registry when they stop to exercise their activity.
8. False declarations rendered in the fulfilment of the established obligations in the present article will incur in the crime of false declarations in the terms established in the Penal Code.

## **Article 20**

### **Authorized Representative**

- 1 A products producer, as well as packers, importers of packed goods and service packaging suppliers, in the case of specific flow of packaging and packaging waste, that is established in another European Member State, may nominate a single or juridical person established in Portugal as its authorized representative which is responsible for the fulfilment of the obligations as producer, in the terms established in the present decree law.
- 2 A products' producer, packers, importers of packed goods and service packaging suppliers, in the case of specific flow of packaging and packaging waste, established in another European Member State or in a third country that sells products through long distance communication techniques directly to end users and non-end users in Portugal, shall nominate a singular or juridical person established in Portugal as its authorized representative, who will be responsible for fulfilling the obligations of a producer, in the terms established in the present decree law.
- 3 A products' producer, packers, importers of packed goods and service packaging suppliers, in the case of specific flow of packaging and packaging waste established in Portugal and that sells products through long distance communication techniques directly to end users and non-end users in another European Member State in which it is not established, shall nominate an authorized representative established in that country for being the responsible for fulfilling the obligations of a producer of the product in that Member State's territory.
- 4 Nomination of an authorized representative is made though a written mandate to be presented to APA, I. P, in the minimum period of 15 days prior to the date of its coming into force.
- 5 The mandate established in the previous number shall respect the model referred in additament VII of the present decree law of which it is part of, and ensure that

- the authorized representative is legally responsible for the fulfilment of the obligations there established.
- 6 In the terms of the mandate referred in the previous number, the producer, packer or service packaging supplier, in the case of packaging specific flow and packaging waste, as well as the authorized representative, shall inform APA, I. P. immediately of that fact.
- 7 The economic agent that is the product producer, packer or service packaging supplier in the case of packaging specific flow and packaging waste, that proves to have an authorized representative in Portugal for the products for which it should have that quality, is released from the obligations that are attributable in light of that quality, for the time the mandate is in force.
- 8 In order to control what is established in the previous number, the authorized representative shall:
- a. Render, in the scope of the registry as producer, packer or service packaging supplier, in the case of packaging specific flow and packaging waste, the information relating to national retailers to which it supplies the products, as well as the respective quantities, discriminated by type of product or material, as applicable.
  - b. Render, to the economic agents referred to in the previous number, a declaration that proves their release from the obligations that they had as producers;
- 9 The compliance schemes of the integrated system, as well as any other entities whose activity is susceptible to generate conflict of interests with the functions in stake, are unable to assume the role of authorized representative.

### **CHAPTER III**

#### **Waste flows in the scope of producers' extended responsibility**

##### **SECTION I**

##### **Packaging and packaging waste**

##### **Article 21**

##### **Responsibility for managing packaging and packaging waste**

1. The economic operators, in terms of packaging, are co-responsible for managing packaging and packaging waste in the terms established in the present decree law and other applicable legislation.
2. In the management of packaging and packaging waste the demands in terms of environmental protection and health defense, consumers security and hygiene, protection of the quality, authenticity and technical characteristics of the packed merchandise and of the materials used are taken into consideration, as well as the protection of the industrial and commercial property rights.
3. In collaboration with the packers and importers of packed goods, the packaging and raw material producers, co-responsible for recycling the packaging waste, shall try to

incorporate secondary raw materials in their production process, obtained from the recycling of those waste.

4. Products which packaging does not meet the established in articles 26 and 30 may not be sold.

## **Article 22**

### **Packaging and packaging waste management system**

- 1 For the effect of accomplishing the obligations established in the present decree law, packers who use non reusable packaging as well as suppliers of non-reusable packaging are obliged to submit the management of packaging waste to an individual or integrated system, whose functioning rules are the ones established in the present decree law.
- 2 The disposed in the previous number is not applicable to primary, secondary and tertiary packaging which, from their use, results the production of non-urban waste. In this case the responsibility for its management is ensured by the producer of the waste, with exception of product primary packaging that, on the date the present decree law comes into force, are under the scope of an integrated management system, namely the primary packaging of phytopharmaceutical products, biocides, seeds and veterinarian medication.
- 3 Only non- reusable service packaging may be put and sold on national market, whose suppliers have adopted one of the two systems foreseen in nº 1, for managing the respective waste.
- 4 The disposed in the previous number is not applicable whenever the supplier of service packaging proves, during the sales' act, that these have no defined use.
- 5 The proof established in the previous number is made through the exhibition of a declaration issued by the service packaging supplier's client, in the sense of the disposed in nº 3, whose model is defined by APA, I. P .and DGAE, and published in their respective websites.
- 6 In case the service packaging supplier does not obtain the declaration referred to in the previous number it is obliged to pay the amount of the fee, in the terms of nº 5 of article 14.
- 7 Packers and importers of packed products that use reusable packaging shall establish a compliance scheme that allows them to reuse their packaging after these have been used by the end user, which functioning rules are the ones established in the present decree law.

## **Article 23**

### **Reusable packaging managing systems**

- 1 The reusable packaging managing system is destined to necessarily involve charges to the consumer, in the act of purchase or of a deposit, which may only be reimbursed in the act of return. The application of a deposit is optional for other

- products' packaging.
- 2 In the case of products destined to consumers, the seller is obliged to charge and reimburse the deposit referred in the previous number, as well as ensure the collection of the used packaging from the point of sale, and its storage in adequate conditions. The seller is not obliged to accept to store used packaging whose type, format or product brand he doesn't sell.
  - 3 The value of the deposit shall be informed all along the distribution chain and shall stimulate the return of the packaging, without surpassing its real value.
  - 4 For the effect of recovering the packaging, the packers may define specific places destined to collect the used packaging.
  - 5 The deposit referred to in the previous numbers is not subject to any additional payment and its value shall be identified clearly in the packaging or in the support used for indicating the product purchase price.
  - 6 Packers and importers of packed products that use reusable packaging are obliged to collect the packaging received and stored by the retailer or seller, within a time frame to be agreed upon by the parties.
  - 7 In the end of the return cycle, the reusable packaging transforms into waste and the responsibility for managing reusable packaging waste is up to the respective packers or the ones responsible for putting packed products on national market, except if agreed with the waste producer that this responsibility is transferred to him.
  - 8 For effects of the previous number, packaging waste may not be introduced in the municipal waste collection circuits.
  - 9 The responsibility established in nº 7 only ceases when a declaration from the entity the waste packaging were returned to is presented, assuming this responsibility.

#### **Article 24**

##### **Packaging and packaging waste compliance schemes' own collection network**

1. The packaging and packaging waste compliance schemes may install their own new collection network. For this effect they need to celebrate an administrative contract, in the terms of the Public Contracts Code, with the municipality or with the compliance scheme of urban waste collection and treatment system of the respective collecting area, depending on the circumstances, in the terms of applicable legislation to municipal services of public water supply, sewerage and urban waste and to the concession to explore and management of the multi-municipal treatment and urban waste selective collection systems, according to the respective concession contracts, when they exist.
2. The collected packaging waste in the own collection network referred to in the previous number are always, when necessary and in the terms to be established in the respective permit, guided to the municipality sorting facility or to the compliance scheme of the collection and treatment system of the respective urban waste in the respective collection area, depending on the cases. The packaging and packaging waste compliance scheme shall provide the necessary financial instalments to bear the packaging waste sorting operation in cause.
3. The disposed in the present article is not applied to medicine's packaging and packaging waste.

## **Article 25**

### **Prevention**

1. All intervenient in the packaging life cycle, from its conception and use to the handling of their respective waste shall contribute, in the measure of its level of intervention and responsibility, for the correct functioning of the management systems created at national level for the packaging and packaging waste flow, adopting the most adequate practices of ecologic conception and sustainable consumption in face of the legal dispositions and technical norms that are in force.
2. In order to promote prevention and recycling of packaging waste, importers of packed goods, producers and importers of service packaging in collaboration with packaging and packaging raw material's producers, shall:
  - a. In the conception and production phases of new packaging, strive in the sense of facilitating their reuse and recovery, at their end of life period;
  - b. Promote packaging waste recycling, as well as their components and materials, integrating them as secondary raw material in their production processes, whenever possible and in progressive growing quantities.
3. With the goal to promote the sustainable decrease of light plastic bags' use and the consequent reduction of the quantity of their waste when they reach their end of life period, specific measures area created for this type of packaging, in the terms of what is established in the present decree law.

## **Article 26**

### **Packaging essential requirements**

1. Packers and or/ those responsible for putting packaging on national market, as well as packaging producers, including service packaging, shall ensure the satisfaction of essential production and packaging components' requirements established in the present article, compliant with the European Union's harmonized norms, particularly with NPEN 13428:2005, «Packaging – Specific requirements for productions and components – Prevention for reduction at source» and EN 13429:2004, «Packaging-Reuse».
2. Only packaging that satisfies all the requirements referred in additament VIII of the present decree law, of which it is part of, may be placed in the market or provided in it.
3. From the date the present decree law in published, it is presumed that the packaging that circulates in the national market fulfils all the established requirements in additament VIII, as long as they respect the European Union's harmonized norms or, in their absence, the applicable national norms.

## **Article 27**

### **Norms relating to the packaging technical requirements**

1. Economic operators, in the scope of packaging and packaging waste, contribute for the study, conception and draw up of the national norms on packaging technical requirements

mentioned in additament VII to the present decree law, keeping in mind the following items:

- a. Applicable criteria and methodologies to the analysis of the packaging's life cycles;
- b. Measurement and verifying methods for detecting the presence of heavy metals and other dangerous substances in the packaging and its dispersion in the environment from packaging and packaging waste;
- c. Normalization criteria and other measures that favour packaging reuse;
- d. Applicable criteria in case of fixation of a minimum quantity of recycled material in packaging or in specific types of packaging;
- e. Applicable criteria to recycling methods.

## **Article 28**

### **Symbol**

- 1 Non reusable packaging is not subject to marking.
- 2 Without prejudice of the disposed in the previous number, non-reusable primary packaging originated in other European Union Member States, third party countries or those that have been marked with a specific symbol at origin, may be put on national market with that same symbol.
- 3 In order to facilitate collection, reuse and recovery, including recycling, packaging may indicate the nature of the packaging materials that were used for identify and classification by the respective industry, according to the identification system established by Decision nº 97/129/CE, of the Commission, from January 28<sup>th</sup>, whose regime is established in additament IX to the present decree law, of which it is part of.

## **Article 29**

### **Recovery Goals**

1. The recovery goals, incineration in waste incineration premises with energy recovery and packaging waste recycling are the following:
  - a. Recovery or incineration in waste incineration premises with energy recovery of, at least, 60% in weight of the packaging waste;
  - b. Recycling between, at least, 55% and maximum 80% in weight of the packaging waste;
  - c. The minimum recycling goals for the material contained in the packaging waste are the following:
    - i.60% in weight for glass;
    - ii.60% in weight for paper and cardboard;
    - iii.50% in weight for metals;
    - iv.22,5 % in weight for plastic considering, exclusively, recycled material in the form of plastic;
    - v.15% in weight for wood.
2. For achieving the goals established in the previous number, the packaging waste

exported to destinations outside the European Union are considered, in compliance with Regulation (CEE) n.º 259/93, of the Council, of February 1<sup>st</sup>, Regulation (CE) n.º 1420/1999, of the Council, from April 29<sup>th</sup> and Regulation (CE) 1547/1999, of the Commission, from July 12<sup>th</sup>, concerning which is demonstrated that the recovery operation and/ or recycling took place in comparable circumstances to the ones established by the applicable European dispositions.

## **Article 30**

### **Execution norms and technical specifications**

1. The technical execution's regulation norms established in the present decree law, referring to the individual and integrated systems, namely essential requirements of packaging, normalization rules of those requirements, heavy weights' concentration levels present in the packaging, information disclosure systems and data transmission to the packaging users, as well as the respective adaptation to scientific and technical progress, are defined by decree of the Government members responsible for the economy and environment areas.
2. Updates and adaptations to technical progress of the technical specifications of the packaging waste coming from selective and undifferentiated collections, which responsibility is assigned to municipalities, municipal, multi-municipal or inter-municipal compliance schemes, is made by APA, I. P. and DGAE, by means of previous counsel from associations representing packaging and packaging material's producers, in articulation with the following entities, in the scope of CAGER:
  - a. Municipalities or compliance schemes of municipal, multi-municipal or inter-municipal systems;
  - b. Associations representing waste management operators;
  - c. The compliance schemes of the packaging and packaging management integrated systems;
  - d. Other operators that use packaging waste.
3. The technical specifications referred in the previous number shall be advertised in APA, I. P. and DGAEs websites, as well as in the websites of the compliance schemes of packaging and packaging waste management integrated systems and in the public information online query system, established in article 49 of Decree Law nº 135/99, from April 22<sup>nd</sup>, in its current wording.
4. The municipalities or the managing companies of the multi-municipal or inter-municipal systems are subject to the fulfilment of the take back goals that are defined by dispatch of the Government members for the economy and environment areas.
5. The calculation model of the fees due to the SGRU by the compliance schemes of the compliance schemes of packaging and packaging waste management integrated systems established in paragraph c) of nº1 of article 12, and respective amounts, are defined decree of the Government members responsible for the economy and environment areas.
6. In order to ensure the recognition of the plastic biodegradable and compostable bags across the European Union, and supply to the consumers the correct information about the compostable properties of those bags, the specifications for the labels or marks to

be used, compulsorily, in this type of bags, are defined in the terms of the disposed in article 42, with the necessary adjustments.

## **SUBSECTION I**

### **Packaging and Packaging waste – light plastic bags**

#### **Article 31**

##### **Exemptions**

1. Without prejudice to the disposed in Chapter V of Law nº 82-D/2014, from December 31<sup>st</sup>, relating to the contribution for light plastic bags. The very light plastic bags are exempt from the contribution, as they are considered service packaging, supplied along with the primary packaging of in bulk food.
2. The sales made by taxable people to other economic operators are comparable to the operations referred in paragraphs a), b) and c) of article 37 of Law nº 82-D/2014, from December 31<sup>st</sup>, if they export or carry out dispatches of light plastic bags to other member States or to the Autonomous Regions of Azores and Madeira.
3. The procedures established in article 33 are applicable to the economic operators referred in the previous number.

#### **Article 32**

##### **Production, reception and storage**

1. Production, reception and storing of light plastic bags may only be carried out in a fiscal warehouse, in the terms established in the present decree law.
2. For the effect of the proposed in the previous number, a fiscal warehouse is considered to be the premises authorized by the competent Customs where the light plastic bags are produced stored, received, dispatched or exported.

#### **Article 33**

##### **Passive Subjects Status**

1. The passive subjects shall have the status of authorized depositary, which is defined by the individual or juridical person authorized by the competent Customs to produce, store, receive, dispatch and export, in a fiscal warehouse, light plastic bags.
2. The authorized depositary is responsible for the declarative obligations, which includes the ones relating to light plastic bags that no property of his.
3. The authorized depositary is also subject to the following obligations:
  - a. Maintain an organized accounting, in the fiscal warehouse, of the existing items in the permanent inventory system, with indication of its origin, destiny and relevant elements for calculation of the contribution;
  - b. Introduce the light plastic bags in the fiscal warehouse and register them in the

- existing accounting in the moment they are stored;
- c. Be available for searches and other control methods determined by the competent Customs;
  - d. Comply with the other procedures established by the competent Customs.
4. The acquisition of the authorized depository status, as well as the build-up of the fiscal warehouse, depend on the request made to the competent Customs, considered as such, the Customs located in the jurisdiction where the warehouse premises are positioned.
  5. The communication of the decision regarding the authorization of the fiscal warehouse shall be made in the maximum period of 10 days.
  6. The absence of a decision in the maximum period of 10 days, counting from the date the referred request mentioned in nº 4 is made, determines the tacit approval of that request.
  7. The repeated noncompliance of the obligations established in nº 3 constitutes fundament for the status' revocation.
  8. The importers that carry out the introduction, in free practice and consumption of light plastic bags are exempted from the obligation established in nº 1.

#### **Article 34**

##### **Types of and functioning of the fiscal warehouse**

- 1 The light plastic bags' fiscal warehouses may be for production or storage.
- 2 The premises authorized for reception, storage, dispatching and exporting of light plastic bags are considered fiscal warehouses.
- 3 The reception referred in nºs 2 and 3 comprises the light plastic bags coming from an import location of another European Union Member State or from the autonomous regions, as well as the ones dispatched from the Portuguese mainland.
- 4 The titular of the fiscal warehouse is subject to control measures determined by the competent Customs, namely access to the accounting and to IT systems, as well as checking of existences.

#### **Article 35**

##### **Circulation**

- 1 The circulation of light plastic bags is carried out without the contribution being charged, in the following cases:
  - a. Between a fiscal warehouse and an export location;
  - b. Between an import location and a fiscal warehouse;
  - c. Between a fiscal warehouse and a receiver in another European Union Member State or in the autonomous regions;
  - d. Between a receiver in another European Union Member State or in the autonomous regions and a fiscal warehouse;
  - e. Between fiscal warehouses, in the cases established in nº 2 of article 31.

- 2 To the circulation of light plastic bags is applied the goods in circulation regime.
- 3 The light plastic bags in circulation, in the terms of paragraph a) of nº 1 shall be accompanied by a copy of the document established in the following article, mentioning the destiny fiscal warehouse

### **Article 36**

#### **Entrances and exits from the fiscal warehouse**

A declaration of release to consumption (DRC) shall be processed, without settlement of the contribution, in the following situations:

- a) In the entrance of light plastic bags in the fiscal warehouse;
- b) At the exit of the fiscal warehouse, in the cases established in paragraphs a); c); and e) of nº 1 of the previous article.

### **Article 37**

#### **Taxation unit**

The taxation unit is the unit of the light plastic bag.

### **Article 38**

#### **Invoicing**

For the effect of the disposed in nº 2 of article 39 of Law nº 82-D/2014, from December 31<sup>st</sup>, the invoice shall include the following elements:

- a) The description of the product as « light plastic bag» or «light bag»;
- b) The number of units sold or made available;
- c) The amount charged as price, including the contribution due.

### **Article 39**

#### **Introduction to consumption**

- 1 The light plastic bags' release to consumption shall be formalized through the DRC or the customs import declaration.
- 2 DRC is compulsorily processed through data electronic transmission.
- 3 DRC shall be processed every three months, until day 5 of the month following the end of each trimester of the civil year in which the introductions to consumption take place.
- 4 In the situations established in paragraphs d) and e) of nº 1 of article 35, a DRC shall be processed mentioning the exemption from contribution.

## **Article 40**

### **Settlement and payment**

- 1 The settlement of the contribution is communicated via simple post, to the fiscal address of the passive subject, until day 20 of the month in which the DRC was processed, by sending the unique collection document (UCD), mentioning the contribution settled and the contribution to be paid, related to the releases to consumption verified in the previous trimester.
- 2 The payment of the contribution shall be made until day 15 of the 2<sup>nd</sup> month after the trimester of the civil year the settlement refers to.
- 3 In the case of import, when the passive subject carries out the release for consumption, the rules applicable to customs' rights are observed, in case they are due or not, in what concerns the timelines for its settlement and collection, to the collection minimum linear, and timelines and fundamentals of afterwards' collection, of the reimbursement or release from payment.

## **Article 41**

### **Information Reporting**

- a) Without prejudice of the disposed in article 43 of Law n<sup>o</sup> 82-D/2014, from December 31<sup>st</sup>, the passive subjects report to APA, I. P., until March 31<sup>st</sup>, the estimate of the quantity of light plastic bags to be placed in the market in that same year, as well as until March 31<sup>st</sup> of the following year, the amount of light plastic bags actually placed in the market, the previous year.
- b) The information referred to in the previous number shall discriminate the type of plastic including polyethylene, polyvinyl chloride (PVC) and other plastics and if the thickness is lower than 50 µm or to 15 µm.
- c) The information reporting referred in n<sup>o</sup> 1 is made in APA, I. P.'s platform, in the scope of the obligation to communicate, established in article 45 of RGGR.

## **Article 42**

### **Specific measures related to labels or marking of biodegradable and compostable plastic bags**

The producers or importers of light plastic bags, with headquarters or stable establishment in national territory, as well as acquirers of light plastic bags and suppliers with headquarters or stable establishment in another European Union Member State, shall guarantee the marking of the plastic biodegradable and compostable bags according to the specifications established by the European Commission, in the terms of Directive n<sup>o</sup> 2015/720/UE of the European Parliament and Council, from April 29<sup>th</sup>, and supply to consumers the correct information about the composting properties of this type of bags.

## **Article 43**

### **Awareness activities**

- 1 It is up to the passive subjects and economic agents involved in the commercial chain and responsible for offering plastic bags in the point of sale:
  - a) Promote awareness campaigns targeting end users for the reduction of use of plastic bags, mainly the light plastic bags for one use only, and for using alternative means to light plastic bags, as well as for its reuse;
  - b) Promote, for end users, selective deposition practices of the non-reusable plastic bags, aiming at their recycling;
  - c) Offer to end users, alternative and reusable carrying and transport alternatives that are more sustainable than the light plastic bags and that have more affordable prices.
2. In order to contribute for the realization of the practices mentioned in the previous number, the passive subjects and economic agents involved in the commercial chain and responsible for offering plastic bags in the point of sale may do the marking, in the printed plastic bags, of awareness messages for reducing the consumption of light plastic bags and the promotion of reusable bags.

## **SECÇÃO II**

### **Used Oils**

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## **Section IV**

### **Electric and electronic equipment's waste**

## **Article 55**

### **Conception and management principles of electric and electronic equipment**

1. The EEE shall be conceived in order to facilitate the dismantling and recovery of WEEE and their components and materials not preventing, through conception characteristics and specific production processes, their reuse, except if those characteristics and production processes present advantage of higher prominence, namely, in what concerns environment protection or security requirements.
2. For the effect of the disposed in the previous number, the producers shall cooperate with the operators of recycling premises and apply the requirements of ecologic conception established in Decree Law nº 12/2011, from January 24<sup>th</sup>, which facilitate WEEE's reuse and treatment.

## Article 56

### Collection annual objectives and goals for electric and electronic equipment

- 1 Without prejudice to the responsibility granted to other intervenient of the selective collection of WEEE, producers, individually or through a compliance scheme licensed in the terms of article 16, contribute, in the terms defined in the authorizations of the individual systems and in the permits of the collective systems, to the following collection national goals:
  - a. Starting in 2016: 45% of the average weight of the EEE placed in the market in the previous three years, considering the total weight of WEEE collected coming from end users and non-end users;
  - b. Starting in 2019: 65% of the average weight of the EEE placed in the market in the previous three years or, in alternative, 85% of the WEEE generated in Portugal, considering the total weight of WEEE collected coming from end users and non-end users;
- 2 In the period between 2016 and 2019, a gradual evolution of the quantity of the annually collected WEEE shall be ensured, unless the collection goal mentioned in paragraph b) of the previous number has already been achieved.
- 3 AAPA, I. P. issues guidelines related to the calculation methods of the collection rates, always keeping in mind, always, the rules adopted by the European Commission.

## Article 57

### Recovery annual objectives for electric and electronic equipment

- 1 In what concerns the WEEE collected selectively and sent to treatment, the minimum recovery objective shall be guaranteed, as established in additament X of the present decree law, of which it is a part of.
- 2 Without prejudice to the responsibility granted to other intervenient in the WEEE treatment, producers, individually or through a licensed compliance scheme, shall adopt the necessary measures so that the minimum recovery objectives, per category, are achieved in what concerns all the WEEE collected selectively in the collection network systems, as established in article 13.
- 3 The fulfilment of the objectives defined in nº 1 is calculated, for each category, by dividing the weight of the WEEE fractions that enter the recovery, recycling or preparation for reuse premises, upon adequate treatment, by the weight of all WEEE collected selectively, expressed in percentage. Preliminary activities that precede recovery, such as sorting and storage, are not considered.
- 4 AAPA, I. P. will issue guidelines related to the recovery calculation methods of the minimum recovery objectives to guarantee uniform application conditions keeping in mind, always, the rules adopted by the European Commission.
- 5 For effect of the calculation of the established goals in nº 1, producers, individually or through a licensed compliance scheme, shall keep records of the WEEE weight and respective fractions that come out of the collection premises, enter and come out of the treatment premises and that enter in the recovery or recycling or preparation for reuse, premises.
- 6 Without prejudice to the responsibility granted to the licensed operators for treating

WEEE, the producers, individually or through a licensed compliance scheme, shall guarantee the traceability of WEEESs collected in the collection network system, as well as of their respective fractions, until their exit from the recovery, recycling or preparation for reuse's premises.

## **Article 58**

### **Selective collection of electric and electronic equipment's waste**

1. The producers, individually or through a licensed compliance scheme, as established in article 16, shall adopt measures that guarantee a high level of WEEE selective collection, especially in what concerns temperature regulation equipment which contain substances that damage the ozone layer and fluorite gases with greenhouse effect, fluorescent lamps that contain mercury, photovoltaic panels and small dimension equipment referred in categories 5 and 6 established in subparagraph v) and vii) of paragraph c) of n.º 1 of article 2.
2. For the effect of the disposed in the previous number, producers, individually or through a licensed compliance scheme, as established in article 16, shall set up a collection network with the goal of reducing WEEE elimination as non-sorted urban waste, ensure the treatment of all collected waste and include concrete activities in their awareness, information and education plans, in order to prioritize the selective collection of the WEEEs specified in the previous number.

## **Article 59**

### **Specific rules for collection and transport**

- 1 For the effect of the disposed in nº 1 of article 6, both the entities established in article 13 and other entities that carry out collection or activities as disposed in the present article, are authorized to carry out WEEE collection and transport.
- 2 The entities that want to develop activities or WEEE collection campaigns shall:
  - a) Request APA, I. P., previous authorization that includes the information established in the following number;
  - b) Ensure the fulfilment of all legal requirements applicable to collection, transport and storing of WEEE;
  - c) Ensure that the WEEE are properly guided to adequate treatment, in the terms of article 60;
  - d) Register the information in the terms of paragraph e) of nº 4 of article 19;
3. The information to be presented in the terms of paragraph a) of the previous number includes, compulsorily, the following elements:
  - a. The object of the proposal and characterization of the WEEE;
  - b. The waste management circuit to be adopted;
  - c. The managements objectives and respective goals;
  - d. The monitoring methodology to be used;
  - e. The presentation of documents that demonstrate the proposal's viability.
4. The entities that carry out activities or collection campaigns, in collaboration with compliance schemes of the collective systems of WEEE management, established in an agreement made by both parties, are exempt from APA, I. P.'s authorization. The compliance

schemes shall previously inform APA, I. P. about those activities or campaigns.

5. APA, I. P. publishes the activities and WEEE collection campaigns, authorized in the terms of the present article, in its website.

## **Article 60**

### **Adequate treatment**

1 The WEEE collected selectively shall be subject to adequate treatment in the terms of the following number, in case it is not preferable to prepare them for reuse. It is prohibited the elimination of WEEE that have not been subject to treatment.

2 The adequate treatment, with exception of the preparation for reuse, and the recovery and recycling operations shall include, at least, the removal of all fluids and a selective treatment of the WEEE material and components, according to the disposed in additament XI of the present decree law, of which it is part of.

3 The producers, individually or through a licensed compliance scheme, as established in article 16, shall implement systems that use the best techniques available for WEEE treatment.

4 The preparation for reuse, recovery and recycling of waste from cooling equipment and respective substances, mixtures or components is made according to the applicable legislation, namely, Regulation (CE) n.º 1005/2009, of the European Parliament and Council, from September 16<sup>th</sup> 2009, relating to substances that harm the ozone layer, Regulation (CE) 842/2006 of the European Parliament and Council, from May 17<sup>th</sup> 2016, relating to certain fluorite gases with greenhouse effect, and Decree Laws nº 152/2005, from August 31<sup>st</sup> and 56/2011, from April 21<sup>st</sup>. in their current wording.

5 AAPA, I. P. may propose the celebration of deals with the economic sectors involved, in order to incite the entities that carry out treatment operations to introduce environmental management certified systems, in the terms of Regulation (CE) nº 1221/2009, of the European Parliament and Council, from 25<sup>th</sup> of November 2009, relating to the organizations' voluntary participation in an eco-management and audit community system (EMAS), and of Decree Law nº 95/2012, from April 20<sup>th</sup>.

## **Article 61**

### **Rules for the treatment**

1 The activity of treating WEEE, including recovery, recycling and preparation for reuse, is subject to licensing in the terms of RGGR.

2 The premises where WEEE storage and treatment take place respect the technical requirements established in, respectively, nºs 1 and 2 of additament III of the present decree law.

3 Without prejudice of the disposed in the previous numbers, the WEEE treatment activity, including recovery, recycling and preparation for use, is subject to the fulfilment of the minimum requirements of quality and efficiency, with the goal of pursuing the recovery objectives established in article 57.

## Article 62

### Preparation for reuse

1 In order to maximize the preparation for reuse, the reception centers shall ensure the separation of WEEE and prepare for reuse of the other WEEE collected selectively, namely, granting access, in the scope of the cooperation deals, to entities duly licensed in the terms of nº 1 of the previous article.

2 The WEEE guided for preparation to reuse, in the terms of the previous number that are considered as not having the necessary conditions to be reused, are returned to their original reception center at risk of the entity that prepares them for reuse to be responsible for guiding them to adequate treatment and guarantee the information's traceability.

3 The requirements established in nº 3 of the previous article, applicable specifically to the activity of preparation and reuse, shall respect the following principles:

- a. Identification as a reused product;
- b. Safety of the users;
- c. Energetic efficiency equivalent to new products, in the terms of what is legally required from them;
- d. Fulfilment of the restriction of dangerous substances, in the terms of the applicable legislation;
- e. Adequate information to users.

4 In the activities of preparation for reuse for humanitarian or social goals that are carried out, exclusively, in the scope of contracts with the compliance schemes of the WEEE management collective systems, the licensing established in nº 1 of the previous article may be substituted by a compliance guarantee with the requirements demanded for preparation for reuse defined in nº 3 of that same article, provided this is previously communicated to APA, I. P., by the compliance scheme's presentation of the respective contract and compliance guarantee.

## Article 63

### Transfer of electric and electronic equipment's waste

1 The WEEE transfers for treatment outside national territory shall be made in the terms of Regulation (CE) nº 1013/2006, of the European Parliament and Council, from June 14<sup>th</sup> 2006, relating to waste transfer, and Regulation (CE) nº 1418/2007, of the Commission, from November 29<sup>th</sup> 2007, related to export of certain waste for recovery means, enumerated in additament III or in additament III –A of Regulation (CE) n.º 1013/2006, for certain countries not in the scope of the Organization for Economic Cooperation and Development (OECD), about the control of WEEE's transfrontier movements.

2 Without prejudice of the disposed in the previous number, the WEEE treatment operations shall occur, preferably, in Portugal, complying with the proximity criteria and according to the principles established in nº 4 of RGGR.

3 The WEEE exported from Portugal are only considered for the achievement of the recovery goals established in article 57 in case the exporter demonstrates that the treatment took place in equivalent conditions to the requirements established in the present decree law,

respecting the evaluation criteria of the equivalence of conditions adopted by the European Union.

4 Without prejudice of the disposed in the previous number, APA, I. P. may define specific control and transfer verification mechanisms, in the terms established in article 49 of Regulation (CE) nº 1013/2006, of the European Parliament and Council, from June 14<sup>th</sup> 2006, in order to ensure that WEEE transferred from Portugal are managed so that they do not endanger human health and are transferred in an environmental correct manner.

#### **Article 64**

##### **Transfer of used electric and electronic equipment suspected of being waste**

1 The transfers of used EEE over which there is a suspicion, based on dully founded motives, they may be WEEE, are subject to previous verification of the minimum requirements established in additament XII of the present decree law, of which it is part of.

2 In absence of proof that an object is part of a used EEE and not a WEEE, in the terms of the previous number, the inspection entities shall consider that the product is, indeed, WEEE and presume that the cargo constitutes an illegal transfer.

3 In the case referred in the previous number, the costs of the analysis and inspections made, including the storage costs, shall be charged to producers, to third parties that act on their behalf or to other people involved in the transfer.

#### **Article 65**

##### **Responsibility for the collection of electric and electronic equipment's waste coming from end users**

1 End users are obliged to carry out the correct guidance of the WEEE they hold in their possession, namely delivering them to the selective collection network established in article 13, according to the information established in the terms of article 68.

2 Producers, individually or through a licensed compliance scheme in the terms of article 16, the SGRU and traders are not obliged to accept WEEE susceptible to endanger public health and the security of the staff that handles them, due to contamination.

3 If the collection of WEEE is refused, in the terms of the previous number, an incident report shall be filed with APA, I. P. It is up to the detainer to guarantee the correct guidance of those waste, in the terms of RGGR.

#### **Article 66**

##### **Responsibility for the collection of electric and electronic equipment's waste coming from non-end users**

1. Non end users are obliged to carry out the guidance of WEEE they have in their possession through a licensed compliance scheme, in the terms of article 16, or an operator licensed for WEEE treatment.

2. It is the producers' responsibility, individually or through a licensed compliance scheme, to organize the collection of WEEE coming from non-end users.

#### **Article 67**

##### **Financing for managing electric and electronic equipment's waste coming from non-end users**

- 1 Producers are responsible for financing the collection, treatment, recovery and elimination costs, in good environmental conditions, of the WEEE coming from non-end users, resulting from products placed in the market after August 13<sup>th</sup> 2005, and may choose to fulfil this obligation individually or by joining a collective system.
- 2 In what concerns products placed in the market after August 13<sup>th</sup> 2005, that are substituted by new equivalent products or products that perform the same function, the responsibility for financing the WEEE management costs mentioned in the previous number shall be assumed by the producers, at the time of their supply.
- 3 In case the WEEE are not substituted in the terms of the previous number, the responsibility for financing the management costs, referred in nº 1, shall be assumed by the non-end users.
- 4 The disposed in nºs 2 and 3 may be waved by the producers and non-end users whenever they celebrate agreements that establish other means of financing.

#### **Article 68**

##### **Users' awareness and information**

1. The producers, individually or through a licensed compliance scheme, as established in article 16, as well as retailers and traders, shall give all necessary information to end users, namely, in the instructions' manual, in the packaging, in the points of sale or through awareness campaigns about:
  - a. The obligation not to deposit WEEE as undifferentiated urban waste as well as carry out their selective collection;
  - b. Their contribution for the reuse of EE and for recycling and other forms of WEEE recovery;
  - c. The selective collection network;
  - d. Potential effects on the environment and human health resulting from the presence of dangerous substances in the EEE;
  - e. The meaning of the symbol presented in additament XIII to the present decree law, of which it is part of;
  - f. The functions of the adopted WEEE management system.
2. Without prejudice of the disposed in the previous number, the SGRU, due to their competences as well as proximity to end users, shall also take part in the awareness campaigns and information to end users.
3. Retailers, traders and the SGRU shall maintain a record that shows the activities that were carried out in the terms of nºs 1 and 2 being available to, as per request of APA, I. P., DGAE

or other inspection entities, present them.

4. The EEE placed in the market shall have a marking with the symbol presented in additament XIII of the present decree law, further to the need of marking, in the terms of nº 5 of the next article.

5. In case the dimension or function of the EEE does not allow for marking to be made in the terms of the previous number, the symbol shall be printed on the packaging, in the instructions' manual and in the EEE's guarantee form.

## **Article 69**

### **Information for treatment premises**

1. Producers shall make available, free of charge, on their own initiative or at the request of the entities that carry out preparation for reuse or the treatment and recycling premises, the necessary information about preparation for reuse and treatment of each new type of EEE placed in the market.

2. The information mentioned in the previous number shall be made available in Portuguese language or, in alternative, English, Spanish or French languages, as manuals or via electronic means, in the time period of one year from the date the EEE are placed in the market.

3. The information mentioned in nº 1 shall identify, as long as it may be reasonably requested by any given person that carries out waste management operations, the following topics:

- a. The different EEE components and materials;
- b. Localization of the substances and dangerous mixtures contained in the EEE.

4. The producers shall ensure that the information established in nº 1 is made available to the centers that carry out preparation for reuse, as well as to treatment and recycling premises, in the terms established in nºs 2 and 3.

The EEE placed in the market upon August 13<sup>th</sup> 2005 shall have a marking that allows for them to be distinguished from the EEE placed in the market after that date. That marking shall have a black bar under the symbol presented in additament XIII of the present decree law, according to the specifications of the European norm EN 50419.

## **SECTION V**

### **Batteries and Accumulators**

## **Article 70**

### **Obligations of the batteries and accumulators producers and of the producers of the equipment that contain them**

1 The batteries and accumulators producers shall create batteries and accumulators that progressively contain less dangerous substances, namely by substituting heavy metals such as mercury, cadmium and lead, in order to decrease their negative impact on, both, human health and the environment.

2 The producers of devices that contain incorporated batteries or accumulators shall ensure that they are:

- a. Created so they facilitate the removal of batteries and accumulators waste, by end users or qualified professionals that are independent from the producer;
- b. Have instructions that inform the end user or the independent qualified professionals about the type of batteries and accumulators incorporated in them and about the safe removal of their respective waste.

3 The disposed in the previous number is not applicable when, due to medical reasons, safety, performance of the device or data preservation, it is necessary to continue supplying energy demanding a permanent connection between the device and the battery or accumulator.

## **Article 71**

### **Annual goals of portable batteries and accumulators waste collection**

1 Producers shall adopt the necessary measures to guarantee the portable batteries and accumulators waste collection minimum rate of 45%.

2 The calculation of the collection fee referred in the previous number includes, both, batteries and accumulators incorporated or not incorporated in devices and complies with the following cumulative requirements:

- a. Obey to the goal achievement control system, established in additament XIV of the present decree law, of which it is part of;
- b. Adopt a common methodology established in Decision of the European Union nº 2008/763/CE, of September 29<sup>th</sup>, for the calculation of the annual sales to end users, of portable batteries and accumulators

## **Article 72**

### **Collection of portable batteries and accumulators waste**

1 End users are obliged to deliver the portable batteries and accumulators waste they may detain, free of any charge, in the selective points of collection for the effect, in compliance with article 13.

2 Producers, individually or through licensed compliance schemes, in the terms of the present decree law, shall ensure the installation of selective collection points of portable batteries and accumulators waste, in compliance with article 13, and support other costs related to the referred collection operation.

## **Article 73**

### **Collection of industrial batteries and accumulators' waste and of batteries and accumulators for automobile vehicles coming from private end users**

1 The private end users guide industrial batteries and accumulators' waste and batteries and accumulators for automobile vehicles they may detain, free of charge,

in the terms established in the following numbers and in compliance with article 13, as applicable.

- 2 Producers of industrial batteries and accumulators' waste and batteries and accumulators for automobile vehicles, individually or through a licensed compliance scheme in the terms of the present decree law, shall ensure the existence of selective collection points of the respective waste, in compliance with article 15, as well as support the related costs of instalment and functioning.
- 3 The selectively collected batteries and accumulators waste shall be stored in watertight recipients, with a composition that does not react with the components of the waste, and stored with the liquid in its interior, in a vertical position, with sealed openings facing up.

#### **Article 74**

##### **Collection of industrial batteries and accumulators' waste and of batteries and accumulators for automobile vehicles coming from non-private end users**

1 The non-private end users guide industrial batteries and accumulators' waste and batteries and accumulators for automobile vehicles they may detain, through a licensed compliance scheme, in the terms of the current decree law, or of a licensed operator for the treatment of those waste.

2 It is up to the producers of batteries and accumulators, individually or through a licensed compliance scheme, the responsibility for organizing the collection of industrial batteries and accumulators' waste and of batteries and accumulators for automobile vehicles coming from non-private end users, in compliance with article 13, as well as the related costs of instalment and functioning.

3 The batteries and accumulators' waste collected selectively shall be stored in watertight recipients, with a composition that does not react with the components of the waste, and stored with the liquid in its interior, in a vertical position, with sealed openings facing up.

#### **Article 75**

##### **Labelling**

1 Producers are obliged to label batteries, accumulators or the packs of batteries placed in the European market, with the symbol whose model is in additament XV of the present decree law, of which it is a part of, in order to facilitate the selective collection of the respective waste.

2 Producers of portable batteries and accumulators' waste and batteries and accumulators for automobile vehicles are obliged to indicate in them, in a visible manner, legible and indelible, the respective capacity according to the harmonized methods for determining the capacity and the appropriate use, to be defined by the European Commission

3 Batteries, accumulators and button batteries that contain more than 5ppm of mercury, more than 20 ppm of cadmium or more than 40 ppm of lead, are marked with the chemical symbol corresponding to the heavy metal in cause, which is printed under the symbol referred in nº 1 and shall comprise a minimum surface space equivalent to a quarter of this symbol's dimension.

## Article 76

### **Treatment, recycling and elimination of portable batteries and accumulators and of industrial batteries and accumulators, batteries and accumulators for automobile vehicles**

1. The recycling and treatment processes shall comply with the established in RGGR, and other applicable legislation. Operators shall observe the following minimum requirements:
  - a. Extraction of all fluids and acids carried out in premises, including the ones used for temporary storage, with adequate waterproof surfaces and roofing or in adequate containers;
  - b. Achieve the following minimum income:
    - i. Mass recycling of 65% of lead-acid batteries and accumulators, including the recycling of the highest possible level of lead that is technically viable, avoiding, simultaneously, excessive costs;
    - ii. Mass recycling of 75% nickel- cadmium batteries and accumulators, including the recycling of the highest possible level of cadmium that is technically viable, avoiding, simultaneously, excessive costs;
    - iii. Mass recycling of 50% of other batteries and accumulators waste.
2. It is forbidden the elimination, per deposition in landfill or incineration of industrial batteries and accumulators waste and for automobile vehicles.
3. The elimination in landfill or subterranean storage of portable batteries and accumulators waste that contain mercury, cadmium or lead is not admissible in the following cases:
  - a. When guidance to recovery is not viable;
  - b. When it results from a waste management plan, approved in the terms of RGGR, that establishes the progressive elimination of the referred heavy metals and that demonstrates, based in an environmental, economic and social evaluation, that the elimination option is preferable to the recycling one.
4. It is up to APA, I. P. to publish, in its website, the environmental evaluation referred in the previous number, as well as notify the European Commission of the adopted measures in the terms of Decree Law nº 58/2000, from April 18<sup>th</sup>, relating to the information procedures in the scope of technical norms and regulations as well as the rules relating to the information society's services.
5. The recycling operators shall calculate the income of their processes according to the method defined in Regulation (UE) nº 493/2012, of the Commission, from June 11<sup>th</sup> 2012, and send to APA, I. P the respective report in the established time lines and terms, there defined.

## Article 77

### **Batteries and accumulators production technologies and treatment and recycling of their respective waste**

Batteries and accumulators producers shall promote new production techniques as well as treatment and recycling of their respective waste, in order to enhance the environmental performance of batteries and accumulators throughout their life cycle.

## **Article 78**

### **Small producers**

1 The producers that, in comparison to the dimension of the national market, sell, in Portugal, very small quantities of batteries and accumulators may, following previous approval from the European Commission, be exempted from the funding instalment established in nº 1 of article 14, in the terms disposed in the present article, as long as such exemption does not impact on the collection and recycling activities established in the present section.

2 The exemption from the funding instalment established in the previous number is carried out based on the definition, by APA, I. P., of the quantities in question, upon consulting the different intervenient in the sector, namely, the batteries and accumulators producers' associations and the compliance schemes,

3 APA, I. P. publishes the proposed exemption measures and the respective fundaments and notifies them to the European Commission in order to be approved, as well as other Member States of the European Union.

## **Article 79**

### **Users' information and awareness**

1. The compliance scheme shall promote public information and awareness campaigns about the procedures to adopt in terms of managing batteries and accumulators' waste.

2. The campaigns mentioned in the previous number shall include, at least, information about:

- a. The obligation to not deposit batteries and accumulators' waste as undifferentiated urban waste, contributing for their selective collection;
- b. The available selection collection systems and respective voluntary deposition spots;
- c. The functions of the compliance scheme in the scope of managing batteries and accumulators' waste;
- d. The effects on the environment and on human health resulting from the presence of dangerous substances in the batteries and accumulators' waste.
- e. The meaning of the symbol mentioned in article 75, as well as the chemical symbols of mercury (Hg), cadmium Cd) and lead (Pb).

## **CHAPTER IV**

### **Placement in the market, inspection and offense regime**

## **Article 88**

### **Forbiddance of placing and making available in the market**

1 The forbiddance of placing packaging in the market that does not fulfil the essential production requirements and composition of the packaging, as established in additament VIII of the present decree law, respecting the harmonized European norms or, in absence of, the

national applicable norms.

- 2 It is forbidden the placement, in the market, of:
  - a. Batteries or accumulators, incorporated or not into devices that have a pondered scope of mercury higher than 5 ppm;
  - b. Portable batteries or accumulators, including the ones that are incorporated into devices, with a pondered scope of cadmium higher than 20 ppm.
- 3 The disposed in paragraph b) of the previous number is not applicable in the following situations:
  - a. Portable batteries and accumulators used in alarm and emergency systems, including emergency lights and medical appliances;
  - b. Portable batteries and accumulators used in wireless electric tools until, December 2016;
  - c. Batteries and accumulators that do not comply with the requirements of the present article but that have been legally placed in the market before the date of application of the respective forbiddance may continue to be sold until their stock is inexistent.
- 4 Without prejudice of compliance with other applicable legal dispositions, it is forbidden to make available products, in the market, when they are not marked with the markings established by law or do not meet any of the conditions established in the present article.
- 5 In the scope of its responsibilities in terms of control of the external boundary of the European Union, it is up to the Tax and Customs Authority to verify the fulfilment of the established in the present article.

## **Article 89**

### **Inspection and Monitoring**

1. The inspection of the fulfilment of the disposed in the present decree law, in the scope of the respective competences, is responsibility of the General Inspection of Agriculture, Sea and Environment, the Land-Use Planning (IGAMAOT), the Food and Economic Security Authority (ASAE), the Tax and Customs Authority (AT) and the coordination and regional development committees, as well as the police authorities, according to their territory competency.
2. The disposed in the previous number does not harm the exercise of power of inspection and of the police, which are the responsibility of other public authorities.

## **Article 90**

### **Environmental offenses**

- 1 It constitutes a very serious offense, punishable in the terms of the applicable environmental offenses' regime, established in law nº 50/2006, from August 29<sup>th</sup> (Framework Law of Environmental Offenses), the practice of the following actions:
  - a. Placement of products on national market by the producer, packer or importer of packed goods that use non-reusable packaging, as well as by suppliers of non-reusable service packaging, without them having chosen one of the compliance

- schemes referred to in nº 1 of article 7, in the terms of nº 2 of the same article;
- b. Managing specific waste flows without authorization or permit in the terms of nº 5 of article 9 and nº 1 of article 16;
  - c. ...
  - d. ...
  - e. ...
  - f. ...
2. The practice of the following acts constitutes a serious offense, punishable in the terms of the Framework Law of Environmental Offenses:
- a. ...
  - b. ...
  - c. ...
  - d. Waste treatment activity by the operators that do not fulfil the qualification requirements, in the terms of nº 1 of article 8;
  - e. Un fulfilment of the authorization's conditions or of the granted permits' conditions, in the terms of terms of nº 5 of article 9 and of nº 1 of article 16;
  - f. Celebration of contracts with the waste operators that prevent free access to the waste management activity by other operators, in violation of nº 12 of article 11;
  - g. Noncompliance, by the EEE retailers, of the obligations established in nº 4 of article 13;
  - h. Noncompliance, by the portable batteries and accumulators retailers, of the obligation to accept the respective waste, in the terms of nºs 8 and 9 of article 13;
  - i. Noncompliance, by the industrial batteries and batteries and accumulators for automotive vehicles retailers, of the obligation to accept the respective waste, in the terms of nº 10 of article 13;
  - j. Charging, by the compliance scheme, of the additional amounts to the fee, in violation of the disposed in nº 10 of article 15;
  - k. Noncompliance, by the Retailer, of the obligation of charging and reimbursement of the reusable packaging's deposit, in the terms of nºs 2 and 3 of article 23;
  - l. Introduction of reusable packaging in the waste municipal collection circuit, in violation of nº 8 of article 23;
  - m. Noncompliance with the obligation to fulfil the production and packaging composition's requirements, in the terms of nºs 1 and 2 of article 26;
  - n. Nonfulfillment of the technical execution's regulation norms, as established in the decree referred in nº 1 of article 30;
  - o. ...
  - p. ...
  - q. ...
  - r. ...
  - s. ...
  - t. ...

- u. ...
- v. The non-observance, by the recycling operators, of the obligations relating to the sampling procedure, in the terms of nº 3 of article 50;
- w. ...
- x. ...
- y. ...
- z. ...
- aa. ...
- bb. Non-fulfilment, by the EEE producers, of the obligation to apply ecologic conception requirements, in the terms of nº 2 of article 55;
- cc. Non-fulfilment, by the EEE producers, of the obligation to maintain records of EEE, in the terms of nº 5 of article 57;
- dd. Non-fulfilment, by the EEE producers, of the obligation to ensure traceability of the WEEE, in the terms of nº 6 of article 57;
- ee. Carry out WEEE treatments operations without complying with the established requirements, referred in nº 2 of article 60;
- ff. Noncompliance with the technical requirements and with the minimum quality and efficiency requirements demanded from premises destined to WEEE storage and treatment, in the terms of nº 2 and 3 of article 61;
- gg. Non-fulfilment of the WEEE separation obligations, by the reception centers, in the terms of nº 1 of article 62;
- hh. Non-fulfilment of the obligation to guide WEEE, by the private end users, in the terms of nº 1 of article 65;
- ii. Non-fulfilment of the obligation to guide WEEE, by the non-private end users, in the terms of nº 1 of article 65;
- jj. The noncompliance with the obligation to guide WEEE, by the non-private end users, in the terms of nº 1 of article 66;
- kk. Placement WEEE in the market with marking of the symbol, in the terms of nº 4 of article 68;
- ll. Noncompliance by the producers, with the obligation to inform, in the terms of nºs 1 to 4 of article 69;
- mm. Placing white brand EEE in the market, in the terms of nº 5 of article 69;
- nn. Noncompliance, by the producers of appliances that contain batteries and accumulators, of the obligations established in nº 2 of article 70;
- oo. Violation, by the producers of batteries and accumulators, of the obligation to ensure the setup of selective collection spots and support the collection operation's costs, in the terms established in nº 2 of article 72;
- pp. Noncompliance of the obligation to hand in, by the private end users of industrial batteries and accumulators and batteries and accumulators for automotive vehicles, in the terms of the established in nº 1 of article 73;
- qq. Noncompliance, by the industrial batteries and accumulators producers and of batteries and accumulators for automotive vehicles, with the obligation to ensure the setup of selective collection spots and support the respective costs, in the terms of nº 2 of article 73;
- rr. Noncompliance of the obligation to guide, by the non-private end users of

- industrial batteries and accumulators and batteries and accumulators for automotive vehicles, in the terms of the established innº 1 of article 74;
- ss. Noncompliance, by the batteries and accumulators producers, of the obligation to ensure the collection and support the respective costs, in the terms of nº 2 of article 74;
  - tt. Producers' non-compliance with the obligations to ensure the recycling, treatment or elimination of batteries and accumulators, in the terms of the disposed in nº 1 of article 76;
  - uu. Operators' non-compliance of the disposed in nº 2 of article 76, in the treatment and recycling processes;
  - vv. Elimination, by deposit in landfills, underground storage or incineration, in the terms of nºs 2 and 3 of article 76;
  - ww. ...
  - xx. ...
  - yy. ...
  - zz. ...
  - aaa. ...
  - bbb. ...
  - ccc. ...
  - ddd. ...
  - eee. ...
  - fff. ...
  - ggg. ...
3. Constitutes a light environmental offense, punishable in the terms of the Framework Law of Environmental Offenses, the practice of the following acts:
- a. Noncompliance of the obligation to discriminate, in the invoice, the amount corresponding to the fee, in the terms of nºs 6 and 7 of article 14;
  - b. Noncompliance of the obligation of the compliance scheme to publicize the amounts of the fee, in the terms of nº 6 of article 15;
  - c. Violation of the compliance scheme's obligation to communicate to APA, I. P., the update of the value of the fee, in the terms of nº 7 of article 15;
  - d. The unfulfillment of the norms of periodic data reporting, by the WEEE collection intervenient, in the terms of paragraphs d) and e) of nº 4 of article 19;
  - e. The unfulfillment of the obligation to report information, by vehicles' producers and importers, in violation of nº 6 of article 19;
  - f. The non-fulfilment of the obligation to communicate to APA, I. P., the changes, registry and registry cancellation, in the terms of nº 7 of article 19;
  - g. The nomination of the authorized representative, without observing the requirements established in nºs 4 and 5 of article 20;
  - h. The non-compliance of the obligation to communicate to APA, I. P., in the terms of nº 6 of article 20;
  - i. The non-compliance of the obligation to communicate to APA, I. P., the changes relating to the registry, in the terms of nº 8 of article 20;
  - j. The non-compliance of the obligation to identify the value of the deposit, in the

- packaging, in the terms of nº 5 of article 23;
- k. The non-compliance, by the entities that carry out activities or WEEE collection campaigns, of the obligation to request previous authorization to APA, I. P., in the terms of nºs 2 and 3 of article 59;
  - l. The non-compliance of the obligation to communicate to APA, I. P., in violation of the disposed in nº 4 of article 62;
  - m. The non-compliance of the obligation to communicate to APA, I. P., in the terms of nº 3 of article 65;
  - n. The non-compliance, by the producers, of the obligation to inform private end users, as well as maintain registries in the terms of nº 1 of article 68;
  - o. The violation of the obligations relating to packaging and storage established in nº 3 of article 73;

The violation of the obligations relating to packaging and storage established in nº 3 of article 74;

Non-compliance, by the producers, of the obligations of labelling, in the terms of the disposed in article 75;

- p. Non-compliance, by the treatment operators, of the obligations to inform, established in nº 3 of article 83;
  - q. ...
- 4. Negligence is punishable in the terms of the disposed in the Framework Law of Environmental Offenses.
  - 5. The product of the fines established in the present article is divided according to the disposed in article 73 of the Framework Law of Environmental Offenses.
  - 6. Conviction for the practice of very serious and serious infractions, established in nºs 1 and 2, may be advertised when the actual fine applied surpasses half of the amount of the applicable abstract fine, in the terms of the disposed in the Framework Law of Environmental Offenses.

## **Article 91**

### **Other offenses**

- 1. Without prejudice to the environmental offenses established in the previous article, the following are considered an offense in the terms of Decree Law nº 433/82, from October 27<sup>th</sup>, in its current wording, punishable with a fine between € 1 250 to € 3 740 or € 2 500 to € 44 890, according to the fact that the agent is a juridical or individual person:
  - a) The non-fulfilment, by the EEE producers of the obligations relating to EEE registry, in the terms of paragraphs a) and b) of nº 4 of article 19;
  - b) The non-fulfilment, by the product producer, of the obligation to nominate an authorized representative, in the terms of nº 2 of article 20;
  - c) The non-fulfilment, by the product producer or by the authorized representative, of the obligation to inform APA, I. P. of the mandate's cessation, in the terms of nº 5 of article 20;
  - d) The violation of the duty to support costs, in the terms of nº 3 of article 67.

2. Negligence is punishable, being the fines' minimum and maximum limits reduced by half.
3. The product from the fines established in the present article is distributed as follows:
  - a) 60% to the State;
  - b) 20% to the entity that applies the fine;
  - c) 10% to the fining entity;
  - d) 10% to DGAE.

## **Article 92**

### **Processes instruction and decision**

1. It is IGAMAOT's, ASAEs and ATs responsibility, in the scope of the respective competencies, to instruct the offenses' processes filed in the scope of the present decree law, as well as the application of the corresponding fines and of the accessory sanction established in nº 6 of article 90.
2. Whenever the fining authority is not competent to instruct the process, the process will be instructed and decided by IGAMAOT in the case of environmental offenses established in article 90 or in case of offenses established in the previous article, it will be instructed and decided by ASAE or by AT, according to the respective competences. The fining authorities shall, then, be informed of the matter.

## **Article 93**

### **Cautionary apprehension**

The competent entity may, whenever necessary, determine the temporary apprehension of goods and documents, in accordance of article 42 of the Framework Law of Environmental Offenses or the apprehension of objects in the terms established in article 48 A of Decree Law nº 433/82, of October 27<sup>th</sup>, in its current wording.

## **CHAPTER V**

### **Complementary, provisional and final dispositions**

## **Article 94**

### **Subsidiary application of RGGR**

To everything that is not clearly established in the present decree law, the RGGR is complementarily applied.

## **Article 95**

### **Other specific waste**

The scope of the present decree law may be widened to other specific flows according to, namely, the obligations to transpose directives from the European Union, the quantity and dangerousness of the waste, the global impacts on the environment, on human health or social impacts and the existence of alternatives to elimination, namely, recycling or recovery.

## **Article 96**

### **Regulation**

Whenever, in the scope of managing specific waste in the span of the present decree law, it is necessary to define norms and technical specifications, these are drawn up by APA, I. P., and by DGAE, after the competent entities in terms of material and flow in question, are heard. These technical norms are published in the websites of the entities previously mentioned.

## **Article 97**

### **Duty to collaborate and to present documents**

1. APA, I. P, DGAE and the inspection entities shall cooperate amongst themselves in order to ensure the application of the present decree law, namely through technical cooperation and information exchange.
2. The collaboration mentioned in the previous number aims to ensure the integrated control and monitoring of the activities that are carried out in the scope of the present decree law, widening the duty to collaborate to the other intervening public entities, namely the competent organisms of the autonomous regions.
3. The presentation of the documents referred in the scope of the present decree law, that are in the hands of Public Administration organisms or services, may be dismissed and obtained through the Public Administration's Interoperability Platform, in the terms of article 28A of Decree Law nº 135/99, of April 22<sup>nd</sup>, in its current wording, in case citizens or economic agents clearly consist of it.
4. In case APA, I. P's platform is not working, the legal procedures of the authorization or permit granting is made through the admissible legal means, preferably, through electronic means.

## **Article 98**

### **Autonomous regions**

- 1 The present decree law applies to the autonomous regions of Azores and Madeira, without prejudice of its adequacy to the regional specificity, in the terms of the respective political – administrative autonomy. Its execution is the responsibility of the organisms and

services of the respective regional administrations with attributions and competencies in what relates to managing waste, without prejudice of the attributions of the entities with national scope.

2 The product of the fines applied in the autonomous regions constitutes their own income.

## **Article 99**

### **Evaluation of the regime's application**

In a time frame of three years from the date the present decree law comes into force, APA, I. P. and DGAE shall present, to the government members responsible for economic and environmental themes, an evaluation of the model for granting permits to integrated systems of specific waste flows compliance schemes, in terms of environmental and economic-financial aspects, both for compliance schemes and for users, in order to decide if there is the need for possible changes to the judicial context of those permits.

## **Article 100**

### **Operators' qualification**

The waste treatment operators that, at the time the present decree law comes into force, are operating in the scope of a waste specific flow are obliged to, in the period of 12 months from the time APA I. P. defines the qualification requirements referred to in article 8, fulfill these requirements.

## **Article 101**

...

## **Article 102**

### **Transitional norm**

1 The disposed in nº 2 of article 11 does not apply to the compliance schemes whose permit is valid at the time the present decree law comes into force, nor to applying compliance schemes whose licensing process is ongoing at the time the present decree law comes into force.

2 The guarantee referred in nº 2 of article 9 and nº 6 of article 11 does not apply to the individual systems' compliance schemes nor to the integrated systems' compliance schemes whose authorization or permit is valid at the time the present decree law comes into force, nor to the nor to applying compliance schemes whose authorization or licensing process is ongoing at the time the present decree law comes into force.

3 The disposed in article 28 is applicable from January 1<sup>st</sup> 2019.

4 Producers and retailers are obliged to comply with the obligation established in nº 6 of article 14, within the period of two years upon the date the present decree law comes into force.

5 ...

6 The EEE belonging to the categories defined in paragraph d) of nº 1 of article 2, which indicative list is part of additament I, are covered by the disposed in the present decree law, until August 14th 2018.

7 The EEE belonging to the categories defined in paragraph e) of nº 1 of article 2, which indicative list is part of additament I, are covered by the disposed in the present decree law, starting August 15<sup>th</sup> 2018.

8 The disposed in nºs 2,3 and 4 of article 6 and paragraphs d) of nº 1 and c) of nº 2 of article 11, from Decree Law nº 366-A/97, from December 20<sup>th</sup>, that establishes the principles and applicable norms to packaging management and packaging waste, maintains its effects until December 31<sup>st</sup> 2018.

### **Article 103**

#### **Revocatory norm**

1. The following are revoked:

a) Decree Law nº 366-A/97, from December 20<sup>th</sup> that establishes the principles and applicable norms to packaging management and packaging waste, in its current wording, without prejudice of the disposed in nº 7 of the previous article;

b) Decree Law nº 407/98, from December 21<sup>st</sup>, that establishes rules regarding the essential requirements of the packaging's composition;

c) ...

d) ...

e) ...

f) Decree Law nº 6/2009, from January 6<sup>th</sup>, that established the regime for placing batteries and accumulators in the market and the collection, treatment recycling and elimination regime for batteries and accumulators, in its current wording;

g) Decree Law nº 67/2014, from May 7<sup>th</sup>, which approves the judicial regime of the electric and electronic waste management, in its current wording;

h) ...

i) Decree nº 29-B/98, from January 15<sup>th</sup>, which establishes functioning rules of the consignment systems applicable to the reusable and non- reusable packaging, as well as the integrated system applicable only to non-reusable packaging, in its current wording;

j) Decree nº 286-B/2014, from December 31<sup>st</sup>, which establishes the regulation mentioned in Law nº 82-D/2014, from December 31<sup>st</sup>, in what relates to contribution for the light plastic bags, in its current wording;

k) ...

l) ...

3 Paragraphs c) and g) of nº 1 and paragraph q) of nº 2 of article 67 of Decree Law nº 178/2006, from September 5<sup>th</sup> are also revoked. This decree law approved the general regime of waste management.

## **Article 104**

### **Coming into force**

The present decree law comes into force on January 1<sup>st</sup> 2018.

Seen and approved in Council of Ministers on December 7th 2017 - António Luís Santos da Costa — Augusto Ernesto Santos Silva — Manuel de Herédia Caldeira Cabral — Carlos Manuel Martins.

Promulgated on December 11<sup>th</sup> 2017. Let it be published.

The President MARCELO REBELO DE SOUSA. Ratified on December 11th 2017.

The Prime Minister, António Luís Santos da Costa.

### **ADDITAMENT I**

**(referred in nº 2 of article 2 and nº 6 of article 102)**

Indicative list of electric and electronic devices:

I. Categories established in paragraph d) of nº 1 of article 2 and nº 6 of article 102.

#### **Category 1: Large Appliances**

- a) Large cooling equipment;
- b) Refrigerators;
- c) Freezers;
- d) Other large appliances used for food refrigeration conservation and storage.
- e) Washing Machines;
- f) Dryers;
- g) Dish Washers;
- h) Stoves
- i) Electric ovens;
- j) Electric stove hotplates;
- k) Microwaves;
- l) Other large appliances used for cooking or transform food;
- m) Electric heating devices;
- n) Electric radiators;
- o) Other large appliances used for heating houses, beds or seating furniture;
- p) Electric fans;
- q) Air conditioning equipment;
- r) Other ventilation equipment, exhaustion ventilation and conditioning.

#### **Category 2: Small Appliances**

- a) Vacuum Cleaners;
- b) Fitted carpet's cleaning devices;

- c) Other cleaning devices;
- d) Devices used for sewing, knitting, weaving and other forms of transforming textiles;
- e) Irons and other devices for ironing, calendaring and treat clothing;
- f) Toasters;
- g) Fryers;
- h) Grinders, coffee machines and devices to open or close recipients or packaging;
- i) Electric knives;
- j) Devices for cutting hair, hair dryers, electric tooth brushes, shaving machines, massage equipment and other devices for body caring;
- k) Living room clocks, wrist watches and devices to measure, indicate or register time;
- l) Scales.

### **Category 3: IT and Telecommunication Equipment**

- a) Centralized data processing;
- b) Macro computers (mainframes);
- c) Minicomputers;
- d) Printing units;
- e) Personal IT equipment;
- f) Personal computers (CPU, mouse, monitor and keyboard included);
- g) Portable computers «laptop». (CPU, mouse, monitor and keyboard included);  
Portable computers «notebook»;
- h) Portable computers «notepad»;
- i) Printers;
- j) Copiers; Electric and electronic typing machines;
- k) Pocket and table calculators;
- l) Other products or equipment to collect, store, treat, present or communicate information, electronically;
- m) Users´ systems and terminals;
- n) Tele copiers(fax);
- o) Telex;
- p) Telephones;
- q) Public phone booths;
- r) Wireless phones;
- s) Mobile phones;
- t) Automatic answering machines;
- u) Other products or equipment to transmit sound, images or other information, via telecommunication.

### **Category 4: Consumer Equipment and photovoltaic panels**

- a) Radio devices;
- b) TV devices;
- c) Video cameras;
- d) Video recorders;
- e) High fidelity recorders;

- f) Sound amplifiers;
- g) Music instruments;
- h) Other products or equipment to record or reproduce sound or image, including signals or other technologies for distributing sound and image via other means that not telecommunication;
- i) Photovoltaic panels.

**Category 5: Lighting Equipment**

- a) Lamps for fluorescent lamps (with exception of domestic lighting equipment);
- b) Classic fluorescent lamps;
- c) Compact fluorescent lamps;
- d) High intensity discharge lamps, including sodium lamps under pressure and metal halide lamps;
- e) Low pressure sodium lamps;
- f) Other lamps or equipment destined to diffuse or control light (except incandescence lamps).

**Category 6: Electric and electronic tools except for large dimension fixed industrial tools**

- a) Drills;
- b) Saws;
- c) Sewing machines;
- d) Equipment to turn, mill, sand, grind, saw, cut, shear, drill, makes holes, puncture, fold, curve or for similar wood, metal or other material's treatment processes;
- e) Tools to clinch, to nail or screw, or to remove rivets, nails or screws, or for similar uses;
- f) Tools to weld or for similar uses;
- g) Equipment to spray, spread, disperse or for treatment with liquid or gaseous substances, through other means;
- h) Tools to mow lawns or for other gardening activities.

**Category 7: Toys, sports and leisure equipment**

- a) Electric trains' sets or racing cars' tracks;
- b) Portable video games' consoles;
- c) Video games;
- d) Computers for cycling, diving, running, rowing and other sporting activities;
- e) Sporting equipment with electric and electronic components;
- f) Slot machines.

**Category 8: Medical Appliances except for all implemented and infected products**

- a) Radiotherapy equipment;
- b) Cardiology equipment;
- c) Dialysis equipment;
- d) Lung ventilators;

- e) Nuclear medicine equipment;
- f) Laboratory equipment for in vitro diagnosis;
- g) Analysers;
- h) Freezers;
- i) Fertilizations tests;
- j) Other equipment to detect, avoid, control, treat, alleviate illnesses, injuries or deficiencies.

**Category 9: Monitoring and Control Instruments**

- a) Smoke detectors;
- b) Heating regulators;
- c) Thermostats;
- d) Measuring, weighing or regulation devices for domestic use or as laboratorial equipment;
- e) Other control and command instruments used in industrial premises (command panels, for example).

**Category 10: Automatic Dispensers**

- a) Hot drinks' automatic dispensers;
- b) automatic dispensers of cold or hot bottles or cans;
- c) Solid products' automatic dispensers;
- d) Money automatic dispensers;
- e) All equipment that automatically dispense all kinds of products.

II Categories established in paragraph e) of nº 1 of article 2

**Category 1: Temperature regulation equipment**

- a) Refrigerators;
- b) Freezers;
- c) Cold products' automatic dispensers;
- d) Air conditioning equipment;
- e) Dehumidifier equipment;
- f) Heat pumps;
- g) Oil heaters;
- h) Other temperature regulator equipment that use, for this effect, other fluids than water.

**Category 2: Screens, monitors and equipment with screens with a surface bigger than 100 cm<sup>2</sup>**

- a) Screens;
- b) TV appliances;
- c) Photo frames;
- d) LCDs;
- e) Monitors;
- f) Laptop portable computer;

- g) Notebook portable computer.

**Category 3: Lamps**

- a) Classic fluorescent lights;
- b) Compact fluorescent lamps;
- c) Fluorescent lamps;
- d) High intensity discharge lamps, including sodium lamps under pressure and metal halide lamps;
- e) Low pressure sodium lamps;
- f) LED.

**Category 4: Large dimension equipment**

- a) Washing Machines;
- b) Dryers;
- c) Dish Washers;
- d) Stoves
- e) Electric ovens;
- f) Electric stove hotplates;
- g) Lamps;
- h) Equipment for playing sound or images;
- i) Music equipment (except tubes of the organs installed in churches);
- j) Devices used in knitting and weaving;
- k) Macrocomputers (mainframes);
- l) Large dimension printers;
- m) Large dimension copiers;
- n) Large dimension Slot machines;
- o) Large dimension medical devices;
- p) Large dimension monitoring and control instruments;
- q) Large dimension automatic dispensers which supply, both, products and money;
- r) Photovoltaic panels;

**Category 5: Small dimension equipment**

- a) Vacuum Cleaners;
- b) Fitted carpet's cleaning devices;
- c) Devices used for sewing;
- d) Lamps;
- e) Microwaves;
- f) Ventilation devices;
- g) Irons;
- h) Toasters;
- i) Electric knives;
- j) Electric coffee-maker;
- k) Watches;
- l) Electric shaving machines;

- m) Scales;
- n) Devices for cutting hair and other devices for body caring;
- o) Pocket calculators;
- p) Radio devices;
- q) Video cameras;
- r) Video recorders;
- s) High fidelity equipment:
- t) Music instruments;
- u) Equipment for playing sound or images;
- v) Electric and electronic toys;
- w) Sports equipment;
- x) Computers for cycling, diving, running, rowing and other sporting activities;
- y) Smoke detectors;
- z) Heat regulators;
- aa) Thermostats;
- bb) Small dimension electric and electronic tools;
- cc) Small dimension medical devices;
- dd) Small dimension monitoring and control instruments;
- ee) Small dimension automatic dispensers;
- ff) Small dimension equipment with integrated photovoltaic panels.

**Category 6: Small dimension IT and telecommunication equipment with no external dimension bigger than 50 cm**

- a) Mobile phones
- b) GPS;
- c) Pocket calculator;
- d) Routers;
- e) Personal computers;
- f) Printers;
- g) Telephones.

**ADDITAMENT II**

**[referred in paragraph r) of n° 1 of article 3]**

Auxiliary criteria for defining packaging and illustrative examples

- 1 Auxiliary criteria for defining packaging
  - a) The definition of “packaging” includes articles that are used for different purposes, with exception of the cases in which, cumulatively, the article is a part of a product, it is necessary to contain, support or maintain that product throughout its life span and all elements are destined to be used, consumed or eliminated at the same time;
  - b) The definition of “packaging” includes articles that are destined to be filled up in the point of sale as well as disposable items sold, full or conceived for and destined to be filled up in a point of sale, if they are used for packaging purposes;
  - c) The definition of “packaging” includes:

- i. Packaging's components;
  - ii. Accessories integrated in packaging;
  - iii. Accessories directly appended or enclosed in a product and that are used as packaging, with exception of the cases in which they are part of that product and are destined to be consumed or eliminated, at the same time.
- 2 The illustrative examples of the criteria referred in the paragraphs of the previous number are part of the following tables.

**TABLE I**

**Illustrative examples of the criteria referred in paragraph a) of nº 1 of the present additament**

The following are considered packaging:

- Bags for sending catalogues and magazines by regular e-mail (containing a magazine);
- Hangers for clothing (sold with a clothing item);
- CD cylindrical boxes (sold empty, destined to be used for storing);
- Comfit boxes;
- Matches` boxes;
- Capsules for drinks` distributors (coffee, milk and cocoa);
- Glass containers for injectable solutions;
- Glass jars for injectable solutions;
- Rechargeable steel bottles used for different types of gases, except fire extinguishers;
- Placemat for cakes, sold with the cakes;
- Plastic wrap for CD packaging;
- Rolls, tubes and cylinders in which flexible materials are rolled in (plastic wrap, aluminium, paper), except rolls, tubes and cylinders destined to be part of production machines and that are not used to present a product as a sale unit;
- Sterile barrier system (bags, trays and material necessary to preserve the sterility of a product);
- Flowerpots destined to be used only for selling and transporting plants and not destined to contain plants for their whole life.

The following are not considered packaging:

- Clothing hangers (sold separately);
- Cylindrical boxes for CDs (sold with the CD, not destined to be used for storing them);
- Tools` boxes;
- Coffee capsules for drinks` distributors, coffee paper bags and individual coffee doses in paper filter, eliminated along with coffee remains;
- Printers` cartridges;
- CD, DVD and video packaging (sold with a CD, DVD and video inside);
- Lamps for graves (candles` recipients);
- Mechanic mil (integrated in a rechargeable recipient, for example, a pepper mill);

- Sausages' and smoked sausages' skin;
- Wax wraps that involve cheese;
- Películas de cera que envolvem queijos;
- Soluble bags for detergents;
- Tea bags;
- Flowerpots destined to contain the plants throughout their entire life.

#### **TABLE II**

##### **Illustrative examples of the criteria referred in paragraph b) of nº 1 of the present additament**

They are considered packaging if created for filling in the point of sale:

- Aluminium foil;
- Plastic wrapping for clothes submitted to cleaning at the Dry Cleaners;
- Retractable film;
- Disposable cups and plates;
- Plastic or paper bags;
- Sandwich bags.

The following are not considered packaging:

- Stirring rods;
- Paper cake tins for cake shops (sold empty);
- Cake placemats sold without the cakes;
- Packaging paper (sold separately);
- Disposable table ware.

#### **TABLE III**

##### **Illustrative examples of the criteria referred in paragraph c) of nº 1 of the present additament**

The following are considered packaging:

- Labels directly appended to the product or affixed to it;

The following are considered parts of packaging:

- Staples;
- Plastic bags;
- Sticker labels affixed to another article in the packaging;
- Mechanic mil (integrated in a non- rechargeable recipient, carrying a product, for example, a pepper mill);
- Mask brush integrated in the closing of the recipient;

- Dosage utensils integrated in the recipients for detergents.
- The following are not considered packaging:

- Identifications labels via radiofrequency (RFID)

### **Table III**

**(referred in nº 5 of article 6 and nº 2 of article 61**

#### **Technical requirements of the storage and treatment premises**

1. Places for storing (including preliminary storage) waste of electric and electronic equipment (WEEE), used tires, automobile batteries and industrial batteries before treatment (without prejudice of the disposed in Decree Law nº 183/2009, of August 10<sup>th</sup>, in its current wording):
  - a. Waterproof surfaces for adequate areas, equipped with spilling collection systems and, when appropriate, decanters and degreaser purifiers;
  - b. Storm proof cover for appropriate areas.
2. WEEE treatment premises:
  - a. Treated waste weight measurement scales;
  - b. Waterproof surfaces and storm proof covers for appropriate areas, equipped with spilling collection systems and, when appropriate, decanters and degreaser purifiers;
  - c. Adequate storage for dismantled spare parts;
  - d. Adequate containers for batteries, condensers with PCB/PCT and other hazardous waste, such as radioactive waste;
  - e. Water treatment equipment, according to the regulation related to health and environment.

ANEXO IV

...

#### **ADITTAMENT V**

**[referred in paragraph b) of nº 4 of article 19]**

#### **Information for WEEE registry**

- A. Information to be presented by the Producer in the act of registry:
  1. Name, address and producer's contacts or his authorized representative (street name, postal code, city and country, telephone number and fax, e-mail address), as well as indication of person of contact. In case of an authorized representative, it is necessary to indicate the contacts of the represented Producer.
  2. National identification code, including the fiscal identification number, either European or national.

3. Category of electric and electronic equipment (EEE), as shown in paragraphs d) or e) of nº1 of article 2, depending on the case.
  4. Type of EEE (destined to private and non-private users).
  5. Commercial denomination of EEE (brand).
  6. Compliance scheme: individual or collective, including information on funding guarantees, when applicable.
  7. Sales technique used (long distance sales, for example).
  8. Declaration stating that the information rendered is truthful.
- B. Informações a apresentar nos relatórios:
1. Producers' national identification code.
  2. Period to which the report refers to.
  3. Category of EEE, as shown in paragraphs d) or e) of nº1 of article 2, depending on the case.
  4. Quantity, in weight and units, of EEE placed on national market, by category.
  5. Amount, in units and in weight, of EEE placed on national market, by category.
  6. Amount, in weight, of EEE selectively collected, recycled (including ready for reuse), recovered or eliminated in Portugal, as well as transferred to in or outside the European Union, by category.

#### **ADITTAMENT VI**

**(referred to in nº 5 of article 19.º)**

##### **Information for batteries' and accumulators registry**

1. Producers' name, VAT ID number (national or European), economic activity's code (CAE) and contacts (address, phone number, fax, e-mail, website, person of contact and respective fax number and e-mail address, if available);
2. The type and brand of the batteries and accumulators placed in the market each year, including portable batteries and accumulators, industrial batteries and accumulators and batteries and accumulators for automotive vehicles;
3. Information about the way the producer takes on his responsibilities; individually or through a compliance scheme;
4. Registry's request date;
5. Declaration that the information rendered is truthful.

#### **ADITTAMENT VII**

**(referred in nº 5 of article 20)**

##### **Mandate's model**

A. Mandate's model

[Identification of the producer/ packer – name and European or national VAT ID number]

[Producer/packer address] [Indicate origin country]

Nominates [Identification of the authorized representant - name and national VAT ID number]

[Address of the authorized representative]

Portugal

as its authorized representant in Portugal, in the terms of Decree Law nº .../..., de ... [number and date the Decree Law was published, which establishes the juridical regime to which the management of specific waste flow is subject to, being covered by the Producers' Extended Responsibility], which establishes the juridical regime to which the management of specific waste flow is subject to, which is covered by the Producers' Extended Responsibility.

The present mandate covers the following product/ type of product/ packaging materials' categories:

The [Authorized Representative] commits to, as authorized representative of the (producer/ packer) in Portugal, to represent him in the terms established in Decree Law nº .../..., from ..... (number and date the Decree Law that establishes the juridical regime to which the specific waste flow management in the scope of Producers' Extended Responsibility was published), being legally responsible for ensuring the fulfilment of the (producers'/ packers') obligations established in (mention respective numbers and articles) of the referred decree law.

Despite the disposed in the present mandate, the (producer/ packer) will only be exonerated from the responsibilities delegated in (Authorized Representative) as long as the actual fulfilment of the delegatory mandate, occurs.

The present mandate, signed by both parties, produces effect on (date) and ceases its validity as soon as one of the parties informs APA, I. P., that the mandate has been rescinded.

[Date]

(Producers'/ packers' signature) (Authorized Representative's signature)

[Assinatura produtor/embalador] [Assinatura do Representante Autorizado]

#### **ADITTAMENT VIII**

**(referred in nºs 2 and 3 of article 26, article 27 and nº 1 of article 88)**

#### **List of essential requirements relating to the composition and possibility of reuse, packaging recovery or recycling**

- i. Levels of hard metal's concentration in packaging
  - a. The sum of the levels of concentration of lead, cadmium, mercury and hexavalent chromium, present in the packaging or in packaging components, may not be higher than 100 ppm, in weight, starting July 1<sup>st</sup> 2001;
  - b. The levels of concentration established in the previous number are not applicable to the packaging made, exclusively, of crystal glass or sound glass,

which the composition includes lead, in the sense of Directive nº 69/493/CEE, of the Council, of December 15<sup>th</sup>.

- ii. Specific requirements for packaging production and composition
  - a. The packaging shall be produced in a way that the respective weight and volume do not exceed the minimum necessary value for maintaining the security, hygiene and acceptance levels, adequate for the packed product as well as for the consumer.
  - b. Packaging shall be conceived, produced and sold in order to allow its reuse and to minimize its impact on the environment when the packaging waste or the remaining packaging waste management operations are recovered and eliminated.
  - c. The packaging shall be produced in order to minimize the presence of harmful substances as well as other dangerous substances and material in the packaging material as well as in any of its components, in what concerns their presence in emissions, ashes or leached, when they are incinerated or discharged in landfills, of the packaging waste or the remaining packaging waste management operations.
- iii. Specific requirements of the possibility to reuse the packaging, to be filled in, cumulatively
  - a. The packaging physical properties and the characteristics of the packaging shall allow a certain number of trips and rotations, in normal predictable use conditions.
  - b. The used packaging shall allow for it to be used in order to respect the workers' health and security requirements.
  - c. The specific requirements of the recoverable packaging shall be fulfilled when the packaging is no longer reusable and becomes waste.
- iv. Specific requirements of the possibility to recover packaging materials
  - a. The recoverable packaging in terms of material recycling shall be produced in a way that allows for the recycling of a certain percentage, in weight, of the material used for producing sellable products, in compliance with the norms in force within the European Community. The determination of the percentage may vary depending on the type of material used in the production of the packaging.
  - b. The recoverable packaging in terms of energetic recovery shall have an inferior minimum calorific power that allows for the optimization of energetic recovery.
  - c. In the case of recoverable packaging in terms of compound, the waste of the packaging treated for composting shall be collected separately and be biodegradable, in order not to hinder the composting process or activity in which it is introduced.
  - d. In the case of biodegradable packaging, the respective waste shall have characteristics which allow for a physical, chemical, thermal or biologic decomposition, resulting that most of the final compound ends up decomposing into carbon dioxide, biomass and water.

## ADITTAMENT IX

(referred in nº 3 of article 28)

Packaging material identification system established in Decision nº 97/129/CE, of the Commission, from January 28<sup>th</sup>

- 1 Numbering and abbreviations of the identification system are established in the following tables.
- 2 Its use is voluntary for the material mentioned in the following tables.

**Table I**

**Number system and abbreviations <sup>(1)</sup> for plastic**

Material	Abbreviation	Numbering
Poly (tethylene terephthalate)	PET	1
High density polyethylene	HDPE	2
Poly (vinyl chloride)	PVC	3
Low density polyethylene	LDPE	4
Polypropylene	PP	5
Polystyrene	PS	6
		7
		8
		9
		10
		11
		12
		13
		14
		15
		16
		17
		18
		19

(1) Only capital letters are used.

**Table II**

**Number system and abbreviations <sup>(1)</sup> for paper and cardboard**

Material	Abbreviation	Numbering
Corrugated cardboard	PAP	20
Non- corrugated cardboard	PAP	21
		22
		23
		24
		25
		26
		27
		28
		29
		30
Paper	PAP	31
		32
		33
		34
		35
		36
		37
		38
		39

<sup>(1)</sup> Only capital letters are used.

**Table III**

**Number system and abbreviations <sup>(1)</sup> for paper or metals**

Material	Abbreviation	Numbering
Steal	FE	40
Aluminium	ALU	41
		42
		43
		44
		45
		46
		47
		48
		49

<sup>(1)</sup> Only capital letters are used.

**Table IV**

**Number system and abbreviations <sup>(1)</sup> for wood**

Material	Abbreviation	Numbering
Wood	FOR	50
		51
		52
		53
Cork	FOR	54
		55
		56
		57
		58
		59

<sup>(1)</sup> Only capital letters are used.

**Table V**

**Number system and abbreviations <sup>(1)</sup> for textile materials**

Material	Abbreviation	Numbering
Cotton	TEX	60
Jute	TEX	61
		62
		63
		64
		65
		66
		67
		68
		69

<sup>(1)</sup> Only capital letters are used.

**Table VI**

**Number system and abbreviations <sup>(1)</sup> for glass**

Material	Abbreviation	Numbering
Colorless glass	GL	70
Green glass	GL	71
Brown glass	GL	72
		73
		74
		75
		76
		77
		78
		79

(1) Only capital letters are used.

**Table VII**

**Number system and abbreviations <sup>(1)</sup> for composite**

Material	Abbreviation (2)	Numbering
Paper and cardboard/ several metals		80
Paper and cardboard/plastic		81
Paper and cardboard/ aluminum		82
Paper and cardboard/tinplate		83
Paper and cardboard/plastic/ aluminum		84
Paper and cardboard/plastic/ aluminum/ tinplate		85
		86

87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99

- (2) Only capital letters are used.
- (3) Composites: C plus the abbreviation corresponding to the predominant material (C/) Numbering and abbreviations (1) system for composites.

#### **ADITTAMENT X**

**(referred in n° 1 of article 57)**

#### **WEEE minimum recovery goals**

- 1 Minimum applicable goals, per category, in the period between August 15<sup>th</sup>, 2015 and August 14<sup>th</sup>, 2018, relating to the categories referred in paragraph d) of n° 1 of article 2, assessed based on the calculation method established in n° 3 of article 6.
- a. Regarding WEEE from Categories 1 and 10:
- i. 85 % shall be recovered;
  - ii. 80 % shall be prepared for reuse and recycled;
- b. Regarding WEEE from Categories 3 and 4:
- i. 80% shall be recovered;
  - ii. 70% shall be prepared for reuse and recycled;
- c. Regarding WEEE from Categories 2, 5, 6, 7, 8 and 9:
- iii. 75 % shall be recovered;
    1. 55 % shall be prepared for reuse and recycled;
- d. Regarding gas discharge lamps, 80% shall be recycled.
- 2 Minimum goals applicable, per category, starting on August 15<sup>th</sup> 2018, relating to the categories stated in paragraph e) of n° 1 of article 2, assessed based on the calculation methodology established in n° 3 of article 6.
- a) Regarding WEEE from categories 1 and 4:
- i) 85 % shall be recovered;
  - ii) 80 % shall be prepared for reuse and recycled;
- b) Regarding WEEE from category 2:

- i) 80 % shall be recovered;
  - ii) 70 % shall be prepared for reuse and recycled;
- c) Regarding WEEE from categories 5 and 6:
  - i) 75 % shall be recovered;
  - ii) 55 % shall be prepared for reuse and recycled;
- d) Regarding WEEE from category 3, 80 % shall be recycled.

#### **ADITTAMENT XI**

**(referred in nº 2 of article 60)**

#### **Selective treatment of material and WEEE components**

1. At the least, the substances, mixtures and components mentioned ahead shall be removed from all electric and electronic equipment (WEEE) collected selectively:
  - a. Condensers with polychlorinated (PCB) in the terms of Decree Law nº 277/99, from June 23<sup>rd</sup>, in its current wording;
  - b. Components containing mercury, such as light switches or backlight lamps;
  - c) Batteries and accumulators;
  - d) Plaques of printed mobile phones' circuits in general and of other devices, in case the surface of printed mobile phones' circuits is higher than 10 square centimetres;
  - e) Toner cartridges, liquid or doughy, as well as coloured toner;
  - f) Plastic containing bromic flame delayers;
  - g) Asbestos waste and components containing asbestos;
  - h) Cathodic rays' tubes;
  - i) Chlorofluorocarbons (CFC), hydro chlorofluorocarbons (HCFC), hydro chlorofluorocarbons (HCFC), hydrocarbon (HC);
  - j) Gas discharge lamps;
  - k) Liquid crystal screens (with the packaging, whenever adequate) with a surface over 100 square meters and all screens backlit s by gas discharge lamps;
  - l) Outdoor electric cables;
  - m) Components containing refractory ceramic fibres, as established in Decree Law nº 209/99, from June 11<sup>th</sup>;

n) Components containing radioactive substances, with exception of the components that are below the exemption barriers established in article 13 and in additament I of Directive nº 96/29/EURATOM, of Council, from May 13<sup>th</sup> 1996, which establishes the base security norms relating to the population's sanitary protection as well as of the workers, against the hazards resulting from ionizing radiations, transposed to national law by Decree Law nº 140/2005, from August 17<sup>th</sup>.

o) Electrolytic condensers that contain substances that cause worries (height > 25 mm, diameter > 25 mm or volumes of similar proportions).

2 These substances, mixtures and components shall be eliminated or recovered shall be treated in the terms of RGGR.

3 The components listed below, of the WEEE collected selectively, shall be treated as indicated:

- a) Cathodic rays' tubes: the fluorescent coating shall be removed;
- b) Equipment containing gases that impoverish the ozone layer or have the potential of global warming (GWP) higher than 15, as the ones that can be found in foam and in refrigeration circuits: gases have to be dully extracted and treated. The gases that impoverish the ozone layers have to be dully treated according to Regulation (CE) nº 1005/2009, of the European Parliament and Council, from September 16<sup>th</sup> 2009;
- c) Gas discharging lamps: mercury shall be removed.

4 Considering the changes of environmental scope and interest in preparation of the reuse and recycling, nºs 1 and 2 shall be applied in order not to be an obstacle to the environmental correct preparation for reuse or recycling of the components or devices as a whole.

## **ADITTAMENT XII**

**(referred in nº 1 of article 64)**

### **Minimum requirements for transferring used electric and electronic waste, suspected of being waste**

1. In order to distinguish between electric and electronic equipment (EEE) and electric and electronic equipment's waste (REEE), in case the owner of the object alleges that he wants to transfer or is transferring used EEE and not WEEE, he should have the following information in order to support his allegations: ~
  - a. Copies of the invoice and of the contract referring to the sale or transfer of the property of EEE, which indicate that the equipment is destined for direct reuse and that they are fully functioning;
  - b. Proof of evaluation or of rehearsal, in the form of copy of the registries (rehearsal certificate, proof of functionality) for each product of the

- consignment and a protocol that contains all registries' information, as established in nº 3;
- c. Declaration from the owner that organizes EEE transportation, specifying that none of the material or equipment present in the consignment is a "waste", in the sense of paragraph ee) of article 3 of the RGGR;
  - d. Evidence that all measures were taken in order to ensure the adequate protection against possible damages during transportation, load or unload, particularly through the adequate packaging and appropriate stacking of the cargo.
2. In terms of derogation, paragraphs a) and b) of the previous number and of the following number are not applicable in case the transfer is dully documented with conclusive proof that the transfer is made under the scope of a transfer deal between companies, and which:
- a. It is a return to the producer or to a third party, acting on its own, of defective EEE for repair, during the warranty period, for being reused; or
  - b. It is a return to the producer or to a third party, acting on their behalf, or to the premises of third parties located in countries where the C Decision is applicable (2001)107/final of OECDs Council) relating to the revision of the C Decision (92)39/final about the trans frontier movements of waste destined to recovery operations, of used EEE of professional usage for renovating or repair, under the scope of a valid contract, with the goal of its reuse; or
  - c. If it is a return to the producer or to third parties acting on the producer's behalf, of faulty used EEE for professional use, such as medical devices or pieces of medical devices for analysing the underlying causes, under the scope of a valid contract, in case that kind of analysis may only be carried out by the producer or by third parties acting on his behalf.
3. For demonstration that the transferred products constitute used EEE and nor WEEE, the holders shall comply with the requirements of the following steps in the rehearsal and maintenance of the used EEE registries:
- a. Step 1: Rehearsal
    - i. The functionality must be tested and the presence of dangerous substances shall be evaluated. The rehearsals to be carried out will depend on the type of EEE. For most used EEE the rehearsal of the main functions are sufficient.
    - ii. The results of the evaluations and rehearsals must be registered.
  - b. Step 2: Registry
    - i. The registry shall be fixated in a secure but not permanent manner in the EEE itself (in case it is not packed) or in the packaging, so it may be read without having to unpack the equipment;
    - ii. The registry shall contain the following information:
      1. Product name (name of the equipment, if established in additament I, and category, as indicated in paragraphs d) and e) of nº 1 of article 2;
      2. Product identification number (type nº), if applicable;
      3. Year of production (if available);

4. Name and address of the company responsible for the proof of functionality;
  5. Results of the rehearsals, as indicated in Et APA, I. P. 1 (including the date of the functionality test);
  6. Type of rehearsals made.
4. Further to the documents required by the previous numbers, each cargo (truck or container used for transferring) of used EEE shall be followed by the following:
- a. Pertinent transport document, according to the Convention related to the International Transport of Road Merchandise Contract (CMR) or waybill;
  - b. Declaration of the person responsible, attesting its responsibility.
5. In absence of proof that an object constitutes a used EEE and not a WEEE, through the adequate documents required in the previous numbers and in lack of adequate protection against possible damage during transport, the load or unload, namely through adequate packaging and an appropriate cargo stacking, that are the holder's that organize transport obligations, the inspection entities shall consider that the products are WEEE and assume that the load constitutes an illegal transfer. In these circumstances, the load shall be treated according to articles 24 and 25 of Regulation (CE) n. ° 1013/2006, of the European Parliament and Council, from June 14<sup>th</sup>, relating to waste transfers.

### **ADITTAMENT XIII**

[referred in paragraph e) of n° 1, n° 4 of article 68 and n° 5 of article 69]

#### **Symbol for marking electric and electronic equipment**

The symbol that indicates the selective collection of electric and electronic equipment (EEE) is constituted by a trash can barred over by a cross, as indicated below.

The symbol shall be printed in a visible, readable and indelible manner.



**ADITTAMENT XIV**

[referred in paragraph a) of nº 2 of article 71]

**Control system of the compliance with collection goals, for portable batteries and accumulators**

Year	Collection data		Calculation
2009 .....	Sales in (V1)		
2010 .....	Sales in 2010 (V2)		
2011 .....	Sales in 2011 (V3) .....	Collection in 2011 (R3) .....	Collection rate = $3 \times R3 / (V1 + V2 + V3)$
2012 .....	Sales in 2012 (V4) .....	Collection in 2012 (R4) .....	Collection rate = $3 \times R4 / (V2 + V3 + V4)$
Etc.	Etc.	Etc.	Etc.

**ADITTAMENT XV**

(referred in nº 1 of article 75)

Symbol for marking batteries and accumulators

1. The symbol that indicates the separate collection of batteries and accumulators waste is constituted by a trash can barred over by a cross, as indicated below. The symbol shall observe the following requirements:
  - a. To be printed in a visible, readable and indelible manner;
  - b. Occupy, at least, 3% of the surface of battery's, accumulator's or battery pack's biggest side;
  - c. Have a maximum dimension of 5 cm x 5 cm;
  - d. Occupy, in the case of cylindrical batteries, at least 1,5% of the batteries or accumulators surface and have a maximum dimension of 5 cm x 5 cm.
2. In case of the battery, accumulator or battery pack have a small dimension regarding the requirements established in the previous number, their marking is not compulsory. The symbol shall then be printed in the packaging, with a minimum dimension of 1 cm x 1 cm.



**ANEXO XVI and onwards**

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