

## **PORTUGAL - MINISTRY OF THE ENVIRONMENT AND LAND USE PLANNING**

### **Decree-Law no. 230/2004 of 10 December**

The main goal of any waste management policy must be production prevention. Since it is not possible to avoid the generation of waste, it is necessary to promote its recovery with a view to reducing the amount of waste for disposal and to saving natural resources.

Waste recovery is based, specifically and as a matter of priority, on the reuse, recycling and recovering energy from waste, with beneficial environmental and the economic effects.

These goals are valid for most waste and for waste electrical and electronic equipment.

Decree-Law no. 20/2002 of 30 January regulates the management of waste electrical and electronic equipment, both in terms of its separate collection and its storage and treatment.

The legislation set out in Decree-Law no. 20/2002 of 30 January is based on the principle of producer responsibility.

The same legislation inspired, as is expressly recognised, Directive 2002/96/EC of the European Parliament and Council of 27 January 2003 governing waste electrical and electronic equipment. This is a directive subsequent to national legislation, created to deal with the same problem but proposing solutions which do not completely coincide.

Thus, despite the source of the guiding legislative principle, maintaining Decree-Law no. 20/2002 of 30 January cannot be regarded as correctly transposing Directive 2002/96/EC of the European Parliament and Council.

This decree-law therefore regulates the management of waste electrical and electronic equipment, transposing into national law Directive no. 2002/96/EC of the European Parliament and Council of 27 January 2003, as amended by Directive no. 2003/108/EC of the European Parliament and Council.

The waste electrical and electronic equipment management system would be less effective if rules were not established to prevent the generation of waste and to reduce the dangerous substances they contain.

Thus, this Act also transposes into national law Directive no. 2002/95/EC of the European Parliament and Council of 27 January 2003.

The aim of the rules governing the management of waste electrical and electronic equipment is to include all waste, irrespective of who the final holder is.

Nevertheless, special attention was given to the management of waste from private households, due to its volume and dispersion. The users of household electrical and electronic equipment are ensured of the possibility of returning their waste free of charge. For this purpose, the organisation of separate collection systems has been provided for and structured according to rules of territorial proximity and easy access.

All operators involved in the life cycle of electrical and electronic equipment share responsibility for the management of their waste. Any suitable environmental performance requires that all operators bear responsibility: producers, distributors, collections companies, storage, transport and treatment, private, professional and institutional holders, public entities. Of course, the levels and degrees of responsibility diverge.

Each producer is responsible for financing the management of waste from their own products.

Producers may choose freely to fulfil their obligations either individually – by providing financial guarantees to ensure that the cost arising from the management of the waste from their products does not fall on society or other producers – or collectively – through a collective scheme to which they may transfer their responsibility.

The following entities were consulted: the National Association of Portuguese Municipalities, the Association of Metallurgy, Metalworking and other Industrialists of Portugal (AIMMAP), the Portuguese Business Association (AEP), the Portuguese Industrial Association (AIP), the Portuguese Association of Distribution Companies (APED), the Portuguese Association of Electrical and Electronic Equipment Companies (ANIMEE), the Portuguese Association of Wholesalers and Importers of Electrical, Electronic, Household, Photographic and Watchmaking Material (AGEFE), the Portuguese Association of the Cooling and Air Conditioning Industry (APIRAC) and the government bodies from the Autonomous Regions.

Thus:

By virtue of Article 198 (1) (a) of the Constitution, be it enacted by the Government as follows:

## CHAPTER I

### **General provisions**

#### Article 1

#### **Objectives**

1 – This Act establishes the legal provisions governing the management of waste electrical and electronic equipment (WEEE). Its goal, as a first priority, is the prevention of WEEE production and, subsequently, the reuse, recycling and other forms of recovery of such wastes in order to reduce the amount and dangerous nature of the wastes for disposal, thus contributing to improving the environmental performance of all operators involved in the lifecycle of such equipment.

2 – This Act transposes into national law Directive no. 2002/95/EC of the European Parliament and Council of 27 January 2003 and Directive no. 2002/96/EC of the European Parliament and Council of 27 January 2003, as amended by Directive 2003/108/EC of the European Parliament and Council of 8 January.

## Article 2

### **Scope**

1 – This Act shall apply to electrical and electronic equipment (EEE) falling under the categories set out in Annex 1, without prejudice to the provisions of article 6.

2 – Excluded from the scope of this Act are:

a) All EEE which is part of another type of equipment that falls within the scope of this Act;

b) All EEE which is connected with the protection of the essential interests of the security of the State including arms, munitions and war material intended for specifically military purposes.

## Article 3

### **Definitions**

For the purposes of this Act, the following definitions shall apply:

a) “Electrical and electronic equipment (EEE)” means equipment the operation of which is dependent upon electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and field falling under the categories set out in Annex I to this Act and designed for use with a voltage rating not exceeding 1 000 V for alternating current and 1 500 V for direct current.

b) 'Waste electrical and electronic equipment' or 'WEEE' means the EEE which is waste within the meaning of Article 3 (a) of Decree-Law no. 239/97 of 9 September, including all components, subassemblies and consumables which are part of the equipment at the time of its discarding, except for components, subassemblies and consumables which are part of another type of equipment not set out in Annex I;

c) 'Waste electrical and electronic equipment (WEEE) from private households' means WEEE from private households and WEEE from commercial, industrial, institutional and other sources which, due to their nature and quantity, is similar to the WEEE from the private households;

d) 'Producer' means any entity which, irrespective of the sales technique used, including distance selling:

i) Manufactures and puts EEE on the national market under his own brand;

ii) Resells, under his own brand, EEE manufactured by other suppliers;

iii) Imports or puts EEE on the national market on a professional basis;

e) 'Distributor' means any entity providing EEE on a commercial basis to users;

f) 'Separate collection' means any operation to collect WEEE with a view to its transport;

g) 'Recovery' means any of the operations applicable to WEEE provided for in Annex III-B of Directive no. 209/2004 of 3 March.

h) 'Energy recovery' means the use of combustible waste as a means of generating energy through direct incineration, with or without other waste, but with recovery of the heat;

i) 'Disposal' means any of the operations applicable to WEEE provided for in Annex III-A of Directive no. 209/2004 of 3 March.

J) 'Reuse' means any operation through which EEE or its components are used for the same purpose for which they were conceived, including the continued use of the equipment or components thereof which are returned to collection points, distributors, recycling centres or producers;

l) 'Recycling' means the reprocessing of WEEE in a production process, for its original purpose or for other purposes, but excluding energy recovery;

m) 'Prevention' means the measures aimed at reducing the quantity and harmfulness to the environment of WEEE and the materials and substances contained therein;

n) 'Dangerous substance or preparation' means any substance or preparation which has to be considered dangerous under Decree-Law no. 82/95 of 22 April and relevant regulatory legislation and Decree-Law no. 82/2003 of 23 April;

o) 'Treatment' means any activity after the WEEE has been handed over to a

facility for depollution, disassembly, shredding, recovery or preparation for disposal and any other operation carried out for the recovery or disposal of the WEEE;

p) 'Collective scheme' means the system which undertakes the transfer of the responsibility for the management of WEEE to a duly licensed management entity

## CHAPTER II **Management of EEE and WEEE**

### SUBCHAPTER I General principle

#### Article 4 **Principle of collaboration**

All operators involved in the lifecycle of EEE and in the management process of WEEE, namely producers, distributors, municipalities and users, must act in strict collaboration in the pursuit of the objectives of an environmentally sound management of WEEE, in particular:

- a) Providing reciprocally relevant information;
- b) Participating, supporting and promoting the initiatives undertaken to fulfil the obligations arising from this Act.

### SUBCHAPTER II Prevention

#### Article 5 **Principles of EEE design and management**

1 – EEE falling under the categories set out in Annex I must be designed in such a way as to limit the use of dangerous substances or preparations, reducing the harmful nature and the quantity of waste for disposal.

2 – EEE falling under the categories set out in Annex I must be designed in such a way as to facilitate dismantling and recovery, and not prevent their reuse or recycling, their components and materials unless these specific features or manufacturing processes present overriding advantages, for example, with regard to the protection of the environment or safety requirements.

3 – All EEE put on the national market after 13 August 2005 must identify the producer and contain a mark making it possible to distinguish it from any EEE put

on the market before that date.

4 – After 13 August 2005, only EEE complying with the requirements set out in this Act or other applicable legislation may be put on the national market.

Article 6

### **Prohibited substances**

1 – EEE falling under categories 1, 2, 3, 4, 5, 6, 7 and 10 set out in Annex I as well as light bulbs and luminaires in households may only be put on the market from 1 July 2006 if they do not contain lead, mercury, cadmium, hexavalente chromium, polybromobiphenyl (PBB) and/or polybrominated diphenyl ether (PBDE).

2 – The provisions in the preceding paragraph do not apply to the reuse of EEE put on the market before 1 July 2006 or to spare parts for the repair thereof.

3 – The prohibition provided in paragraph 1 of this article shall not apply to the uses set out in Annex V.

## SUBCHAPTER III

### Objectives and responsibilities for the management of WEEE

Article 7

### **WEEE management objectives**

1 – Producers must adopt the necessary measures so that, by 31 December 2006, the following management objectives are obligatorily guaranteed:

a) an increase in the rate of recovery to a minimum of 80% of the average weight per appliance for collected WEEE falling under categories 1 and 10 of Annex I to this Act;

a) an increase in the percentage of component, material and substance reuse and recycling to a minimum of 75% of the average weight per appliance for collected WEEE falling under categories 1 and 10 of Annex I to this Act;

a) an increase in the rate of recovery to a minimum of 75% of the average weight per appliance for collected WEEE falling under categories 3 and 4 of Annex I to this Act;

a) an increase in the percentage of component, material and substance reuse and recycling to a minimum of 65% of the average weight per appliance for collected WEEE falling under categories 3 and 4 of Annex I to this Act;

a) an increase in the rate of recovery to a minimum of 70% of the average weight

per appliance for collected WEEE falling under categories 2, 5, 6, 7 and 9 of Annex I to this Act;

a) an increase in the percentage of component, material and substance reuse and recycling to a minimum of 50% of the average weight per appliance for collected WEEE falling under categories 2, 5, 6, 7 and 9 of Annex I to this Act;

g) an increase in the component, material and substance reuse and recycling rate for gas discharge lamps shall reach a minimum of 80% of the weight of the lamps.

2 – The objectives contained in the preceding paragraph may be revised whenever necessary, as a result of changes in technology, the market or Community law.

## Article 8

### **Management responsibilities**

All operators involved in the life cycle of EEE and WEEE share responsibility for the management thereof, under the provisions of this Act and other applicable legislation.

## Article 9

### **Responsibility for the collection of WEEE from private households**

1 – The State is responsible, through the government agency with powers in the area of the environment and through the bodies for which it is responsible, for ensuring that WEEE recovery systems, which, under this Act, must be implemented by 13 August 2005, comply with the requirements provided in Article 11, taking into account the objective set out in paragraph 10 of this Article.

2 – Users shall be required to return, free of charge, any WEEE they may have to separate collection facilities, in accordance with the information provided in respect thereof.

3 – Producers shall be responsible, individually or the management entity referred to in Article 17, for defining and structuring the WEEE collection system network, programming its implementation in accordance with the principle of progressiveness, taking into account the goal set out in paragraph 10 of this Article and the requirements laid down in Article 11.

4 – WEEE collection systems shall be structured, on a proposal of the management entity at the time of their licensing and under the supervision of the Waste Institute, by combining the following systems:

a) Municipal systems, created within the scope of the local government task of collecting urban waste, which are set up as WEEE collection facilities;

b) Distributors, ensuring the collection of WEEE free of charge to the holder, on a one-to-one basis, in the supply of new EEE, providing the waste is from equipment of equivalent type and has fulfilled the same functions as the supplied equipment;

c) Distributors, ensuring the collection of WEEE free of charge to the holder, which may be set up as WEEE collection facilities;

d) Individual or collective WEEE collection systems, installed directly by the management entity referred to in Article 17 or by producers.

5 – Producers, individually or through the management entity referred to in Article 17, must agree upon the setting up of the WEEE collection systems with the entities indicated in the subparagraphs of paragraph 4 of this article.

6 – Producers, individually or through the management entity referred to in Article 17, are responsible for financing the activities of sorting WEEE by categories and its temporary storage at the collection facilities identified in 4 a) and c) of this article.

7 – Producers, individually or through the management entity referred to in Article 17, are responsible for the transport of WEEE collected under paragraph 4 of this article to the operators of the WEEE management system.

8 – As regards EEE put on the market before 13 August 2005, producers of the relevant waste and which exist on the market when the costs inherent in the management activities set out in paragraph 6 of this article occur, shall contribute to its financing in proportion to their market share, by type of equipment.

9 – Municipalities may charge the holder a price for the door-step collection of WEEE, on request.

10 – The WEEE separate collection systems must be organised in such a way that, by 31 December 2006, the separate collection of WEEE is ensured in a proportion of at least 4 kg/inhabitant/ year.

#### Article 10

#### **Responsibility for the collection of WEEE from users other than private households**

1 – Producers shall be responsible for financing and organising, either directly or through third parties, systems for collecting WEEE put on the market after 13 August 2005.

2 – Producers may fulfil the obligations of collecting WEEE by joining a collective scheme or through resources agreed upon in conformity with the provisions of paragraph 5 of this article.

3 – In the event that the WEEE placed on the market before 13 August 2005 is replaced by new equivalent products, the financing of collection costs shall be ensured by producers when supplying them.

4 – In the event that the WEEE placed on the market before 13 August 2005 is not replaced under the preceding paragraph, the financing of collection costs shall be ensured by users other than private households.

5 – Producers and users other than private households may agree upon other methods of financing, notwithstanding paragraphs 1, 3 and 4 of this Article.

#### Article 11

##### **Collection systems**

The separate collection systems are deemed adequate for the objectives of this Act when they meet at least the following requirements:

- a) Complete territorial cover, taking into account the population density of the relevant catchment area;
- b) Easy access;
- c) Promotion of the reuse of all or part of WEEE;
- d) Prevention of health and safety risks to the persons handling WEEE.

#### Article 12

##### **Responsibility for the transport, treatment, recovery and disposal of WEEE from private households**

1 – Producers shall be responsible for financing the transport of WEEE collected from the various separate collection systems.

2 – Producers shall be responsible for financing and organising, either directly or through third parties, WEEE storage and treatment systems based on the best techniques available, in accordance with the requirements set out in Annexes II and III.

3 – Producers shall be responsible for financing and organising, either directly or through third parties, WEEE recovery systems, giving priority to the reuse of whole appliances or disposal systems, when recovery is not possible.

4 – As regards EEE put on the market before 13 August 2005, producers of the relevant waste and which exist on the market when the transport, storage, recovery or disposal costs set out in paragraph 6 of this article occur, shall contribute to its

financing in proportion to their market share, by type of equipment.

5 – Producers shall organise WEEE treatment, recovery or disposal systems, taking into account the management objectives set out in Article 7.

#### Article 13

##### **Responsibility for the transport, treatment, recovery and disposal of WEEE from users other than private households**

1 – Producers shall be responsible for financing and organising, either directly or through third parties, the transport of waste collected from EEE and placed on the market after 13 August 2005, as well as its storage, treatment, recovery or disposal.

2 – Producers may fulfil the obligations of transporting, storing, treating, recovering or disposing of WEEE by joining a collective scheme or through resources agreed upon in conformity with the provisions of paragraph 5 of this article.

3 – In the event that the WEEE placed on the market before 13 August 2005 is replaced by new equivalent products, the financing of transport, storage, treatment, recovery or disposal costs shall be ensured by producers when supplying them.

4 – In the event that the WEEE placed on the market before 13 August 2005 is not replaced under the preceding paragraph, the financing of transport, storage, treatment, recovery or disposal costs shall be ensured by users other than private households.

5 – Producers and users other than private households may agree upon other methods of financing the management of WEEE, notwithstanding paragraphs 1, 3 and 5 of this Article.

#### Article 14

##### **Responsibility of the Waste Institute**

The Waste Institute is responsible for ensuring compliance with the principles set out in this Act, for examining applications for licensing collective schemes, monitoring, supervising and controlling their activity in addition to licensing the body responsible for registering producers, as provided in Article 27.

#### Article 15

##### **WEEE management systems**

1 – For the purpose of fulfilling the obligations set out in this Act, EEE producers are required to submit the management of WEEE to a collective or individual

scheme.

2 – After 13 August 2005, only EEE whose producers have adopted one of the two systems provided in the preceding paragraph for the management of WEEE may be placed on the national market.

## CHAPTER III

### **Collective scheme and individual scheme**

#### SUBCHAPTER I

##### Collective scheme

#### Article 16

##### **Collective scheme**

1 – For the purpose of fulfilling the obligations set out in this Act, producers may submit the management of WEEE to a collective scheme.

2 – By joining a collective scheme, the responsibility of producers for the management of WEEE is transferred to the management entity of that collective scheme, providing it is duly licensed to engage in such activity under this Act.

3 – Producers may transfer responsibility for the management of certain types of WEEE to the management entity of the collective scheme, assuming, through an individual scheme, responsibility for the management of the remaining types of WEEE produced thereby and put on the market.

4 – The transfer of responsibility of each producer to the management entity must be in the form of a written contract, with a minimum duration of five years, which shall obligatorily contain:

- a) The features of the EEE covered;
- b) An estimate of the quantity of WEEE to take back annually by the management entity;
- c) The control actions to be developed by the management entity in order to ensure compliance with the conditions stipulated in the contract;
- d) The financial entitlements payable to the management entity and their method of adjustment, taking into account the obligations defined hereunder.

5 – Producers are responsible for setting up the management entity referred to in the preceding paragraph, which shall be licensed and operational six months after

this Act enters into force.

#### Article 17

##### **Management entity**

1 – The management entity of the collective scheme is an artificial person responsible for the management of WEEE.

2 – The accounting results of the management entity shall obligatorily be re-invested in its activity or related activities and may be set aside as provisions or reserves for future operations, and any distribution of profits/losses, dividends or surpluses to its members, shareholders, partners or associates is strictly prohibited.

3 – The management entity may include, in addition to producers, any other entities engaged in the management of WEEE.

#### Article 18

##### **Powers of the management entity**

The management entity of the collective scheme ensures the management objectives provided in this Act and shall, for this purpose:

a) Organise a duly authorised network of collection centres and transport and treatment operators, which it shall select and contract for the collection, transport and treatment of WEEE in order to comply with the objectives set out in Article 7. The selection criteria shall give priority to those operators using certified environmental management systems.

b) If necessary, enter into contracts with the entities comprising the collection schemes, under Article 9.

c) Decide on what to do with each batch of WEEE, taking into account the objectives set out in Article 7;

d) Enter into contracts with producers and other entities engaged in the reuse and recovery of WEEE in order to establish the financial entitlements or charges determined by what use was made of the WEEE.

e) Monitor the collective scheme, particularly with regard to the flow of WEEE and the material resulting from the treatment thereof, and operators;

f) Promote the research and development of new methods and tools for dismantling and separating materials and solutions for recycling WEEE components and materials;

g) Promote public awareness and information on the procedures to be adopted to manage WEEE.

#### Article 19

##### **Financing of the management entity**

1 – The management entity is financed, namely, through a financial entitlement to be paid by producers based on the EEE placed on the market by each one.

2 – The amount of the financial entitlement is determined by the features and quantity of EEE placed on the market and shall reflect the general principles set out in this Act, namely minimising the use of dangerous substances, incorporating recycled materials and facilitating dismantling, reuse and recovery.

3 – The management entity shall be responsible for proposing, at the time of the licence application provided in Article 20, the criteria and amount of the financial entitlement.

4 – The criterion used to determine the payment to be made by each producer of EEE is set out in the licence granted to the management entity.

5 – The amount of the payment may be adjusted, namely through a proposal by the management entity to be presented to the Waste Institute by 30 September of the year immediately preceding that to which it refers and approved by order of the Government member responsible for the environment.

#### Article 20

##### **Licensing of the management entity**

1 – In order to take responsibility for the management of WEEE under a collective scheme, the management entity requires a licence, to be granted by joint order of the Government members responsible for the environment and the economy.

2 – The grant of a licence depends on the technical and financial capacity of the management entity for the operations in question as well as on the assessment of the specification set out in paragraph 4 of this Article, which must accompany the relevant application.

3 – The licensing application shall be submitted to the Waste Institute, which is responsible for co-ordinating the relevant procedure and for communicating the final decision.

4 – The Specification referred to in paragraph 2 of this Article shall include the following:

- a) Types and technical features of the EEE covered;
- b) Estimate of the quantities of WEEE to be taken back annually;
- c) Basis of the payment to be made by producers, namely the formula for calculating the amount thereof, taking into account the estimated quantities, the types and nature of the materials present in the EEE as well as the treatment which they shall undergo;
- d) Conditions for co-ordinating the activity of the management entity with municipalities and, in particular, how it intends to ensure the take-back of WEEE collected by the latter;
- e) Conditions for co-ordinating the activity of the management entity with other entities ensuring the collection of WEEE and, in particular, how it proposes to take back collected WEEE;
- f) Definition of an amount to be used to finance information and awareness campaigns for users on the procedures to be adopted in the management of WEEE and the dangers of unsorted disposal of this waste.
- g) An economic circuit designed to recover or dispose of waste, evidencing the terms of the relationship between the management entity and the other entities involved.

5 – A fee, the amount of which shall revert to the Waste Institute, shall be charged for the issue of the licence referred to in this Article.

6 – The amount of the fee referred to in the preceding paragraph is € 2 500, adjustable for inflation.

## Article 21

### **Information for users**

1 – The information and awareness campaigns for users referred to in Article 20 (4) (f) shall include, at least, information on:

- a) The requirement not to deposit WEEE as unsorted urban waste, thus contributing to the separate collection of WEEE;
- b) The separate collection systems and collection centres available to them;
- c) The functions of the management entity in the management of WEEE;
- d) The effects on the environment and human health as a result of the presence of

dangerous substances and preparations in EEE;

e) The meaning of the symbol shown in paragraph 2 of this Article.

2 – In order to facilitate the separate collection of WEEE, producers shall mark EEE placed on the market after 13 August 2005. A model is shown in Annex IV.

## Article 22

### **Obligation of communicating data**

The management entity is required to send to the Waste Institute:

a) A quarterly report on the producers who have transferred their responsibility, in accordance with the provisions of Article 14;

b) An annual activity report, to be submitted by 15 February of the year immediately following that to which the results refer, showing the results obtained in the management of WEEE, particularly with regard to the allocation of resources to information and awareness campaigns conducted by the various operators involved in the process, and to recycling and other forms of recovery or disposal.

## Article 23

### **WEEE management rules**

1 – The management entity is not required to accept WEEE which does not fulfil the purposes for which it is licensed.

2 – Distributors, when marketing new EEE, are required to accept the take-back of WEEE free of charge providing this WEEE is of equivalent type and fulfils the same functions as the EEE sold.

3 – In cases in which the sale implies door-step delivery of EEE, distributors are required to ensure the free transport of WEEE to the collection facilities.

4 – For the purposes of paragraphs 2 and 3 of this Article, clear information shall be provided to consumers, through displays at the points of sale, information in EEE catalogues or other effective means.

5 – The management entity shall ensure, if necessary, the creation of one or more sites for the temporary storage of all WEEE taken back, and may also enter into contracts with companies authorised to carry out this type of operation.

6 — The temporary storage of WEEE taken back shall be carried out in accordance with the terms and conditions set out in paragraph 1 of Annex III to this Act and at authorised sites, under current legislation.

7 — The responsibility of the management entity for the final destination of WEEE shall only cease with its delivery to companies authorised for its recovery or disposal, under current legislation.

8 — The substances, preparations and components obtained in the treatment of WEEE shall be recovered or disposed of in accordance with the provisions of Decree-Law no. 239/97 of 9 September and other applicable legislation.

Article 24

### **Environmental cost**

The cost of the collection, treatment and environmentally sound disposal of WEEE shall not be shown separately to purchasers at the time of sale of new EEE.

## SUBCHAPTER II

### Individual scheme

Article 25

### **Individual scheme**

1 — As an alternative to the collective scheme set out in Articles 16 et sequentes, the producers of EEE may elect to fulfil their obligations individually. For this purpose, they require a specific authorisation from the Waste Institute, which shall only be granted if the requirements for collective schemes are guaranteed.

2 — The provisions laid down for the collective scheme are applicable, mutatis mutandis, to the individual scheme of managing WEEE.

3 — The responsibility of producers for the management of WEEE which is not transferred to the management entity of a collective scheme shall be ensured through the provision of a bank guarantee to the entity responsible for registering producers of EEE or a blocked bank account when the equipment is put on the market.

## CHAPTER IV

### **Information and monitoring**

Article 26

### **Registration of producers of EEE**

1 — All producers of EEE, regardless of the WEEE management scheme they

choose, are required to register, thus making it possible to monitor and ensure compliance with the obligations and objectives set out in this Act and other applicable legislation are met.

2 — Producers shall inform the entity responsible for organising their registration of the type and quantity of equipment placed on the market and of the management scheme which they have chosen for each type of WEEE.

3 — Producers shall show their registration number in the invoices they issue as well as in transport and other equivalent documents.

4 — Producers of EEE who put equipment on the market by means of distance communication are also subject to the obligations set out in the preceding paragraphs.

5 — Failure to fulfil the obligation set out in paragraph 1 of this Article shall entail the prohibition of sale of EEE on the national market.

#### Article 27

##### **Entity authorised to register producers of EEE**

1 — The functions of organising and maintaining the registration of producers of EEE shall be performed by an entity set up for this purpose by the associations of producers and by the management entity of the collective scheme for the management of WEEE.

2 — The entity responsible for registering producers of EEE shall be a non-profit body.

3 — The accounting results of the entity responsible for the registration of producers of EEE shall obligatorily be re-invested or used in its activity or related activities and may be set aside as provisions or reserves for future operations, with any distribution of profits/losses, dividends or surpluses being strictly prohibited.

4 — In order to conduct the activity of registering producers of EEE, the entity referred to in paragraph 1 requires a licence, to be granted by order of the Chairman of the Waste Institute.

5 — The grant of the licence for the conduct of the activity of registering producers of EEE depends on the technical capacity of the entity referred to in paragraph 1 of this Article to carry out registration and related operations.

6 — The application for licensing shall be submitted to the Waste Institute and shall include the following:

a) A detailed description of the systems and procedures for registering producers

of WEEE;

- b) The methodology used to control the quantities of EEE placed on the market;
- c) The system of managing financial guarantees;
- d) The amount to be charged for the registration procedures;
- e) The periodic information procedures of the public entities responsible for managing WEEE;
- f) The means of publicly disclosing information collected in the registration of producers of EEE;
- g) Memorandum of association.

7 — In the event that the licence referred to in paragraph of this Article is rejected, revoked or suspended, all powers regarding the registration of producers of EEE shall be ensured by the Waste Institute.

#### Article 28

##### **Powers of the entity responsible for the registration of producers of EEE**

1 — The entity responsible for the registration of producers of EEE is authorised to:

- a) Ensure, organise and maintain the compulsory registration of producers of EEE;
- b) Conduct all registration-related activities, namely, classifying EEE, verifying the quantities thereof, providing information to the public entities responsible for managing WEEE and information to the public;
- c) Manage the financial guarantees provided under paragraph 3 of Article 25.

2 — The entity responsible for the registration of producers of EEE is bound by the obligation to ensure the confidentiality of any information constituting trade or industrial secrets.

3 — The entity responsible for the registration of producers of EEE shall inform the competent public entities of any violations of the obligation to register set out in paragraph 1 of Article 26.

#### Article 29

##### **Information for operators of WEEE**

1 — Producers shall provide operators of WEEE with information on the reuse and

treatment of each new type of EEE placed on the market, including, to the extent necessary, the various components and materials and location of dangerous substances and preparations.

2 — The obligation established in the preceding paragraph shall be fulfilled within one year of the date when the EEE was put on the market.

Article 30

### **WEEE management monitoring committee**

1 — A WEEE management monitoring committee, hereinafter referred to as CAGREEE, responsible for ensuring compliance with the provisions of this Act, shall be created.

2 — The CAGREEE is a technical consultancy entity working with the Government in the area of the environment. It is responsible for preparing its internal regulations and decisions to be adopted by a higher authority, monitor actions related to the collective scheme and deliver opinions in all domains of application of this Act in which it is called upon to do so, acting as a liaison between the public authorities and the various economic agents covered by these provisions.

3 — The CAGREEE consists of the following members:

- a) A representative of the member of Government responsible for the environment, who shall preside;
- b) A representative of the member of Government responsible for the economy;
- b) A representative of the member of Government responsible for public finances;
- d) A representative of the Autonomous Region of the Azores;
- d) A representative of the Autonomous Region of Madeira;
- f) A representative of the National Association of Portuguese Municipalities;
- g) A representative of each association representing the economic sectors involved;
- h) A representative of the Confederation of Associations for Environmental Protection;
- i) A representative of each management entity set out in Article 17.

4 — The members of the committee described in subparagraph a) and c) shall be appointed by order of the relevant minister.

## CHAPTER V Supervision

### Article 31

#### **Supervision and processing of administrative offences**

1 — Ensuring compliance with the provisions of this Act is the responsibility of the General Inspectorate for Economic Activities (IGAE), the General Inspectorate for the Environment (IGA), the committees for regional co-ordination and development (CCDR) and other entities which by law are competent *ratione materiae*.

2 — The entity drawing up the official report shall be competent to examine cases and impose fines.

3 — Responsibility for the imposition of fines and additional penalties shall lie with the Committee for Imposing Economic and Advertising Fines (CACMEP), the IGA and the CCDR's, depending on whether the cases are examined by the IGAE, by the IGA or by the CCDR's, respectively.

4 — If the official report is by the police, the IGA is competent to examine the case and impose the fine.

### Article 32

#### **Administrative offences**

1 — The following shall constitute administrative offences, punishable by a fine of € 250 to € 3700, for natural persons and from € 500 to € 44 800, for artificial persons:

a) Failure to deliver WEEE to the appropriate centres for separate collection by the final holder, in breach of the obligation set out in paragraph 2 of Article 9;

b) Refusal to collect, sort and temporarily store WEEE or to ensure the financing thereof, in breach of paragraphs 3 to 8 of Article 9 and paragraphs 1 to 4 of Article 10;

c) Failure to fulfil the obligations to transport, store, treat, recover or dispose of WEEE, or to ensure the financing thereof, in breach of Articles 12 and 13;

d) Placing EEE on the market without the management thereof and the relevant waste having been ensured under Chapter III;

e) Placing EEE on the market, when such EEE contains prohibited substances, in breach of Article 6 (1);

f) Placing EEE on the market after 13 August 2005 without showing the mark

required in Article 5 (3);

f) Placing EEE on the market after 13 August 2005 without showing the mark required in Article 21 (2);

h) Omission of the duty to communicate data or the erroneous transmission thereof, under Article 22;

i) Failure to comply with the obligation to take back and transport WEEE, as provided in Article 23 (3);

j) Failure to comply with the obligation to store WEEE, contained in paragraphs 5 and 6 of Article 23;

l) Breach of the prohibition of showing users the costs of the management of WEEE, under Article 24, beyond the transitional periods set out in Article 35, paragraphs 1 and 2;

m) Breach of the prohibition of showing users, during the transitional periods set out in Article 35, paragraphs 1 and 2, costs of the management of WEEE which are higher than the actual costs, under Article 35 (3);

n) Failure to comply with the obligations of registration set out in Article 26;

o) Breach by the entity responsible for the registration of producers of EEE of the obligations set out in the licence referred to in Article 27 (4);

p) Failure to comply with the obligations of information for operators of WEEE, set out in Article 29;

2 — Negligence is punishable. In this case, the maximum amounts of the fine are reduced to half.

3 — Attempt is also punishable, with the amount of the fine being particularly mitigated.

Article 33

### **Additional penalties**

The entity authorised to impose the fines provided in the preceding article may also determine the imposition of the following additional penalties, under general law:

a) Disqualification from the practice of a profession or activity;

b) Deprivation of the right to subsidies or benefits granted by public entities or services;

c) Suspension of authorisations, licences and permits.

Article 34

#### **Proceeds from fines**

All proceeds from fines imposed under Article 32 shall be allocated as follows:

- a) 10% to the supervisory entity drawing up the official report;
- b) 20% to the entity examining the case;
- c) 10% to the entity imposing the fine, except if that entity is CACMEP, in which case this amount shall revert to IGAE;
- d) 60% to the State.

### CHAPTER VI

#### **Final and transitional provisions**

Article 35

#### **Transitional provision**

1 — By way of derogation of the rule set out in Article 24, producers shall be permitted, in the sale of new EEE, to show the costs of the management of WEEE in their price lists and invoices until 13 February 2011.

2 — The transitional period referred to in the preceding paragraph is extended to 13 February 2013 for equipment falling under category 1 in Annex I.

3 — The costs mentioned on the invoice shall not exceed the actual costs incurred.

Article 36

#### **Administrative enforcement**

Except where expressly provided, administrative enforcement of the legal regime provided in this Act shall be ensured by order of the member of Government responsible for the environment.

Article 37

#### **Autonomous Regions**

The regime provided in this Act applies mutatis mutandi to the Autonomous Regions, and the regional government bodies and services shall be responsible for ensuring administrative enforcement, without prejudice to management at the

national level.

Article 38

### **Repeal**

Decree-Law no. 20/2002 of 30 January is repealed.

Seen and approved by the Council of Ministers on 16 September 2004. —*Pedro Miguel de Santana Lopes* — *Álvaro Roque de Pinho Bissaya Barreto* — *António José de Castro Bagão Félix* — *António Victor Martins Monteiro* — *José Pedro Aguiar Branco* — *José Luís Fazenda Arnaut Duarte* — *Luís José de Mello e Castro Guedes*.

Enacted on 15 November 2004.

Ordered to be printed.

The President of the Republic, JORGE SAMPAIO.

Signed on 25 November 2004.

The Prime Minister, *Pedro Miguel de Santana Lopes*.

### ANNEX I

#### **List of products and functions which shall be taken into account for the purpose of this Act.**

1 — Large household appliances:

Large cooling appliances:

- Fridges;
- Freezers;
- Other large appliances used for refrigeration, conservation and storage of food;
- Washing machines;
- Clothes dryers;
- Dish washing machines;
- Cookers;
- Electric stoves;
- Electric hot plates;
- Microwaves;

- Other large appliances used for cooking and other processing of food;

Electric heating appliances;

- Electric radiators;
- Other large appliances for heating rooms, beds, seating furniture;
- Electric fans;
- Air conditioning units;
- Other fanning, exhaust ventilation and conditioning equipment;

2 — Small household appliances:

- Vacuum cleaners;
- Carpet sweepers;
- Other appliances for cleaning;
- Appliances used for sewing, knitting, weaving and other processing for textiles;
- Irons and other appliances for ironing, mangling and other care of clothing;
- Toasters;
- Fryers;
- Grinders, coffee machines and equipment for opening or sealing containers or packages;
- Electric knives;
- Appliances for hair cutting, hair drying, tooth brushing, shaving, massage and other body care appliances;
- Clocks, watches and equipment for the purpose of measuring, indicating or registering time;
- Scales.

3 — IT and telecommunications equipment:  
Centralised data processing:

- Mainframes;
- Minicomputers;
- Printer units;
- Personal computing:
- Personal computers (CPU, mouse, screen and keyboard included);
- Laptop computers (CPU, mouse, screen and keyboard included);
- Notebook computers;
- Notepad computers;
- Printers;
- Copying equipment;
- Electrical and electronic typewriters;
- Pocket and desk calculators;
- Other products and equipment for the collection, storage, processing, presentation or communications of information by electronic means;
- User terminals and systems;
- Facsimile;
- Telex;
- Telephones;
- Pay telephones;
- Cordless telephones;
- Cellular telephones;

- Answering systems;
- Other products and equipment of transmitting sound, images or other information by telecommunications;

#### 4 — Consumer equipment:

- Radio sets;
- Television sets;
- Video cameras;
- Video recorders;
- Hi-fi recorders;
- Audio amplifiers;
- Musical instruments;
- Other products or equipment for the purpose of recording or reproducing sound or images, including signals or other technologies for the distribution of sound and image than by telecommunications;

#### 5 — Lighting equipment:

- Luminaires for fluorescent lamps with the exception of luminaires in households;
- Straight fluorescent lamps;
- Compact fluorescent lamps;
- High intensity discharge lamps, including pressure sodium lamps and metal halide lamps;
- Low pressure sodium lamps;
- Other lighting or equipment for the purpose of spreading or controlling light with the exception of filament bulbs;

#### 6 — Electrical and electronic tools (with the exception of large-scale stationary

industrial tools);

- Drills;
- Saws;
- Sewing machines;
- Equipment for turning, milling, sanding, grinding, sawing, cutting, shearing, drilling, making holes, punching, folding, bending or similar processing of wood, metal and other materials;
- Tools for riveting, nailing or screwing or removing rivets, nails, screws or similar uses;
- Tools for welding, soldering or similar use;
- Equipment for spraying, spreading, dispersing or the treatment of liquid or gaseous substances by other means;
- Tools for mowing or other gardening activities;

7 — Toys, leisure and sports equipment;

- Electric trains or car racing sets;
- Hand-held video game consoles;
- Video games;
- Computers for biking, diving, running, rowing, etc.;
- Sports equipment with electric or electronic components;
- Coin slot machines.

8 — Medical devices (with the exception of all implanted and infected products):

- Radiotherapy equipment;
- Cardiology;
- Dialysis;

- Pulmonary ventilators;
- Nuclear medicine;
- Laboratory equipment for *in vitro* diagnosis;
- Analysers;
- Freezers;
- Fertilisation tests;
- Other appliances for detecting, preventing, monitoring, treating, alleviating illness, injury or disability;

9 — Monitoring and control instruments:

- Smoke detectors;
- Heating regulators;
- Thermostats;
- Measuring, weighing or adjusting appliances for household or as laboratory equipment;
- Other monitoring and control instruments used in industrial installations (e.g. in control panels).

10 — Automatic dispensers:

- Automatic dispensers for hot drinks;
- Automatic dispensers for hot or cold bottles or cans;
- Automatic dispensers for solid products;
- Automatic dispensers for money;
- All appliances which automatically deliver all kind of products

ANNEX II

**Selective treatment for materials and components of waste electrical and**

## **electronic equipment (WEEE)**

1 — As a minimum, the following substances, preparations and components shall be removed from any separately collected WEEE:

- polychlorinated biphenyls (PCB) containing capacitors in accordance with Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT);
- Mercury containing components, such as switches or backlighting lamps;
- Batteries;
- Printed circuit boards of mobile phones generally, and of other devices if the surface of the printed circuit board is greater than 10 square centimetres,
- Toner cartridges, liquid and pasty, as well as colour toner;
- Plastic containing brominated flame retardants;
- Asbestos waste and components which contain asbestos;
- Cathode ray tubes;
- Chlorofluorocarbons (CFC), hydrochlorofluorocarbons (HCFC) or hydrofluorocarbons (HFC), hydrocarbons (HC);
- Gas discharge lamps;
- Liquid crystal displays (together with their casing where appropriate) of a surface greater than 100 square centimetres and all those back-lighted with gas discharge lamps;
- External electric cables;
- Components containing refractory ceramic fibres as described in Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress Council Directive 67/548/EEC relating to the classification, packaging and labelling of dangerous substances;
- Components containing radioactive substances with the exception of components that are below the exemption thresholds set in Article 3 of and Annex I to Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation;

- Electrolyte capacitors containing substances of concern (height > 25 mm, diameter > 25 mm or proportionately similar volume);

These substances, preparations and components shall be disposed of or recovered in compliance with Article 4 of Council Directive 75/442/EEC.

2 — The following components of WEEE that is separately collected have to be treated as indicated:

- Cathode ray tubes: the fluorescent coating must be removed;
- Equipment containing gases that are ozone depleting or have a global warming potential (GWP) above 15, such as those contained in foams and refrigeration circuits; the gases must be properly extracted and properly treated. Ozone-depleting gases must be treated in accordance with Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer;
- Gas discharge lamps: the mercury must be removed.

3 — Taking into account environmental considerations and the desirability of reuse and recycling, paragraphs 1 and 2 shall be applied in such a way that environmentally-sound reuse and recycling of components or whole appliances is not hindered.

## ANNEX III

### **Technical requirements for storage and treatment sites**

1 — Sites for storage (including temporary storage) of WEEE prior to their treatment (without prejudice to the requirements of Council Directive 1999/31/ EC):

- Impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers;
- Weatherproof covering for appropriate areas.

2 — Sites for treatment of WEEE:

- Balances to measure the weight of the treated waste;
- Impermeable surfaces and waterproof covering for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers;

- Appropriate storage for disassembled spare parts;
- Appropriate containers for storage of batteries, PCBs/PCTs containing capacitors and other hazardous waste such as radioactive waste;
- Equipment for the treatment of water in compliance with health and environmental regulations.

## ANNEX IV

### **Symbol for the marking of electrical and electronic equipment**

The symbol indicating separate collection for electrical and electronic equipment consists of the crossed-out wheeled bin, as shown below. The symbol must be printed visibly, legibly and indelibly.

## ANNEX V

### **Applications of lead, mercury, cadmium and hexavalent chromium exempt from the requirements set out in Article 6 (3).**

- 1 — Mercury in compact fluorescent lamps not exceeding 5 mg per lamp.
- 2 — Mercury in straight, general-use fluorescent lamps not exceeding:
  - Halophosphate — 10 Mg;
  - Normal lasting triphosphate — 15 Mg;
  - Long-lasting triphosphate — 8 Mg.
- 3 — Mercury in straight fluorescent lamps for special purposes.
- 4 — Mercury in other lamps not specifically mentioned in this annex.
- 5 — Lead in the glass of cathode ray tubes, electronic components and fluorescent lamps.
- 6 — Lead as an alloy in steel containing up to 0.35% of lead in weight, aluminium containing up to 0.40% of lead in weight and as an alloy of copper containing up to 4% of lead in weight.
- 7 — Lead contained in high temperature fusion solders (that is, tin and lead alloy solders containing more than 85% of lead):

- Lead contained in solders for servers, data storage systems, and storage arrays (exemption granted until 2010);
- Lead contained in solders for network infrastructure equipment for telecommunications switching, signalling, transmission and network management;
- Lead contained in electronic ceramic components (such as piezoelectric devices).

8 — Cadmium bath, except for applications prohibited under Council Directive no. 91/338/EEC, amending Directive no. 76/769/EEC, relating to restrictions on the marketing and use of certain dangerous substances and preparations.

9 — Hexavalent chromium as an anticorrosive in the carbon steel refrigeration systems in absorption refrigerators.