

NEW LEGAL REGIME FOR THE MANAGEMENT OF WASTE OF WEEE

It was approved on May 7, 2014, the Decree-Law 67/2014, transposing the Directive 2012/19/EU and approving the new legal regime for the management of waste of electrical equipment and electronic equipment (WEEE).

We highlight the main innovations regarding the previous legislation:

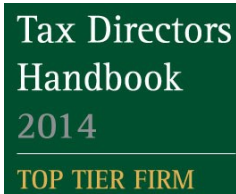
Entry into force	The law entered into force on May 8, 2014. The provisions related to the categories of electrical and electronic equipment (EEE) provided in the Annex II (paragraph b) above – scope) shall enter into force on August 15, 2018.
Scope	<p>Definition of the range of application:</p> <p>A) <i>Electrical and electronic Equipment (EEE) belonging to the following categories:</i></p> <ul style="list-style-type: none"> i) <i>Category 1: Large household appliances;</i> ii) <i>Category 2: Small household appliances;</i> iii) <i>Category 3: IT and telecommunications equipment;</i> iv) <i>Category 4: Consumer equipment and photovoltaic panels;</i> v) <i>Category 5: Lighting equipment;</i> vi) <i>Category 6: Electrical and electronic tools (with the exception of large-scale stationary industrial tools);</i> vii) <i>Category 7: Toys, leisure and sports equipment;</i> viii) <i>Category 8: Medical devices (with the exception of all implanted and infected products);</i> ix) <i>Category 9: Monitoring and control instruments;</i> x) <i>Category 10: Automatic dispensers.</i> <p>B) <i>All EEE, Classified in the following categories:</i></p> <ul style="list-style-type: none"> i) <i>Category 1: temperature exchange equipment;</i> ii) <i>Category 2: Screens, monitors and equipment containing screens with a surface greater than 100 cm²;</i> iii) <i>Category 3: lamps;</i> iv) <i>Category 4: Large Equipment, of any large dimension more than 50 cm, like household appliances, IT and telecommunication equipment, consumer equipment, luminaires, equipment reproducing sound or images, musical equipment, electric and electronic tools, toys, leisure and sports equipment, medical devices, monitoring and control instruments, automatic dispensers, or equipment for the generation of electric currents. This category does not include equipment included in categories 1, 2 and 3.</i> v) <i>Category 5: small equipment, with no external dimension more than 50 cm, like household appliances, consumer equipment, luminaires, equipment reproducing sound or images, musical equipment, electric and electronic tools, toys, leisure and sports equipment, medical devices, monitoring and control instruments, automatic dispensers, equipment for the generation of electric currents. This category does not include equipment included in categories 1, 2, 3 and 6.</i> vi) <i>Category 6: Small IT and telecommunication equipment, of small dimensions, with no external dimension more than 50 cm.</i> <p>The scope of exclusion of EEE is extended:</p> <ul style="list-style-type: none"> a) <i>Equipment necessary for the protection, defence and safety of the State, including guns, munitions and war material intended for specifically military purposes;</i> b) <i>Equipment which is specifically designed and installed as part of another type of equipment that is excluded from or does not fall within the scope of this Directive, which can fulfil its function only if it is part of that equipment;</i> c) <i>Filament bulbs;</i> d) <i>Equipment to be sent to the space;</i> e) <i>Large-scale stationary industrial tools;</i> f) <i>Large-scale fixed installations;</i> g) <i>Means of transport for persons or goods;</i> h) <i>Non-road mobile machinery made available exclusively for professional use;</i> i) <i>Equipment specifically designed solely for the purposes of research and development that is only made available on a business-to-business basis;</i> j) <i>Medical devices and in vitro diagnostic medical devices;</i> k) <i>Active implantable medical devices.</i>

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<p>New definition of “Producer”</p>	<p>An entity or a person who:</p> <ol style="list-style-type: none"> <i>Is established in the national territory and manufactures EEE under its own name or trademark, or has designed or manufactured EEE and sells them under his own name or brand in Portugal;</i> <i>Is established and resells in Portugal, under his own name or trademark, equipment produced by other suppliers. The reseller is not considered a ‘producer’ if the brand of the producer appears on the equipment;</i> <i>Is established in the national territory and places on the market EEE from a third country or from another Member State;</i> <i>Sells EEE through “distance-selling” directly to private households or to users other than private households in Portugal, and it is established in another Member State or in a third country.</i>
<p>WEEE management</p>	<p><u>Objectives of minimum recovery</u></p> <p>Are set out in Annex III of the law. For this purpose, the producers, either individually or through a management licensed entity, shall keep records of the weight of all WEEE and fractions.</p> <p><u>Selective collection</u></p> <p>The producers, individually or through a management entity should take measures to ensure a high level of selective collection of WEEE. Specially, the equipment used for temperature control which contains substances that damage the ozone layer and fluorinated greenhouse gases, the fluorescent lamps containing mercury and the photovoltaic panels and equipment of small dimensions.</p> <p>The selective collection of WEEE must be included in the plans of awareness, information and education.</p> <p>There are specific rules for the collection and transportation of WEEE, and in particular, for the waste of equipment of temperature control that damage the ozone layer.</p> <p>Transfer of used EEE: obligation of minimum requirements for the transfer of used EEE.</p> <p>Removal of all fluids and selective treatment of materials and components of WEEE: the substances, mixtures and components that must be removed from all waste electrical and electronic equipment collected selectively are foreseen in Annex V.</p>
<p>Responsibility for the management</p>	<p><u>EEE from private users:</u></p> <p>The distributors are obliged to ensure:</p> <ol style="list-style-type: none"> <i>The free reception of WEEE for the final users, on a one-to-one basis, within the framework of the provision of a new EEE, since the waste provided is from equivalent equipment and performance and with the same functions as the supplied equipment.</i> <i>In retail stores with sales of EEE with at least 400 m², the reception of very small WEEE with no external dimension greater than 25 cm, free of charge to end users and without the obligation to buy an equivalent EEE.</i> <i>The transportation of the received REEE to the licensed operators for the REEE treatment;</i> <i>When the sale involves a delivery of the EEE to a user residence, the transport of WEEE to their facilities or directly to the licensed operators for the treatment of WEEE.</i>
<p>Authorized representative</p>	<p>A producer established in another EU country (in the terms of Article 3 (1)(v)(i) to (iii) of the law), <u>may</u> appoint a person or a collective entity established in Portugal as his authorized representative, that is responsible for fulfilling the obligations as a producer.</p> <p>The economic agent, in the situation described above, that demonstrates to have an authorized representative in Portugal for the EEE is released from his obligations as producer (without prejudice to the obligations of communication).</p>

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Authorized representative	<p>A producer that sells EEE through “distance-selling” and it is established in another EU country or in a third country, <u>shall</u> appoint a person or a collective entity established in Portugal as his authorized representative, which is responsible for compliance with the obligations as a producer.</p> <p>A producer established in Portugal that sells EEE through “distance-selling” to another Member State in which it is not established, must appoint an authorized representative established in that country.</p> <p>The appointment of a representative must comply with the form of the mandate provided in the Annex IX of the law and communicate the mandate with a minimum of 15 days in advance.</p>
Management Schemes Collective scheme	<p>New requirements in the contract to be concluded with the managing entities.</p> <p>Regarding the financing of the management entity, the entity should foresee:</p> <ol style="list-style-type: none"> <i>Different financial benefits according to the environmental impact of the EEE and the real cost of waste management;</i> <i>Special Conditions to be agreed with the producers due to the scale of the activity and the specific situations of placing the EEE on the market;</i> <i>Reimbursement mechanisms if EEE are transferred to be placed on the market outside the national territory.</i>
Information	<p>The producers may, once again, discriminate the costs with the management of the waste of EEE in the list of prices and in the invoices of EEE.</p> <p>The producers, either individually or through management entities, and the distributors must provide to users information, at the point of sale and or through awareness-raising campaigns, on:</p> <ol style="list-style-type: none"> <i>The obligation of not depositing WEEE as urban unsorted waste and to proceed to their selective collection;</i> <i>Their contribution to the re-use of EEE and for recycling and other forms of recovery of WEEE;</i> <i>The network of selective collection;</i> <i>The potential effects on the environment and human health resulting from the presence of hazardous substances in EEE;</i> <i>The meaning of the symbol shown in Annex VII of the law;</i> <i>The functions adopted of the system of management of WEEE.</i>
Marking	<p>The law now foresee that, in exceptional cases, when it is necessary because of the size or the function of the product, the marking symbol (Annex VII of the law) should be printed on the packing, on the instructions of use and on the warranty of EEE.</p>
Non-compliance	<p>There is a significant increase of the type of infringements and the amount of the fines applicable.</p>



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