

## **Presidential Decree Draft**

THE PRESIDENT OF THE GREEK REPUBLIC

IN VIEW OF:

1. The provisions of paragraphs 1, 2 and 3 of Article 1 of Law 1338/1983 "application of Community law" (A ` 34) as paragraph 1 was amended by Article 6 of Law 1440/1984" The participation of Greece in the capital , to the reserves and forecasts from the European Bank etc. " (A ` 70) of Article 3 of Law 1338/1983 as it was replaced with Article 65 of Law 1892/1990 (A` 101), Article 4 of that Act, as it was replaced with Art. 6 (4) the N.1440/1984 (A ` 70) and amended by Article 7 of Law 1775/1988 (A` 101), 31 of Law 2076/1992 (A ` 130), 19 of Law 2367/1995 ( A ` 261) and 22 of Law 2789/2000 (A` 21) and end the provisions of Article second of Law 2077/1992 (A ` 136) in conjunction with the provisions of paragraph 4 of Article 17 of Law 2939/2001 (A ` 179).
2. The provisions of Articles 11, 12 (2, 3 and 4), 28, 29 and 30 of Law 1650/1986 "environmental protection" (A ` 160) as amended Article 30 with Article 98 (Para 12) of Law 1892/1990 for the modernisation and development, etc. (A ` 1 01) and then the same article was amended by Article 4 of N.3010/2002 (A` 91).
3. The provisions of Law 3010/2002 "Bring N.1650/1986 with instructions 97/11 / EU and 96/61 / EU etc.
4. The provisions of Law 2939/2001 "Packaging and alternative management of packaging and other products Establishment of National Alternative Management Agency packaging and other products (EOEDSAP) and other provisions" (A ` 179) and in particular article 15,16,17,20 , 21.23 and 24.
5. The provisions of Law 2939/2001 (A ` 179).
6. The provisions of the Directive 2006/66 of the European Parliament and Council, dated 6 September 2006 on batteries and accumulators and waste batteries and accumulators.
7. The provisions of the Directive 2008/12 of the European Parliament and Council of 11 March 2008 for amending Directive 2006/66 of the European Parliament and Council.

8. The fact that the provisions of this Decree caused expenditure at the expense of the State Budget the amount of which can not be determined and will be covered by the Public Investment financed through the European Union Programmes in funding available for measures and actions those from the relevant operational programmes.

9. \*\*\* The report of the Monitoring Committee of Alternative Management, which approved the proposal of EOEDSAP about this Ordinance.

10. \*\*\* The opinion of the Council of State on a proposal from the Ministers of Economy and Finance, Transport and Communications, Environment, Physical Planning and Public Works and State Secretaries of Interior, Public Administration and Decentralisation and Development, decide:

## **Article 1 Purpose- Recycling targets**

1. With the current Decree, in compliance with the directives 2006/66 of the European Parliament and Council, dated 6 September 2006 relating to the waste of batteries and accumulators and the Directive 2008/12 of the European Parliament and the Council of 11 March 2008, as well as the objectives and principles of Law 2939/2001 (Articles 1 and 4), which prescribe the rules on the distribution of batteries and accumulators, and in particular the prohibitions of the distribution of batteries and accumulators containing dangerous substances, and the specific rules that should be applied for the collection, processing, recycling and disposal of waste batteries and accumulators. These rules aim to promote the level of collection and recycling of used batteries and accumulators, improve the environmental behaviour of all economic operators involved in the life cycle of batteries and accumulators, such as producers, distributors and end-users in such a way so as to effectively protect public and individual health as well as the environment.

2. Specifically, with regard to recycling process and taking into account the environmental impact, it seeks to take the necessary measures in order to increase as much as possible the collection of used batteries and accumulators and to minimize the disposal of batteries and accumulators as municipal waste.

## **Article 2 Scope**

1 This applies to all types of batteries and accumulators, regardless of shape, volume, weight, composition or use.

2. It does not apply for batteries and accumulators used:

a) In equipment connected with national security, as weapons, ammunition and war material, excluding products that are not intended for specific military purposes.

b) In equipment intended for space use.

## **Article 3 Definitions**

For the purpose of this Decree the following definitions shall apply:

1. "battery or accumulator": It is a source of electrical energy which is generated by the direct conversion of chemical energy and consists of one or more primary battery cells (non-rechargeable) or one or more secondary cells (rechargeable).

2. "battery pack" means any set of batteries or accumulators which are connected together and / or encapsulated within an outer shell to form an integrated unit, that the end user is not intended to split up or open.

3. "portable battery or accumulator" means any battery, button cell, battery pack or accumulator which are cumulatively:

a) sealed and

b) hand carried and

c) is neither an industrial battery or accumulator nor a car battery or accumulator.

4. «button cell or accumulator»: means any small round portable battery or accumulator, whose diameter is greater than its height, used for specific purposes such as hearing aids, watches, small portable equipment or back-up power.
5. "car battery or accumulator" means any battery or accumulator used for starting, lighting and ignition power of cars.
6. "industrial battery or accumulator" means any battery or accumulator designed exclusively for industrial or professional purposes or used for any type of electric vehicle.
7. "waste battery or accumulator" means any battery or accumulator, which is waste within the meaning of Article 2 paragraph 1 item 6 of the law No. 2939/2001.
8. "recycling": means the re-processing of waste materials in the production process for their original purpose or any purpose other than energy recovery.
9. "disposal" means any activity listed in Annex IV A of Article 17 of 50910/2727/2003 Ministerial resolution and Annex III of Article 20 of 19396/1997 Ministerial resolution, whereas are related to batteries and accumulators.
10. "treatment" means any activity carried out on waste batteries and accumulators after they have been delivered to a facility for sorting, preparing for recycling or preparation for disposal.
11. "appliance" means any electrical or electronic equipment, which is fully or partly powered by batteries or accumulators.
12. "producer" means any person who, regardless of the selling technique used, places batteries or accumulators, including those incorporated into appliances or vehicles, on the market within the Greek territory or the territory of another Member State of the European Union, for the first time on a professional basis.  
Also, he, whose brand name appears in the finished product
13. "distributor" means any person who provides batteries and accumulators on a professional basis, to the end user.
14. "placing on the market" means supplying or making available to a third party in return for payment or free of charge within the Greek

territory or the Community, including the import into the customs territory of the Community.

15. "Operators": means producers, distributors, collectors, recyclers and other treatment operators.

16. "cordless power tool" means any portable device powered by a battery or accumulator and is intended for maintenance, construction or gardening activities.

17. "collection rate" for a given Member State during a given calendar year, means the percentage value which is calculated by dividing the weight of waste portable batteries and accumulators collected in accordance with Article 5 of this Decree during that calendar year by the average weight of portable batteries and accumulators, which producers either sell directly to end users or deliver to third parties for sale to end users in that member State during that calendar year and the previous two calendar years.

#### **Article 4 Prohibitions**

1. The batteries or accumulators that do not meet the requirements of this Decree shall be prohibited to be placed in the Greek market, after six months of publication of this Decree and withdrawn from the market within one year after its publication. **There is an important point that needs to be clarified. Batteries placed on the market before 26 September 2008 do not have to be withdrawn from the market. This is an important clarification that needs to be made. It is not yet official but it will be so in a couple of weeks.**

2. It is prohibited to be placed in the market, taking into account the provisions for the end of life vehicles:

- a) all batteries and accumulators, whether or not incorporated into appliances, containing more than 0.0005% of mercury by weight, and
- b) portable batteries and accumulators, including those incorporated into appliances, containing more than 0.002% cadmium by weight.

3. The prohibition in paragraph 2 (a) shall not apply to button cells with a mercury content of no more than 2% by weight.

4. The prohibition of paragraph 1 (b) does not apply to portable batteries and accumulators used in:

- a) emergency and alarm systems, including emergency lighting
- b) medical equipment, or
- c) cordless power tools

5. Given the rules of the above paragraphs, it is prohibited the prevention, restriction or prohibition of the distribution and marketing of batteries and accumulators which are in compliance within the scope of this Decree and meet its provisions.

6. The disposal in landfills and incineration of industrial batteries and accumulators or car batteries is prohibited. Exceptionally, only residues from batteries which have undergone both treatment and recycling in accordance with Article 8 of this Decree may be disposed of in landfills or incinerated.

7. In the event of breaches of the obligations of this article, there will be penalties as provided for by Article 20 of Law 2939/2001. These sanctions are imposed irrespective of imposing other penalties provided for under other provisions of the existing legislation.

## **Article 5 Collection schemes and alternative management**

1. EOEDSAP may require:

- a) by producers to set up collection schemes for waste portable batteries and accumulators in accordance with Law 2939/2001.
- b) from other economic operators to participate in such schemes
- c) to maintain existing Collection schemes.

2. a) The programmes of alternative management of portable batteries and accumulators are obliged to ensure the existence of collection points of used portable batteries and accumulators easily accessible and near to end users. These points are not subject to registration or licensing requirements on hazardous waste.

b) The payment of fees by end users when disposing used portable batteries or accumulators, or any obligation to buy in return for their

disposal is prohibited.

c) The distributors are obliged to take back free of charge used portable batteries and accumulators during the supply of portable batteries and accumulators, unless it is judged by a resolution of the Minister of Environment, with the recommendation of EOEDSAP, that the existing Collection schemes have established equally effective procedures to achieve the environmental objectives.

3. a) The producers of industrial batteries and accumulators, or third parties acting on their behalf, have an obligation to take back from end users, used batteries and accumulators, regardless of chemical composition and origin . Independent third parties may also collect industrial batteries and accumulators.

b) The charging of fees to end users who dispose used batteries and accumulators from private, non-commercial vehicles, or obliging them to buy a new battery or accumulator is prohibited.

4. For the purposes of this Article contracts between the EOEDSAP and the Collection schemes or other relevant economic operators may be conducted. Such contracts must meet the following conditions:

a) Be directly enforceable, so that in case of violation sanctions shall be imposed as provided under Article 20 of Law 2939/2001. These sanctions are imposed irrespective of other penalties provided for under other provisions of existing legislation.

b) To identify objectives in accordance with relevant binding deadlines

c) Should be published in the Official Gazette and transmitted to the Commission.

5. a) The Collection schemes of this article cover the activities associated with batteries and accumulators imported from third countries without discrimination and are designed to avoid barriers to trade or distortions of competition.

b) Independent third parties may also collect industrial batteries and accumulators.

6. In the event of breaches of the obligations of this article, the penalties provided for by Article 20. of Law 2939/2001. These sanctions are imposed irrespective of imposing other penalties provided for under other

provisions of existing legislation.

## **Article 6 Quantitative targets**

1. From 1 January 2011 the collection rates are calculated on an annual basis in accordance with the scheme set out in Annex I to this.

2. The following minimum collection rates should be achieved:

- a) 25%, by 26 September 2012
- b) 45%, by 26 September 2016.

Progress in the implementation of the above is monitored by EOEDSAP.

3. For the purposes of this EOEDSAP send the reports to the Commission within six months from the end of each calendar year. The reports indicate the ways the necessary data was obtained for calculating the rate of collection.

Figures for the annual collection and sales include batteries and accumulators incorporated into appliances.

## **Article 7 Removal of waste batteries and accumulators**

1. The producers and manufacturers have an obligation to design appliances so that batteries and accumulators incorporated on them can be easily removed. The appliances that incorporate batteries and accumulators must be accompanied by instructions manuals showing how they can be removed safely and, where appropriate, to inform the final user of the type of batteries or accumulators incorporated.

These provisions do not apply where, for reasons of safety or efficiency, for medical reasons or for reasons of data confidentiality, continuous supply of electricity is essential and requires a permanent connection between the appliance and the battery or the accumulator.



2. In the event of a breach of these obligations imposed sanctions provided for by Article 20 of Law 2939/2001. These sanctions are imposed irrespective of imposing other penalties provided for under other provisions of existing legislation.

## **Article 8 Treatment and recycling**

1. Until September 26, 2009:

a) The producers, or third parties are obliged to organise Collection schemes, in accordance with the provisions of Law 2939/2001 and the current Decree, using the best available techniques to protect public health and the environment, so as to ensure the treatment and recycling of waste batteries and accumulators.

b) All batteries and accumulators that can be identified and collected in accordance with Article 5 of this Decree or the provisions of Law 2939/2001, undergo treatment and recycling through Collection schemes which maintain standards at least the same or higher than those envisaged by existing legislation, particularly with regard to health, safety and waste management.

Exceptionally, it is possible, after the decision EOEDSAP, to dispose collected batteries and accumulators that contain cadmium, mercury or lead in landfills or underground storage, if there is no viable end market.

~~With a similar decision the collected batteries and accumulators containing cadmium, mercury or lead can be disposed in landfills or underground storage as part of a strategic plan to phase out heavy metals, if, based on detailed evaluation of environmental, economic and social impact, it appears that the disposal is preferred to recycling. If possible, I would leave this out.~~

Responsible for this evaluation is EOEDSAP whose decision is essential precedent for issuing the disposal of the preceding paragraph. This assessment and plan of measures is notified to the Commission in accordance with Directive 98/34 of the European Parliament and Council of 22 June 1998 establishing a procedure for the provision of technical standards regulations and rules.

2. The process must meet the minimum requirements of section A of Annex III.
3. When the batteries or the accumulators are collected together with the waste of electrical and electronic equipment, batteries or accumulators are removed from the collected waste of electrical and electronic equipment.
4. The recycling processes must meet no later than 26 September ~~2010~~ (This should be 2011 – a mistake was made which has been corrected later on) projections for recycling efficiency and the relevant provisions of section B of Annex III.

### **Article 9 Exports**

1. The treatment and recycling can be done outside the Greek territory or the territory of the Community, provided that the shipment of waste batteries and accumulators is in accordance with Regulation (EEC) No 259/93 of 1 February 1993 of the Council, on the supervision and control of shipments of waste within the Community both at entry and exit.
2. The waste batteries and accumulators exported from the Community in accordance with Regulation (EEC) No 259/93, Regulation (EC) No 1420/1999 of the Council, 29 April 1999 establishing common rules and procedures for shipments to certain non-OECD countries, and Regulation (EC) No 1547/1999 of the Commission of 12 July 1999 laying down control procedures under Regulation (EEC) No 259/93 of the Council, to apply on shipments of certain waste to specific countries for which the decision C (92) 39 final, does not apply, of the OECD, the fulfilment of the obligations and achievement returns of Annex III apply only if there is sufficient evidence that the recycling process took place under conditions equivalent to the requirements of this directive.
3. For the purposes of this Article agreements may be concluded, in accordance with Article 5 paragraph 4 of this.

### **Article 10 Financing**

1. a) The producers, or third parties acting on their behalf, finance any net costs arising from collection, treatment and recycling of batteries and accumulators, as well as waste from industrial and automotive batteries and accumulators collected in accordance with Article 5 of this or the regulations of Law 2939/2001. **Be careful that this is not understood in the way that producers from portable batteries also have to finance for industrial and automotive batteries and vice versa. Also, make sure that producers are only responsible for the collection of collected batteries in accordance with the Directive – some further specification could be useful.**

b) By decision of the Minister of Environment, after EOEDSAP recommendation, small producers who distribute very small quantities of batteries or accumulators in the Greek market may be exempted from the regulation of this paragraph, provided that such a decision does not impede the smooth functioning of the collection and recycling schemes set up under Article 5 of this and the provisions of Law 2939/2001.

That decision together with alternative financing measures and the reasons for proposing this is notified to the Commission and other Member States, through the Committee established under Article 18 of Directive 2006/12 / EC. The European Commission, within six months from the notification approves or rejects the draft measures after having verified that the measures reflect the purpose of this arrangement and does not constitute a means of imposing arbitrary discrimination or a disguised restriction on trade between Member States.

If the Commission does not respond within that period, the draft measures deemed approved. **Could the de minimis rule be removed**

2. In any case the double-charging of producers is ruled out in the case of batteries or accumulators that have been collected by Collection schemes which have been implementing previous to existing legislation.

3. Collection schemes, the producers and third parties acting on their behalf, are obligated to fund the net costs arising from public information campaigns on the collection, the treatment and the recycling of all waste batteries and accumulators organised by EOEDSAP. **Try to limit this – at least ensure for sufficient control on the campaigns organised by the government. Otherwise there is a risk that industry is paying for a blank**

check.

4. The cost of collection, treatment and recycling shall not be shown separately to end users at the time of sale of new portable batteries and accumulators.

5. Producers and users of industrial and automotive batteries and accumulators cars may enter into agreements stipulating financing arrangements other than those referred to in paragraph 1 of this.

6. This Article applies to all waste batteries and accumulators, regardless of the date they were placed on the market.

7. Since the implementation of this article.

### **Article 11 Census**

1. EOEDSAP keeps a register of producers, in which all producers must be registered within six months after the publication of this.

2. In the event of a breach of that obligation, the penalties provided for by Article 20 of Law Section C. 2939/2001.

### **Article 12 Information of end-user**

1. Campaigns organized by EOEDSAP in accordance with Article 10 paragraph 3 of this, must ensure that end-users are informed on the following:

a) the potential effects on the environment and human health of the substances used in batteries and accumulators.

b) It is desirable that waste batteries and accumulators should not be disposed together with municipal waste which are unsorted and that end users must participate in the separate collection of waste in order to facilitate the treatment and recycling.

c) the collection and recycling schemes available to them.

- d) the role they play in recycling waste batteries and accumulators.
  - e) the importance of the symbol of crossed-out wheeled bin in Annex II and the chemical symbols Hg, Cd, Pb.
2. The economic operators are obliged to provide on the packaging of their products at least the information referred to a, b and e paragraph 1. The Collection schemes of batteries and accumulators also have an obligation to take all necessary steps for the implementation of this article. **How will this be implemented – through the normal symbols??**
3. If by EOEDSAP decision or agreement under paragraph 4 of this requires distributors to pick up the waste portable batteries and accumulators, these distributors are obliged to inform end users about the possibility of discarding waste portable batteries and accumulators at their sales points.
4. For the purposes of this Article agreements may be concluded, in accordance with Article 5 paragraph 4 of this.
5. For each violation of this provision, including those agreed in paragraph 4, sanctions are imposed under Article 20 of Law 2939/2001. These sanctions are imposed irrespective of imposing other penalties provided for under other provisions of existing legislation.

### **Article 13 Marking**

1. a) The producers and importers are obliged to put in all batteries, accumulators and battery packs the appropriate marked symbol shown in Annex II.
- b) Producers and importers are obliged to indicate the capacity in all batteries and accumulators, whether portable or incorporated in appliances **(this should be portable and automotive batteries)** , in a visible, legible and indelible by 26 September 2009
2. Batteries, accumulators and battery cells containing more than 0.0005% of mercury, more than 0.002% cadmium or more than 0.004% lead, shall be marked with the chemical symbol for the metal concerned: Hg, Cd or Pb. The symbol indicating the heavy metal content must be printed beneath the symbol shown in Annex II and should cover an area of at least one quarter the size of that symbol.

3. The symbol shown in Annex II shall cover at least 3% of the surface of the largest side of the battery, accumulator or battery pack, with a maximum size of 5 X 5 cm. In the case of cylindrical cells, the symbol shall cover at least 1.5% of the surface of the battery or accumulator with a maximum size of 5 X 5 cm.

4. Where the size of the battery, accumulator or battery pack is smaller than 0,5 X 0,5 cm, then there is no need to mark it on the battery or accumulator but the symbol should be printed on the packaging with size of at least 1 X 1 cm.

5. In every case marking is required by this or other provisions, the symbols printed have to be clearly visible, legible and indelible.

6. For each violation of this provision, sanctions are imposed under Article 20 of Law 2939/2001. These sanctions are imposed irrespective of imposing other penalties provided for under other provisions of existing legislation.

A possibility for exemptions should be included - any exemptions will however be in line with the comitology decisions

#### **Article 14 National implementation reports**

1. EOEDSAP reports to the Commission on the implementation of this every three years. The first report covers the period from the publication of this until 26 September 2012.

This report includes also any measures taken to control the impact of batteries and accumulators on the environment and in particular:

- a) Developments or voluntary initiatives by producers, to reduce the quantities of heavy metals and other hazardous substances contained in batteries and accumulators
- b) New recycling and treatment techniques
- c) Participation of economic operators in environmental management systems
- d) Research in these areas, and
- e) The measures taken for the promotion of waste prevention.

2. The report shall be made available to the Commission no later than nine months from the end of the three-year period, or in the case of the

first report no later than 26 June 2013.

3. EOEDSAP shall also send annual reports to the Commission within six months from the end of the calendar year on recycling levels achieved in the year concerned, in accordance with Article 8 of this, and on whether those levels were achieved according to section B of Annex III.

### **Article 15 Controls**

Regular and temporary checks for compliance with the provisions of this Decree carried out in accordance with Article 24 of Law 2939/2001.

### **Article 16 Annexes**

Attached and an integral part of this Decree are the Annexes that follow.

### **Article 17 Final Provisions**

1. The decree is valid from the publication in the Official Gazette, unless otherwise specified in the individual provisions.
2. Any contrary to this specific or general provision is repealed by its publication.

Note:

**EOEDSAP:** "GREEK ORGANIZATION FOR ALTERNATIVE MANAGEMENT OF PACKAGING AND OTHER PRODUCTS"

It is the department within the Ministry of Environment responsible for the implementation of Waste Management and the monitoring of the Collection schemes.