

## **Obligations incorporated by the Spanish Decree on Packaging and Packaging Waste**

The Royal Decree on Packaging and Packaging Waste entered into force on the 1st January 2023 and sets a number of new obligations for companies.

As the scope of application includes "all packaging placed on the market and packaging waste generated in the territory of the State, regardless of whether it is used or produced in industry, commerce, offices, commercial establishments, services, households, or anywhere else, whatever the materials used", the main obligations are for "product producers", who are ultimately responsible for placing such packaging on the market.

At present, companies must adhere to an Integrated Management System for the recovery and management of household packaging waste they place on the market (Ecoembes), as well as for electrical and electronic equipment (Ecotic) and others by product category that may affect them (batteries, lamps, etc.).

The Decree extends the responsibility of producers to all types of packaging, as well as establishing prevention and reuse targets by type of packaging (industrial, commercial or domestic) and recycling and recovery targets by type of material (plastic, wood, ferrous metals, aluminium, glass and paper and cardboard).

To comply with these obligations, it is necessary to create an Individual EPR scheme (SIRAP) or to subscribe to a collective one (SCRAP), **before the end of 2024.**

The new obligations can be classified as follows:

1. Design obligations, requirements and safety conditions (Art. 12); 2.
2. Marking obligations (Art. 13)
3. Information obligations (Chapter II)
4. Obligations under the Extended Producer Responsibility Scheme (Chapter III)

Schematically, the obligations are:

### **1. Design obligations, requirements and safety conditions (art. 12)**

- Generic obligation to take into account the reduction of environmental impact and the generation of waste in the design of the product.
- Safety requirements:
  - Lead, cadmium, mercury and chromium content < 100 ppm.
  - Prohibition of the use of phthalates and BPA.
  - Specific requirements for reusable packaging and for reusable packaging.
  - Penalties will be applied to packaging printed with inks containing more than 1% by mass of mineral oils (MOSH and MOAH): 20%, increasing progressively to 50% within 3 years. This penalty applies only to the weight of the paperboard.

### **2. Marking obligations (Art. 13)**

- Reusable packaging: indication that it is reusable + symbol of the deposit, return and refund system.
- Domestic packaging: indication of the fraction or container in which it must be deposited.

The Decree, in Article 13.2, states that "Household packaging shall indicate the fraction or container in which such packaging waste is to be deposited". However, it does not establish a specific format or symbol, so the Ministry confirms that "producers are free to determine the symbol to be used", as long as "it is on the packaging itself or on the label, clearly visible and easily legible, and it must also have adequate persistence and durability, even after the packaging has been opened".

Ecoembes has proposed the following marking, on a voluntary basis:



This symbol has to come in the colour corresponding to the packaging material concerned or use the version of the symbol which contains the written reference to the colour of the container: blue for cardboard and paper; yellow for cans and plastic; green for glass.

- **Green Dot:** The Ministry has confirmed that the Green Dot will be no longer accepted from 1<sup>st</sup> January 2025, since the consider it misleads consumers on the recyclability of the product.

**These obligations shall be enforced as from 1st January 2025.**

### 3. Information obligations (chapter II)

- Registration in the Register of Product Producers before 31st of March 2023.
- Certificate of membership of a System of Extended Producer Responsibility (SRAP according to the Spanish acronym), which may be Individual for each company -SIRAP- or Collective -SCRAP. This has to be presented with the application to register or, for SCRAPS managing industrial and commercial packaging, within a month from the constitution of such SCRAPS.
- A registration number will be given, which must be stated on the invoices.
- Annual information (via SRAP) on packaging placed on the market.

### 4. Obligations under the Extended Producer Responsibility Scheme (chapter III)

- When exceeding certain amount of packaging per year, drawing up five-yearly prevention and eco-design plans - the one drawn up by SCRAP for the sector can be subscribed to, where appropriate, but the responsibility to comply with it is individual. (see further information at the end of this document)
- Collecting information from suppliers on the composition and presence of hazardous substances in the empty packaging purchased, and transmit it to the SRAP.
- Contributing to compliance with the objectives of the Decree, respecting "the proportion of reusable packaging on average for all their products".
- Providing SRAP with information on packaging placed on the market each year by 28 February of the following year.

- Identifying in the invoices the contribution made to the SRAP in a clearly differentiated manner from the rest of the items. It shall not be included in the unit price (art. 23.5).
- Companies not established in Spain have to appoint an authorised representative to fulfil these obligations.
- Through SRAP:
  - Achieving the recycling targets of Article 10.
  - Establishing a deposit, refund and return system for reusable packaging.

### **Information on the Prevention and Eco-design Plans (PEP):**

The obligation is set on article 17.1 a) *“Developing and implementing five-yearly prevention and eco-design business plans in accordance with Article 18, with the aim of reducing the use of non-renewable resources, increasing the use of recycled materials and the recyclability of their products.”*

The Decree opens to the possibility of subscribing to the plan drawn up by the EPR for the sector, but the responsibility to comply with it is individual. The plans may relate to a production or packaging sector.

The EPR Ecoembes has already sent to their members their plan for 2024-2028, and IMPLICA will prepare it for their members soon.

If companies subscribe to the EPR plan, they are obliged to:

- Inform the EPR about the prevention measures envisaged
- Implement packaging prevention measures
- Inform the EPR of the prevention measures implemented and collaborate in verification.
- Contribute to the costs of drawing up the plan.

### Extract from the Decree:

*Article 18. Business plans for prevention and eco-design.*

*1. Producers of products which, during a calendar year, place on the market a quantity of packaging equal to or greater than the following quantities shall be obliged to implement a business plan for prevention and eco-design on a five-yearly basis:*

- *250 tonnes, if exclusively glass,*
- *50 tonnes in the case of steel only,*
- *30 tonnes in the case of aluminium only, or*
- *20 tonnes in the case of plastics only,*
- *20 tonnes for wood only,*
- *15 tonnes for cardboard or composite materials only.*
- *300 tonnes if several materials are involved and each of them individually does not exceed the above quantities.*

*Product producers will have to implement these plans from the year following the year in which they exceed these thresholds.*

*2. These business plans for prevention and eco-design shall take into account the determinations contained in the different instruments for the prevention of packaging waste. They shall also include a summary of the degree to which the objectives of the previous plans have been achieved, as well as the new quantified prevention objectives, the measures planned to achieve them and the control mechanisms to verify compliance, which shall include at least the following information differentiated by primary, secondary and tertiary packaging:*

*(a) The increase in the proportion of the quantity of reusable packaging in relation to the quantity of single-use packaging.*

*b) The increase in the ratio of the amount of recyclable packaging to the amount of non-recyclable packaging.*

*c) The improvement of the physical properties and characteristics of packaging, or a shift towards the use of this type of packaging, enabling it to withstand a greater number of rotations, in case of reuse under normally foreseeable conditions of use, or to improve its recyclability.*

*(e) The reduction in weight of the material used per unit of packaging, especially single-use packaging, up to the limits of its feasibility, without compromising the recyclability of the packaging.*

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*f) The reduction, with respect to the previous year, of the total weight of packaging of each material placed on the market, especially single-use packaging, in relation to the products placed on the market by the product producers.*

*(g) The non-use of superfluous packaging and packaging of a size or weight greater than the statistical average of other similar packaging.*

*h) The use of packaging with a more favourable ratio between container and contents, by weight, than the average, taking into consideration the individual materials.*

*i) The incorporation of secondary raw materials from the recycling of packaging waste in the manufacture of new packaging up to the technically and economically feasible percentages which, at the same time, allow the basic requirements on the composition and nature of reusable and recoverable packaging, including recyclable packaging, set out in Annex III to be met.*

*3. Business plans for prevention and eco-design may be drawn up by individual product producers, or by the collective extended producer responsibility schemes in which they participate. In the latter case, the following shall be respected:*

*a) The collective extended producer responsibility system shall be responsible for the preparation and monitoring of these business plans for prevention and eco-design, although the execution and ultimate responsibility for their compliance shall in all cases correspond to the producers who are obliged in accordance with the provisions of this article.*

*b) Business plans for prevention and eco-design may relate to a production or packaging sector.*

*c) Product producers shall select the measures included in the plan(s) with which they would comply and report to the collective scheme responsible for the development of the plan. On an annual basis, they shall submit information on the degree of compliance with these measures to the collective scheme. All this information shall be available to the competent authorities for monitoring, inspection and control purposes.*

*4. Producers of products that have opted for the preparation of an individual plan shall send a report, within three months of the completion of the plan, to the Autonomous Community where their head office is located.*

*In the case of prevention plans drawn up by collective systems, the report shall be sent, within three months of completion of the plan, to the Autonomous Community where the head office is located, which shall send it to the other Autonomous Communities.*

*The report shall give an account of the degree of compliance with the prevention measures included in it, and in the case of reports submitted by the collective system, the producers included in the scope of application of the Plan shall be identified.*

*The product producers or collective systems shall make these reports available to the public, safeguarding, where appropriate, information of a confidential nature relevant to the production or commercial activity of the product producers.*

*These reports shall make it possible to verify compliance with the obligation set out in Article 17.1.d).*