**EXPLANATORY NOTE**

**I. Reference context**

Article 219(5) of Legislative Decree No 152 of 2006 provided for the adoption of a decree of the Ministry of the Environment and the Protection of Land and Sea in agreement with the Ministry of Economic Development, as a precondition for identifying the correct methods of applying packaging labelling. The second sentence of that article, on the other hand, provided that that decree was to require all packaging producers to indicate, for the purposes of the identification and classification of the packaging, the nature of the packaging materials used, on the basis of Commission Decision 97/129/EC.

By Legislative Decree No 116 of 3 September 2020 implementing Directive (EU) 2018/851 amending Directive 2008/98/EC on waste and implementing Directive (EU) 2018/852 amending Directive 1994/62/EC on packaging and packaging waste, Article 219(5) of Legislative Decree No 152 of 2006 was amended by introducing new labelling requirements for all packaging.

In view of the impact that the regulatory intervention could have had on operators in the sector, the Directorate-General for Circular Economy of the Ministry of the Environment and the Protection of Land and Sea, by letter of 17 May 2021, Official Register No 52445, containing "*Legislative Decree No. 116 of 03 September 2020. Clarifications on the environmental labelling of packaging referred to in Article 219(5) of Legislative Decree No 152*" of 3 April 2006, has provided some initial indications for the correct fulfilment of the obligation to label packaging.

Article 15(6) of Decree-Law No 183 of 31 December 2020, converted with amendments by Law No 21 of 26 February 2021, Article 39(1-ter) of Decree-Law No 41 of 22 March 2021, converted with amendments by Law No 69 of 21 May 2021 and, most recently, Article 11(1) of Decree-Law No 228 of 30 December 2021, converted with amendments by Law No 15 of 25 February 2022, extended the suspension until 31 December 2022 of the obligation to label packaging laid down in Article 219(5) of Legislative Decree No 152 of 2006, providing, moreover, that packaging not fulfilling the labelling requirements and already placed on the market or labelled as at 1 January 2023 may be marketed until stocks are exhausted.

In view of the need to provide for clear and specific rules on the correct fulfilment of the labelling obligation allowing operators not to infringe the law and, therefore, not to incur the resulting administrative penalties imposed by the environmental legislation provided for in the last sentence of Article 261(3) of Legislative Decree No 152 of 2006, with Article 11(2) of Decree-Law No 228 of 30 December 2021, the new paragraph 5.1 has been introduced into Article 219 of Legislative Decree No 152 of 2006, which provides for the adoption, by means of a decree of a non-regulatory nature of the Minister for Ecological Transition, of the technical guidelines for the correct labelling of packaging referred to in Article 219(5) of Legislative Decree No 152 of 2006.

The adoption of the guidelines provided for is considered essential, in order to specifically regulate the general obligation of environmental labelling, also in view of the additional marking requirements for biodegradable and compostable plastic packaging deriving from Article 182-ter(6)(b) of Legislative Decree No 152 of 2006. Moreover, the entry into force of the new Article 219(5) of Legislative Decree No 152 of 2006 can certainly have an impact on the organisational, management, economic and financial models of the national industrial and commercial sector, also because of the possible penalties provided for in Article 261(3) of that legislative decree.

The priority objective pursued by this regulatory intervention is to define the operational arrangements for the application of packaging labelling in order to facilitate the collection, re-use, recovery and recycling of packaging and to provide consumers with proper information on the final destination of packaging.

The intervention is the result of a careful evaluation of the consequences that also arise from a practical point of view. At present, there is a need for consistency between producers and users in the labelling arrangements. The instrument used will be useful to support these entities in complying with the obligations imposed at the Community level. The intervention may therefore contribute to the increase in waste sent for recovery and to the increase in recovery and recycling rates.

The measure will have specific effects for micro, small and medium-sized enterprises which, in the short term, will have to adapt to the new labelling arrangements; however, a suitable period has been provided for both to comply and to exhaust stocks.

The Guideline, adopted with this act, has been drawn up taking into account the Guidelines proposed by the National Packaging Consortium (CONAI), all with the aim of supporting companies by providing operational and management guidelines to comply with the legal obligation. In fact, the proposal prepared by CONAI was formulated following a series of discussion tables, in particular with UNI, Confindustria and Federdistribuzione, to analyse and manage the most technical aspects and the most frequent reports received from individual companies and associations of producers, and industrial and commercial users. In addition, this document has been submitted to public consultation, following which it has been updated several times both in the light of constant dialogue and discussions with companies and associations, and as a result of regulatory changes on the subject. The Guideline, in any case, may be updated or amended periodically, in the light of new legal provisions (National and/or EC), as well as new specific indications, technical simplifications and methods of application of labelling, resulting from subsequent consultations and discussions with Business Associations.

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**II. The draft Decree**

The draft decree consists of a single article which governs the “*Guideline on the labelling of packaging pursuant to Article 219(5) of Legislative Decree 152/2006 et seq.mm*”, aimed at the correct fulfilment of the obligations laid down in Article 219(5) of the aforementioned Decree, as well as the additional packaging marking obligations laid down in Article 182-ter(6)(b) of the same Legislative Decree for biodegradable and compostable plastic packaging. This Guideline is contained in Annex 1, which forms an integral part of the Decree. The same article also sets out the procedure for updating or amending the Guideline periodically. Finally, the subjects to whom the decree is addressed are indicated, that is, all the subjects who are subject to the obligation to label packaging referred to in paragraph 1.