

Royal Decree 184/2022 of 8 March regulating vehicle-charging services for electric vehicles

This royal decree **regulates** vehicle-charging services for electric vehicles, defining the main parties involved (charging point operator (CPO) and e-mobility service provider (EMSP)), their rights and obligations, and the need to enter into interoperability agreements. It also **modifies** the fourth additional provision of Royal Decree 148/2021 on electricity system charges, **repeals** title IV of Royal Decree 216/2014 on the methodology for calculating the electricity prices for small consumers and the applicable contractual regime and **removes** all references to the “fixed-price alternative to the voluntary price” for small consumers in Royal Decree 216/2014.

1. NEW MEASURES INTRODUCED BY ROYAL DECREE 184/2022

Royal Decree 184/2022 of 8 March regulating vehicle-charging services for electric vehicles (“**RD 184/2022**”) was published in the Official State Gazette on 19 March. It is part of a raft of measures adopted within the framework of the Strategic Project for Economic Recovery and Transformation (PERTE) in the Development of an Ecosystem for manufacturing Electric and Connected Vehicles (*Proyecto Estratégico para la Recuperación y Transformación Económica (PERTE) de Desarrollo de un Ecosistema para la fabricación del Vehículo Eléctrico y Conectado*) that was approved by the Council of Ministers on 13 July 2021. Specifically, it seeks to further the Government’s objective of fostering the development of charging points for electric vehicles and encouraging the public to purchase electric vehicles with the aim of electrifying the vehicle fleet in Spain in the coming years. It also reflects EU and national goals to decarbonise the economy and reduce greenhouse emissions.

RD 184/2022 also seeks to achieve one of the goals set in the Recovery, Transformation and Resilience Plan (PRTR) (*Plan de Recuperación, Transformación y Resiliencia (PRTR)*), which must be implemented in a way that does not cause significant harm to the environment.

To this end, in recent months various instruments have been approved to promote the deployment of charging points at a national level. Royal Decree-Law 29/2021 of 21 December adopting urgent measures in the energy field to promote electric mobility, self-consumption and the deployment of renewable energies (“**RDL 29/2021**”) stands out. In it the Government has focused on measures to promote the deployment of electric vehicles and counteract “autonomy anxiety”, which has been identified as a factor that discourages consumers from acquiring and using electric vehicles for long-distance travel.

Overall, RD 184/2022’s purpose is to reinforce and complete the current state legislation on mobility services and charging-point infrastructure and, in particular, to reinforce Law 7/2021 of 20 May on

climate change and the green energy transition and article 48 of Law 24/2013 of 26 December on the electricity sector (“**Electricity Sector Law**”) in order to regulate energy-charging services.

RD 184/2022 applies to providers of electric charging services that are delivered through public charging points (e.g. those located in public car parks, service stations and shopping centres, and private car parks that all electric-vehicle users can access). These charging services should be provided in accordance with a number of principles, such as efficient charging, minimum cost, non-discrimination, price clarity and transparency, and universal accessibility. Failure to comply with the obligations set forth in RD 184/2022 will be sanctioned in accordance with the Electricity Sector Law.

The services may be provided (a) without a prior contract between the CPO and the vehicle user (through *recarga puntual*); (b) through a prior contract between CPO and the vehicle user; and (c) through an EMSP.

To achieve this, RD 184/2022 introduces multiple measures that include the following:

1.1 RELATIONSHIP BETWEEN THE PARTIES INVOLVED IN PROVIDING ELECTRIC-VEHICLE CHARGING SERVICES

RD 184/2022 identifies two main participants in the vehicle-charging activity other than the user of the electric vehicle. The charging point operator (CPO) is the owner of the charging point infrastructure or the titleholder of the right to operate the charging point infrastructure. In general terms, the CPO is treated as the consumer of the energy for the purposes of article 6 of the Electricity Sector Law. However, the CPO may totally or partially assign or transfer its right to operate the charging point infrastructure to a third party. An e-mobility service provider (EMSP) is any company that renders e-mobility services to users. For example, an EMSP may act as an intermediary between a CPO and an electric-vehicle user as a kind of virtual operator. In other words, the EMSP would not be the owner of the charging point infrastructure or the titleholder of the rights to operate it *strictu sensu*, but a third party.

1.2 INTEROPERABILITY AGREEMENTS

When an EMSP acts as an intermediary between the charging point and the electric-vehicle user, RD 184/2022 requires that the CPO and the EMSP enter into an interoperability agreement to ensure fluid communication between them and that the mobility services are provided efficiently and at the lowest possible cost for the electric-vehicle user and the electricity system. Interoperability agreements must ensure that the CPO and EMSP fulfil their statutory obligations, but otherwise the parties are free to agree on the terms and conditions they consider appropriate. RD 184/2022 expressly mentions that such agreements must refer to the EMSP’s obligations.

1.3 RIGHTS AND OBLIGATIONS OF CPOs AND EMSPs

Article 6 lists CPOs’ rights and obligations, which apart from those already mentioned include

- (a) delivering energy, free of charge or for consideration, by one of the methods permitted under RD 184/2022, ensuring that the service is provided efficiently, is accessible and uses energy rationally (services regulated in article 48 of the Electricity Sector Law);

- (b) complying with quality, industrial-safety and meteorology regulations (e.g. when the charging infrastructure is connected to the low-voltage network, it must comply with Royal Decree 1053/2014 of 12 December approving a new Complementary Technical Instruction (ITC) BT-52);
- (c) not disclosing any confidential information acquired from providing the services, except to comply with reporting obligations to public authorities as set out below;
- (d) informing users about the origin of the supplied energy (such as the percentage of energy coming from renewable resources);
- (e) providing a real-time customer services facility for electric-vehicle users to deal with their queries, claims and incidents;
- (f) clearly and transparently indicating the prices of the supplied energy;
- (g) having the necessary means to invoice the energy supplied (and provide the EMSP with the necessary information when it provides the service);
- (h) allowing vehicle charging without a prior contract between the CPO and the vehicle user;
- (i) fulfilling the reporting obligations set out in RD 184/2022; and
- (j) fulfilling obligations regarding the maintenance and operation of the charging points.

Article 7 lists the rights and obligations of EMSPs, which apart from those already mentioned are the same as those described in (c), (d), (e), (f) and (i) for CPOs.

1.4 COOPERATION FROM THE DISTRIBUTION COMPANIES

Electricity distribution companies must cooperate with CPOs by responding to requests to connect charging points to the electricity network with information on access capacity, power requirements for the charging points and anything else that will help reduce investment costs.

1.5 REPORTING OBLIGATIONS

RD 184/2022 provides that information regarding charging points must be made available to the public in real time through the National Access Point for Traffic Information (*Punto de Acceso Nacional de Información de Tráfico*), which is managed by the Central Traffic Authority (*Jefatura Central de Tráfico*). Additionally, these information will also be published through the National Access Point for Multimodal Transport (*Punto de Acceso Nacional de Transporte Multimodal*). To this end, providers of electric mobility services must send the Ministry for Ecological Transition and Demographic Challenges (*Ministerio para la Transición Ecológica y Reto Demográfico*) up-to-date information on the location of their charging points, their characteristics, availability and prices.

1.6 REPEAL OF TITLE IV OF ROYAL DECREE 216/2014 OF 28 MARCH ON THE METHODOLOGY FOR CALCULATING THE ELECTRICITY PRICES FOR SMALL CONSUMERS AND THE APPLICABLE CONTRACTUAL REGIME (“RD 216/2014”)

RD 184/2022 removes the obligation for reference electricity traders (*comercializadores de referencia*) to make an alternative offer to the voluntary price for small consumers (PVPC). When made, the offer must be for a fixed price to supply electricity for one year under the terms and conditions set out in title IV of Royal Decree 216/2014. RD 184/2022 includes a template form to be used, when applicable, by reference traders to inform their customers that (i) these alternative fixed-price offers to the PVPC are being removed, (ii) that they can contract their electricity from another trader in the market or the PVPC via another reference trader, and (iii) when applicable, their contract at an alternative fixed-price to the PVPC will be terminated at no additional cost if the consumer has not contracted an offer with a free trader or the PVPC via a reference trader.

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