

Ministry of Regional Planning and the Environment

Decree No. 99-374 of 12 May 1999 relating to the marketing of batteries and accumulators and to their disposal.

NOR: ATEX99000530

The President of the Republic.

On the report of the Prime Minister and the Minister for Regional Planning and the Environment.

In view of Regulation No. 259/93 of the Council of 1 February 1993 concerning the monitoring and control of the movement of waste into and out of the European Community;

In view of EEC Directive 83/189 of 28 March 1983 providing for an information procedure in the domain of technical regulations and standards;

In view of EEC Directive 91/157 of 18 March 1991 relating to batteries and accumulators containing certain hazardous materials;

In view of EEC Directive 93/86 of 4 October 1993 concerning adaptation to the technical development of EEC Directive 91/157 relating to batteries and accumulators containing certain hazardous materials;

In view of the Penal Code and in particular Article R. 610-1 therein;

In view of the Consumption Code;

In view of the amended Law No. 75-633 of 15 July 1975 relating to the disposal of waste and the reprocessing of materials, and in particular to Article 6 therein;

In view of Law No. 76-663 of 19 July 1976 relating to installations classed as being for the protection of the environment;

In view of Decree No. 97-1194 of 19 December 1997 taken for application to the Minister for Economic Affairs, Finance and Industry of 1 of Article 2 of Decree No. 97-34 of 15 January 1997 relating to the decentralisation of individual administrative decisions;

In view of Decree No. 97-1204 of 19 December 1997 taken for application to the Minister for Regional Planning and the Environment of 1 of Article 2 of Decree No. 97-34 of 15 January 1997 relating to the decentralisation of individual administrative decisions;

The Council of State (Public Works Section) having been heard;

The Council of Ministers having been heard;

Decreases:

## SECTION I

### CONDITIONS FOR THE MARKETING OF BATTERIES AND ACCUMULATORS

Article 1 – It is forbidden to market manganese alkaline batteries containing more than 0.025% in weight of mercury, with the exception of:

- manganese alkaline batteries containing more than 0.05% in weight of mercury, on condition that they are intended for prolonged use in extreme conditions: temperatures below 0° C or greater than 50° C, exposure to impact and that they are specially marked;
- button type manganese alkaline batteries or batteries comprising button-type elements.

Article 2 – Batteries and accumulators with the following characteristics may only be used in equipment on the condition that they can be easily removed by the user after use:

Batteries containing:

- more than 25 milligrams of mercury per element;
- more than 0.025% in weight of mercury if manganese alkaline batteries.

Batteries and accumulators containing:

- more than 0.025% in weight of cadmium;
- more than 0.4% in weight of lead.

The following categories of equipment are not however subject to this requirement:

- a) Equipment in which batteries or accumulators with the characteristics defined in the present article are welded or fixed in place by another means to contact points to ensure a continuous electrical supply for intensive industrial uses or to preserve memory and data of computer and office equipment, where the use of these batteries or accumulators is technically necessary;
- b) Scientific and professional equipment equipped with the batteries in question, medical equipment equipped with batteries or accumulators intended for maintaining vital functions as well as pacemakers, where their continuous operation is essential and where these batteries and accumulators may only be removed by qualified personnel;
- c) Mobile equipment where the replacement of batteries or accumulators by unqualified personnel may constitute a danger to the user or may affect the operation of the equipment, and professional equipment intended for use in highly sensitive environments, e.g. in the presence of volatile substances.

The equipment described in the three above-mentioned categories must have an operating guide informing the user that the batteries or accumulators are incorporated into the equipment and, where necessary, specify how they should be removed in complete safety.

Article 3 – The batteries and accumulators, whatever their type, whether or not incorporated into equipment, must be clearly marked with the name or the brand name of the natural or legal person responsible for their disposal in terms of the present decree, the manufacturer, importer, introducer or incorporator, or distributor if marketed under its own brand name.

The batteries and accumulators referred to in Article 2 must also bear a marking in compliance with the models in the annex of the present decree.

## SECTION II

### DISPOSAL OF USED BATTERIES AND ACCUMULATORS

#### Chapter I

##### General Provisions

Article 4 – It is forbidden to abandon used batteries or accumulators or, where applicable, the equipment into which they are incorporated or to discard the liquid or solid components of these batteries or accumulators in the natural environment.

Article 5 – The disposal of batteries and accumulators or their components, including those that have been removed from the equipment in which they were incorporated, must be made in installations authorised for this purpose, in application of the provisions of the above-mentioned Law of 19 July 1976, or in any other installation with the equivalent authorisation in another state in the European Community, when taking used batteries and accumulators across frontiers in conformity with the provisions of the above-mentioned Regulation of 1 February 1993.

The reprocessing of used batteries and accumulators is preferred to other methods of disposal if the technical and economic conditions at the time permit this.

#### Chapter II

##### Disposal of used batteries and accumulators used domestically.

Article 6 – Any distributor, either retail or wholesale, of batteries and accumulators is obliged, whether these batteries or accumulators are incorporated into equipment or not, to take back free of charge the used batteries or accumulators of the type it trades in which are brought back to it. It groups [the batteries and accumulators] into batches of identical characteristics in such a way as to facilitate the return in the conditions of Article 7 below by the persons referred to in the same article.

Article 7 – Any natural or legal person that manufactures, imports, introduces or distributes batteries or accumulators under its own brand name must to take back or have taken back, within the limit of the tonnage that it itself has manufactured, imported, introduced or distributed under its own brand name, the used batteries or accumulators collected by distributors on one hand and by the local authorities or contractor of the other when the said local authorities or contractors have collected the used batteries and accumulators separately and have grouped them into batches of

identical characteristics; these same persons are furthermore obliged to reprocess or have reprocessed, dispose of or have disposed of the batteries and accumulators which they take back.

The provisions of the previous paragraph also apply to any natural or legal person that incorporates batteries or accumulators into equipment or that imports or introduces equipment containing batteries or accumulators.

### Chapter III

The disposal of used batteries and accumulators other than for domestic use.

Article 8 – Users of batteries and accumulators other than for domestic use, must collect or have collected, reprocess or have reprocessed, dispose of or have disposed of their used batteries or accumulators, whether or not incorporated into equipment.

### Chapter IV

#### Disposal Industry

Article 9 – The natural and legal persons referred to in Articles 6, 7, and 8 are regarded as satisfying the obligations of disposal of used batteries and accumulators prescribed by these same articles when they make agreements with recoverers or refiners, whether directly or by the intermediary of groups [contractors] of which they are members, approved according to the conditions established by Article 10, of which the object is the implementation by category of batteries or accumulators, of collection and disposal systems and to define the methods of their operation.

The natural and legal persons referred to in Article 7 may create appropriate organisations for the purpose of implementing the disposal of batteries and accumulators as provided for in this article. These organisations may sign agreements of the type mentioned in the previous paragraph and approved according to the same conditions. These natural and legal persons are therefore also regarded as satisfying the obligations for disposal of used batteries and accumulators.

If a third party organisation is involved, the disposal system may be financed by a contribution from its members. These have the power to put the contribution paid to a third party organisation on a separate line of their invoices, on the condition that their initiative arises from a decision taken by each, freely and individually.

The above-mentioned agreements specify to this end for the categories of batteries and accumulators that they are aimed at:

- a) The objectives that the co-contractors set as regards the collection, reprocessing and disposal of the used batteries and accumulators;
- b) The respective responsibilities of the co-contractors as regards both the conditions under which the operations for collection, reprocessing and disposal of these batteries and accumulators are carried out and the methods of financing these operations;

- c) The means implemented with a view to informing domestic users of the dangers resulting from mixing used batteries and accumulators with other domestic waste and to obtain their involvement;

Article 10 – The agreements referred to in Article 9 are, before being implemented, subject to approval from the respective Ministers for Economic Affairs, Trade, Industry and the Environment. If the administration fails to notify its refusal to approve them within a period of two months as from the notification to the competent authorities, these agreements are regarded as approved.

Article 11 - The natural and legal persons responsible for the disposal of the used batteries and accumulators in accordance with the present decree are obliged to send the minister for the environment the information relating to the marketing, collection, reprocessing and disposal of all the used batteries and accumulators.

An order made jointly by the Ministers for the Environment, Economic Affairs, Industry, Trade and Craft Industries establishes the nature and the methods for the communication of this information.

### SECTION III

#### PENALTIES

Article 12 – I – The following acts are subject to the fine stipulated for contravening the 3<sup>rd</sup> Class:

1 The marketing of the batteries or accumulators defined in Article 1 and of the batteries and accumulators defined in Article 2, without conforming to the requirements for marking as stipulated in Article 3;

2 For the persons referred to in Articles 6, 7 and 8 the discarding in the natural environment or disposal of the used batteries and accumulators or their components in contravention of the provisions of Articles 4 and 5;

3 For the persons referred to in Articles 6, 7 and 8 the act of not proceeding with or arranging to proceed with the operations for the return, collection, reprocessing or disposal of the batteries and accumulators in accordance with the provisions defined in the above-mentioned articles;

4 The failure to communicate the information stipulated in Article 11.

II –Legal persons may be declared liable in criminal law, according to the conditions of Article 121.2 of the Penal Code, for contraventions defined in the present article. They may incur a fine, in accordance with the methods provided for by Article 131-*[illegible]* of the Penal Code.

III – In the event of the contravention defined in 1 (I) above, the natural or legal persons also incur confiscation of the item which served or was intended to commit the contravention or of the item that produced it.

## SECTION IV

### OTHER PROVISIONS

Article 13 – The following are applicable as from the date the present decree comes into force:

The provisions of Sections I and III;

The provisions of Section II for:

1 All accumulators;

2 All batteries containing:

- more than 25 milligrams of mercury per element;
- more than 0.025% in weight of mercury, if manganese alkaline batteries;
- more than 0.4% in weight of lead.

The provisions of Section II shall be applicable to all batteries as from 1 January 2001.

Batteries which, although not having the characteristics described in the second paragraph of the present article, have been collected by 2001 must be taken back by the legal or natural persons referred to in Articles 7 and 8 and must be stored in accordance with current regulations to be treated according to the conditions of Article 5.

Article 14 – Decree No. 97-1328 of 30 December 1997 relating to the marketing of batteries and accumulators containing certain hazardous materials and their disposal is revoked.

Article 15 – With the exception of Article 10, the present decree may be amended by Prime Minister's Decree taken in Council of State.

Article 16 – The Prime Minister, the Keeper of the Seals, Minister for Justice, the Minister for Economic Affairs, Economic Affairs and Industry, the Minister for Regional Planning and the Environment, the Secretary of State for Small and Medium Sized Businesses, Trade and Craft and the Secretary of State for Industry are responsible, each in their specific capacity, for the execution of the present decree, which shall be published in the '*Journal officiel de la République française*'.

Drafted in Paris, 12 May 1999

By the President of the Republic:	Jacques Chirac
The Prime Minister:	Lionel Jospin
The Minister for Regional Planning and the Environment:	Dominique Voynet
The Keeper of the Seals, Minister for Justice:	Elisabeth Guigon
The Minister for Economic Affairs, Finance and Industry:	Dominique Strauss-Kahn

The Secretary of State for Small and  
Medium-Sized Businesses, Trade  
and Craft:

Marylise Lebranchu

The Secretary of State for Industry: Christian Pierret

## ANNEX

(Article 3 of the Decree)

The system for marking the batteries and accumulators subject to the provisions of the present decree comprise the following symbols:

- the first, comprising a wheeled bin marked with a cross according to the two diagrams below, indicating that the products should be collected separately:

[*Diagram*]

[*Diagram*]

- the second is to show the chemical make-up of the battery or accumulator:
  - for batteries, the presence of mercury is indicated by the marking of the chemical symbol for mercury: Hg;
  - for cadmium accumulators, the presence of cadmium is indicated by the marking of the chemical symbol for cadmium: Cd;
  - for lead accumulators, the presence of lead is indicated by the marking of the chemical symbol for lead: Pb.

The symbol comprising a wheeled bin marked with a cross covers 3% of the surface of the largest side of the battery or the accumulator with maximum dimensions of 0.5cm x 5cm. For cylindrical batteries, the symbol must cover 3% of half the surface area of the cylinder, with the maximum dimensions of 5cm x 5cm.

If the dimensions of the battery or accumulator are such that the surface of the symbol is less than 0.5cm x 0.5cm, marking on the battery or accumulator is not required, but a symbol 1cm x 1cm is printed on the packaging.

The chemical make-up is printed below the symbol comprising the wheeled bin marked with a cross. Its dimensions are also at least a quarter of the surface of the symbol comprising the wheeled bin marked with a cross.

The symbols must be printed visibly, legibly and indelibly.