

## MINISTRY OF THE PRESIDENCY

4215 ROYAL DECREE No. 45<sup>1996</sup> of 19 January 199~~5~~<sup>6</sup> governing various aspects related to batteries and accumulators containing certain hazardous materials.

The unregulated disposal of certain spent batteries and accumulators can cause serious damage to the environment as a result of the amount of hazardous substances these batteries and accumulators contain; this makes it necessary to establish measures to ensure that the said batteries and accumulators are labelled appropriately in order to keep consumers correctly informed and that they are collected separately in order to assist recycling and prevent the unnecessary use of raw materials.

Under Community law, EEC Council Directive No. 157 of 18 March 1991 establishes a set of measures which encourages the regulated valorisation and disposal of spent batteries and accumulators containing certain hazardous materials.

In order to achieve these objectives, this Directive, in addition to prohibiting the marketing of some alkaline manganese batteries containing a certain quantity of mercury, obliges Member States to organise an efficient system for the selective collection of spent batteries and accumulators, adopt labelling standards, establish measures to ensure that the batteries and accumulators may only be fitted into equipment from which they may be removed easily, draw up plans for this purpose and inform consumers of the aforementioned points and the risks of the unregulated disposal of spent batteries and accumulators.

In addition, EEC Commission Directive No. 86 of 4 October 1993 adapted EEC Directive No. 157 of 1991 to the technical advances [which had been made] and, in accordance with the provisions of Article 4 of this latter, set out the formalities of the labelling system for the batteries and accumulators considered in the said Directive.

Under national legislation, Article 1.1 of Law No. 20 of 14 May 1988, the fundamental law on toxic and hazardous waste, stipulates that it aims to establish the basic legal system necessary to guarantee the protection of human health and the environment in the production and management of toxic and hazardous waste as well as the preservation of natural resources; at the same time the Annexe of the said Law describes mercury, cadmium and lead as toxic and hazardous substances.

In concert with this and in accordance with the provisions of Article 51 of the Constitution, Article 13 of Law No. 26 of 19 July 1984, which is the General Law for the Protection of Consumers and Users, determines that products available to consumers and users shall include truthful, effective and adequate information on their essential characteristics and that the concrete requirements on this matter shall be established, inter alia, in the special rules and regulations applicable in each case. Likewise, Article 39 of the said Law stipulates that the State is responsible for promoting and implementing the protection and defence of consumers and users by means of the approval of regulations on labelling, presentation and advertising and other provisions to be applied generally throughout the national territory.

However, Article 9.1 of Industry Law No. 21 of 16 July 1992 states that industrial safety aims to prevent and limit risks to the environment resulting from the production, use and consumption, storage and disposal of industrial products.

In relation to the aforementioned Community Directives, the Order of 30 December of 1993, amending Annexe 1 of Royal Decree No. 1408 of 10 November 1989 which imposes limits on the marketing and use of certain hazardous substances and preparations, entailed the incorporation into Spanish law of Article 3 of EEC Directive No. 157 of 1991 relating to the ban on the marketing of some alkaline manganese accumulators containing a specific quantity of mercury.

In accordance with the provisions of the said Community regulations, this Royal Decree aims to facilitate the regulated valorisation or disposal of spent batteries and accumulators via a set of measures such as the organisation of efficient systems for selective collection, an obligation requiring that batteries and accumulators may only be fitted into equipment from which they may be removed easily, the imposition of labelling standards and the drafting of plans to this end, all supplemented by a requirement that consumers must be informed of the aforesaid measures.

In this way, this Royal Decree completes the incorporation of EEC Directive No. 157 of 1991 into our legislation and, likewise, incorporates EEC Directive No. 86 of 1993 into national law in accordance with the provisions of Article 149.1.23~~[illegible]~~ of the Constitution.

The Autonomous Communities [regional authorities in Spain], sectors involved and the Consumers and Users Council were all consulted in the drafting of this Royal Decree.

By virtue thereof and at the proposal of the Ministers for Public Works, Transport and the Environment, Industry and Energy, Health and Consumer Affairs and Trade and Tourism, in accordance with the Council of State and following the resolution of the Council of Ministers at the meeting of 18 January 1996,

I hereby lay down the following:

Article 1      Aim

This Royal Decree aims to set out measures to facilitate the regulated valorisation or disposal of the spent batteries and accumulators listed in Annexe 1.

Article 2      Definitions

For the purposes of the provisions of this Royal Decree:

a) Battery or accumulator means a source of electrical energy obtained by the direct transformation of chemical energy constituted by one or several primary elements (which are not rechargeable) or secondary elements (which are rechargeable) included in the list in Annexe 1.

b) Spent battery and accumulator mean batteries or accumulators which cannot be reused and are to be valorised or disposed of.

c) Disposal means the operations provided for in Annexe 1, Paragraph 2.A of Table 2 of Royal Decree No. [illegible-?8]33 of 20 July 1988 approving the Regulation for the Execution of fundamental Law No. 20 of 14 May 1986 on toxic and hazardous waste provided that they are applicable to batteries and accumulators.

d) Valorisation means the operations provided for in Annexe 1, Paragraph 2.B of Table 2 of Royal Decree No. 833 of 1988 provided that they are applicable to batteries and accumulators;

e) Collection means the gathering, selection or regrouping of the spent batteries and accumulators.

Article 3 Measures required in relation to the items of equipment which incorporate batteries or accumulators.

The marketing of equipment from which the user may not remove spent batteries or accumulators easily, after their use, is prohibited in Spain.

The items of equipment indicated in Annexe 2 of this Royal Decree form an exception to the previous obligation, in which case they must carry with them instructions for use informing the user that, owing to their content, the batteries or accumulators are harmful to the environment and indicating how to dispose of them safely.

#### Article 4 Labelling

1. Batteries and accumulators manufactured in Spain or imported from a third country, excluding those of the European Free Trade Association which have signed the Agreement on the European Economic Space, must be labelled with two symbols, one indicating its separate collection and the other relating to the content of heavy metals, in accordance with the specifications contained in Annexe 3.

2. The manufacturer, importer or representative thereof established in Spain or, in the absence thereof, the Marketing Manager for the batteries or accumulators in the national territory, shall be responsible for [fulfilling] the obligations established in this Article and shall also elect to use one of the two symbols proposed in Paragraph 1 of Annexe 3 to indicate the separate collection of the spent batteries and accumulators.

#### Article 5 Selective collection of spent batteries and accumulators

The competent bodies of the Autonomous Communities and the local entities under the terms established, where appropriate, in the legislation of the corresponding Autonomous Communities, shall adopt the measures required to ensure that the spent batteries and accumulators are collected separately for the subsequent valorisation or disposal thereof.

## Article 6 Plans

1. The competent bodies of the Autonomous Communities and the local entities under the terms established, where appropriate, in the legislation of the corresponding Autonomous Communities, shall draw up plans aiming to achieve the following objectives:

- a) Reduction of the content of heavy metals in batteries and accumulators;
- b) Promotion of the marketing of batteries and accumulators containing lower quantities of hazardous materials or contaminants.
- c) Progressive reduction of the quantity of spent batteries and accumulators referred to in Annexe 1 of this Royal Decree, in domestic waste.
- d) Promotion of the investigation into the reduction of the content of hazardous materials and the use of replacement materials which are less contaminating in batteries and accumulators, as well as into the systems for recycling these latter.
- e) Separate disposal of the spent batteries and accumulators included in Annexe 1.

2. The plans referred to in this Article shall be drawn up during a period of four years; once this has been completed they shall be revised and updated regularly at least every four years bearing in mind, in particular, technical advances, the economic situation and the state of the environment.

3. These plans and any amendments thereto as well as the measures which have been adopted by virtue of the provisions of the previous Article and Article 8, shall be remitted to the Secretary of State for the Environment and Housing of the Ministry of Public Works, Transport and the Environment by the Autonomous Communities, for the purposes of their communication to the European Commission via the relevant channel.

## Article 7 Consumer information

The competent bodies of the Autonomous Communities and the local entities under the terms established, where appropriate, in the legislation of the corresponding Autonomous Communities, shall adopt the measures required to inform consumers of:

- a) The risks entailed by the unregulated disposal of spent batteries and accumulators.
- b) The labelling of batteries and accumulators.
- c) The method of removing spent batteries and accumulators from equipment in which they are fitted in a fixed manner and, in general, the content of the instructions for use which the items of equipment indicated in Annexe 2 must carry with them.

## Article 8 Financial instruments

Within the sphere of their respective responsibilities and following consultation with the sectors involved, the public administrations may establish financial incentives to promote the recycling of spent batteries and accumulators, in accordance with the valid ecological and economic criteria and avoiding any distortion of their [field of] competence.

## Article 9 Violations and sanctions

1. The non-fulfilment of the obligations imposed by Article 3 of this Royal Decree and the non-compliance with the labelling requirements set out in Article 4 shall be considered, respectively, a grave violation of conformity with the provisions in Section a) of Paragraph 2 of Article 31 of Industry Law No. 21 of 16 July 1992 and a violation in respect of the protection of consumers and users, in accordance with the provisions of the current legislation on the said matter, and shall be punished according to the provisions in the said legislation.

2. In the cases referred to in the aforementioned paragraph, the exercise of the power to impose sanctions shall comply with the provisions of Law No. 21 of 1992, Law No. 26 of 1984 and Law No. 30 of 26 November 1992, on the Legal Systems of Public Administrations and Common Administrative Procedure.

Single transitory provision Extension for marketing of batteries, accumulators and equipment.

Batteries and accumulators as well as the items of equipment indicated in Paragraph 1 of Article 3, manufactured in Spain or imported prior to the date of the entry into force of this Royal Decree may be marketed during the six months following the said date without the obligations established in Article 4 and Paragraph 1 of Article 3, respectively, being applicable thereto.

### Final provision No.1 Constitutional basis

This Royal Decree is issued in accordance with the provisions of Article 149.1.23 of the Constitution.

Final provision No. 2 Implementation authorisation

The Ministers for Public Works, Transport and the Environment, Industry and Energy, Health and Consumer Affairs and Trade and Tourism are authorised to issue the provisions required for the application and implementation of the provisions in this Royal Decree within the sphere of their respective responsibilities and, in particular, to adapt the Annexes thereof to the amendments which are introduced by Community regulations, where appropriate.

Final provision No. 3 Entry into force.

This Royal Decree shall enter into force on the day following its publication in the Official State Gazette.

Given in Madrid on 19 January 1996.

Juan Carlos R.

Minister for the Presidency  
Alfredo Perez RubalCaba

#### Annexe 1

Batteries and accumulators included within the sphere of application of this Royal Decree

1. Batteries and accumulators containing:
  - a) More than 25 mg of mercury per element with the exception of alkaline manganese accumulators.
  - b) More than 0.025 per cent in weight of cadmium
  - d) More than 0.4 per cent in weight of lead.
2. Alkaline manganese batteries containing more than 0.025 per cent in weight of mercury.

#### Annexe 2

Items of equipment excluded from the obligation established in Article 3

1. Items of equipment into which batteries are welded or fixed in a permanent manner by another method with contact points to guarantee continuous electric power for intensive industrial purposes and preserve the memory and data of computer and office automation equipment when the use of the batteries and accumulators referred to in Annexe 3 is technically necessary.

2. Scientific and professional<sup>1</sup> equipment which incorporates reference batteries, as well as medical equipment intended to maintain vital functions and for pacemakers when they include batteries and accumulators and their continuous operation is critical and when the removal of the batteries and accumulators may only be carried out by qualified staff.

<sup>1</sup> Trans. note: this could mean 'used in a profession' but 'profesional' can also mean 'occupational'

3. Portable equipment, when the replacement of the batteries by unqualified staff might be dangerous to the user or affect the operation of the equipment.

4. Professional equipment which incorporates batteries and is intended to be used in highly sensitive environments as in the presence of volatile substances, for example.

### Annexe 3

System of labelling batteries and accumulators in accordance with the provisions of Article 4. Symbols and their characteristics.

1. The symbol which indicates the separate collection of the batteries and accumulators shall be formed by a dustbin covered by a cross in accordance with one of the following graphics: *[See original diagrams]*

The symbol chosen in accordance with that considered in this paragraph must cover 3 per cent of the surface area of the largest side of the battery or accumulator with a maximum dimension of 5 cm x 5 cm. On cylindrical batteries, the symbol must cover 3 per cent of half the surface area and shall have a maximum size of 5 cm x [?]by 5 cm.

If, owing to the dimension of the battery or accumulator, the surface area of the symbol is less than 0.5 cm x 0.5 cm, the labelling of the battery or accumulator shall not be required, but a symbol of 1 x 1 on the packaging shall be necessary.

2. The symbol relating to the content of heavy metals shall be formed by a corresponding chemical symbol of the metal be it Mg, Cd or Pb according to the categories of batteries or accumulators which are described in Annexe 1 of this Royal Decree.

The symbol considered in this paragraph shall appear below the symbol considered in the previous paragraph and it shall be at least equal to one quarter of the surface area of the said symbol in size.

3. The symbols considered in the previous paragraphs shall be visible, legible and indelible.