

---

STATUTORY INSTRUMENTS

---

**DRAFT**

**2004 No.**

**ENVIRONMENTAL PROTECTION**

**THE RESTRICTION OF THE USE OF CERTAIN HAZARDOUS  
SUBSTANCES IN ELECTRICAL AND ELECTRONIC EQUIPMENT  
REGULATIONS 2004**

<i>Made</i> - - - -	2004
<i>Laid before Parliament</i>	2004
<i>Coming into force</i> - -	2004

The Secretary of State, being a Minister designated <sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972 <sup>(b)</sup> in respect of measures relating to the restriction of the use of hazardous substances in electrical and electronic equipment, in exercise of the powers conferred on her by that section, hereby makes the following Regulations:

GENERAL

**Citation and commencement**

1. These Regulations may be cited as the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2004 and shall come into force on 2004.

**Interpretation**

2.- (1) In these Regulations-

(a) “the Commission” means the Commission of the European Communities;

(b) “the Directive” means Directive 2002/95/EC of the European Parliament and of the Council on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment<sup>(c)</sup> ;

---

(a) S.I. 2004/706 and S.I. 2003/2901

(b) 1972 c.69

(c) O.J. No. L 37, 13.2.2003 p. 19

- (c) the “EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2<sup>nd</sup> May 1992<sup>(a)</sup>;
- (d) “electrical and electronic equipment” means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields falling under categories 1 to 7 and 10 set out in Annex 1A to Directive 2002/96/EC on waste electrical and electronic equipment <sup>(b)</sup> and designed for use with a voltage rating not exceeding 1,000 volts for alternating current and 1,500 volts for direct current;
- (e) “enforcement authority” shall be construed in accordance with regulation 11;
- (f) “hazardous substances” means lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) or polybrominated diphenyl ethers (PBDE) in quantities exceeding the maximum concentration value levels established under the Directive and set out in Regulation 8;
- (g) “member State” means a State which is a contracting party to the EEA Agreement;
- (h) “producer” means any person who, irrespective of the selling technique used, including by means of distance communication according to Directive 97/7/EC <sup>(c)</sup> on the protection of consumers in respect of distance contracts:
- (i) manufactures and sells electrical and electronic equipment under his own brand;
  - (ii) resells under his own brand equipment produced by other suppliers, and for these purposes a reseller shall not be regarded as the producer if the brand of the producer appears on the equipment, as provided for in (i); or
  - (iii) imports or exports electrical and electronic equipment on a professional basis into a member State.

Whoever exclusively provides financing under or pursuant to any finance agreements shall not be deemed a producer unless he also acts as a producer within the meaning of sub-points (i) to (iii)

## APPLICATION

### **Electrical and electronic equipment to which these Regulations apply**

**3.-** (1) These Regulations apply to electrical and electronic equipment that is within the categories set out in Schedule 1 and to electric light bulbs and luminaires in households.

---

<sup>(a)</sup> The application of the Directive was extended to the EEA from 8<sup>th</sup> November 2003 by virtue of Decision 147/2003 of the EEA Joint Committee which inserted a reference to the Decision after point 12p in Chapter XV of Annex II to the EEA Agreement.

<sup>(b)</sup> O.J. NoL37, 13.2.2003, p 24

<sup>(c)</sup> O.J. No. L144, 4.6.1997, p 19 as amended by Directive 2002/65/EC O.J. L 271, 9.10.2002, p 16

(2) A list of products that fall under the categories in Schedule 1 is set out in Schedule 2.

**Electrical and electronic equipment to which these Regulations do not apply**

4.- (1) These Regulations shall not apply to spare parts for the repair, or to the reuse, of electrical and electronic equipment placed on the market before 1 July 2006.

(2) These Regulations shall not apply to the applications of lead, mercury, cadmium and hexavalent chromium listed in Schedule 3.

5.- These Regulations shall not apply to the use of hazardous substances in electrical and electronic equipment which complies with any other Act or enactment with which such equipment would have been required to comply for it to be lawfully placed on the market in the United Kingdom on or before 1 July 2006.

**Existing legislation**

6.- Nothing in these Regulations shall affect the application of existing Community legislation and relevant national legislation, in particular as regards safety and health requirements and specific Community waste management legislation.

GENERAL REQUIREMENTS

**Prohibition on hazardous substances**

7.- [Subject to regulation 8,] a producer shall ensure that new electrical and electronic equipment placed on the market on or after 1 July 2006 shall not contain hazardous substances.

**Permissible maximum concentration values of hazardous substances present in electrical and electronic equipment.**

[8.- (1) In any new electrical and electronic equipment there shall not be exceeded :

- (a) a maximum concentration value of 0.1 % by weight in homogenous materials for lead;
- (b) a maximum concentration value of 0.1% by weight in homogenous materials for hexavalent chromium;
- (c) a maximum concentration value of 0.1% by weight in homogenous materials for mercury ;
- (d) a maximum concentration value of 0.1% by weight in homogenous materials for polybrominated biphenyls;
- (e) a maximum concentration value of 0.1% by weight in homogenous materials for polybrominated diphenyl ethers; and
- (f) a maximum concentration value of 0.01% by weight in homogenous materials for cadmium.]

**Requirements for technical documentation**

**9.-** A producer shall, at the request of the enforcement authority, submit within 28 days of the date of the request, technical documents or other information showing that electrical and electronic equipment placed on the market complies with the requirements of regulations 7 [and 8].

**10.-** A producer shall ensure that he retains the technical documents or other information referred to in Regulation 9 for a period of four years from the date that he places the electrical and electronic equipment on the market.

## ENFORCEMENT

### **Enforcement authority**

**11.-** (1) It shall be the duty of the Secretary of State to enforce these Regulations.

(2) The enforcement authority shall not commence proceedings for an offence in Scotland.

### **Compliance notice**

**12.-** (1) Where the enforcement authority has reasonable grounds for suspecting that any or all of the requirements of the following regulations have not been complied with

- (a) regulation 7;
- (b) regulation 9; and
- (c) regulation 10

it may serve a compliance notice on the producer.

(2) A compliance notice which is served under paragraph (1) shall –

(a) state that the enforcement authority suspects a requirement of the Regulations has been contravened;

(b) specify the reason it is suspected that a requirement of the Regulations has been contravened and give particulars thereof;

(c) require the producer to whom notice is given –

(i) to comply with the requirements of the Regulations where it is suspected that he is in breach; or

(ii) to provide evidence to the satisfaction of the enforcement authority that the requirements of the Regulations have been met;

(d) specify the period of time within which the producer must comply with the notice issued by the enforcement authority; and

(e) warn the producer that unless the requirement is complied with, or satisfactory evidence has been provided within the period specified in the notice, he may be prosecuted under regulation 15.

### **Test purchases**

**13.-** (1) The enforcement authority shall have the power, for the purpose of ascertaining whether the requirements of regulations 7 [and 8] have been met, to make, or to authorise an officer of the enforcement authority to make, any purchase of electrical and electronic equipment.

(2) Where

(a) any electrical and electronic equipment purchased under this regulation by or on behalf of the enforcement authority is submitted to a test; and

(b) the test leads to the bringing of proceedings for an offence under regulation 15 below and

(c) the enforcement authority is requested to do so and it is practicable for the enforcement authority to comply with the request,

the authority shall allow the person from whom the electrical and electronic equipment was purchased or any person who is a party to the proceedings or has an interest in electrical and electronic equipment to which the notice relates to have the electrical and electronic equipment tested.

### **Power of Commissioners of Customs and Excise to disclose information**

**14-** (1) If they think it appropriate to do so for the purpose of facilitating the exercise by any person to whom paragraph (2) below applies of any functions conferred on that person by or under these Regulations, the Commissioners of Customs and Excise may authorise the disclosure to that person of any information obtained for the purpose of the exercise by the Commissioners of their functions in relation to imported electrical and electronic equipment.

(2) This paragraph applies to the enforcement authority and any officer of the enforcement authority.

(3) A disclosure of information made to any person under paragraph (1) above shall be made in such manner as may be directed by the Commissioners of Customs and Excise and may be made through such persons acting on behalf of such person as may be so directed.

(4) Information may be disclosed to a person under paragraph (1) above whether or not the disclosure of the information has been requested by or on behalf of that person.

### **Offences**

**15.** Any person who contravenes or fails to comply with a requirement of

(a) regulation 7 [and 8];

(b) regulation 9; or

(c) regulation 10.

shall be guilty of an offence.

### **Penalties**

**16.-** (1) Any person who is guilty of an offence under regulation 15 (a) shall be liable

-

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(2) Any person who is guilty of an offence under regulation 15 (b) or (c) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Commencement of proceedings**

**17. –** In England and Wales a magistrates' court may try an information in relation to an offence committed under these Regulations if the information is laid within twelve months from the time when the offence is committed, and in Scotland summary proceedings for such an offence may be begun at any time within twelve months from the time when the offence is committed.

### **Defence of due diligence**

**18. –** (1) Subject to the following provisions of this regulation, in proceedings against any person for an offence under regulation 15 it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against a person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due –

- (a) to the act or default of another; or
  - (b) to reliance on information given by another;
- the person shall not, without leave of the court, be entitled to rely on the defence unless, not later than 7 clear days before the hearing of the proceedings (or, in Scotland, the trial diet), he has served a notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) It is hereby declared that a person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular –

- (a) to the steps which he took and those which might reasonably have been taken, for the purpose of verifying the information; and

(b) to whether he had any reason to disbelieve the information.

### **Liability of person other than the principal offender**

**19.-** (1) Where the commission by any person of an offence under regulation 15 is due to an act or default committed by some other person in the course of any business of his, the other person shall be guilty of the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of any body corporate are managed by its members, paragraph (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) In this regulation, references to a “body corporate” include references to a partnership in Scotland and, in relation to such partnership, any reference to a director, manager, secretary or other similar officer of a body corporate is a reference to a partner.

### **Service of documents etc**

**20. –** (1) Any document required or authorised by virtue of these Regulations to be served on a person may be so served –

- (a) by delivering it to him or by leaving it at his proper address or by sending it by post to him at that address; or
- (b) if a person is a body corporate, by serving it in accordance with sub-paragraph (a) above on the secretary or clerk of that body; or
- (c) if the person is a partnership, by serving it in accordance with that sub-paragraph on a partner or on a person having control or management of the partnership business.

(2) For the purposes of paragraph (1) above, and for the purposes of section 7 of the Interpretation Act 1978<sup>(a)</sup> (which relates to the service of documents by post) in its application to that paragraph, the proper address of any person on whom a document is to be served by virtue of these Regulations shall be his last known address except that –

- (a) in the case of service on a body corporate or its secretary or clerk, it shall be the address of the registered or principal office of the body corporate;
- (b) in the case of service on a partnership or a partner or a person having the control

---

<sup>(a)</sup> 1978 c.30

or management of a partnership business, it shall be the principal office of the partnership;

and for the purposes of this paragraph the principle office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom is its principal office within the United Kingdom.

**Minister of State for Energy, E-Commerce and Postal Services  
Department of Trade and Industry**

1. Large household appliances
2. Small household appliances
3. IT and telecommunications equipment
4. Consumer equipment
5. Lighting equipment
6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)
7. Toys, leisure and sports equipment
8. Automatic dispensers

**SCHEDULE 2**      Regulation 3(2)

List of products which should be taken into account for the purposes of these Regulations and which fall under the categories in Schedule 1

1. Large household appliances
  - Large cooling appliances
    - Refrigerators
    - Freezers
    - Other large appliances used for refrigeration, conservation and storage of food
  - Washing machines
  - Clothes dryers
  - Dish washing machines
  - Cooking
    - Electric stoves
    - Electric hot plates
    - Microwaves
    - Other large appliances for cooking and other processing of food
  - Electric heating appliances
    - Electric radiators
    - Other large appliances for heating rooms, beds, seating furniture
  - Electric fans
  - Air conditioner appliances
  - Other fanning, exhaust ventilation and conditioning equipment
2. Small household appliances
  - Vacuum cleaners
  - Carpet sweepers
  - Other appliances for cleaning
  - Appliances used for sewing, knitting, weaving and other processing for textiles
  - Irons and other appliances for ironing, mangling and other care of clothing
  - Toasters
  - Fryers
  - Grinders, coffee machines and equipment for opening or sealing containers or packages
  - Electric knives
  - Appliances for hair-cutting, hair-drying, tooth brushing, shaving, massage and other body care appliances

Clocks, watches and equipment for the purpose of measuring, indicating or registering time  
Scales

### 3.IT and telecommunications equipment

Centralised data processing:

Mainframes  
Minicomputers  
Printer units

Personal computing:

Personal computers (CPU, mouse, screen and keyboard included)  
Laptop computers (CPU, mouse, screen and keyboard included)  
Notebook computers  
Notepad computers  
Printers

Copying equipment

Electrical and electronic typewriters

Pocket and desk calculators

And other products and equipment for the collection, storage, processing, presentation or communication of information by electronic means

User terminals and systems

Facsimile

Telex

Telephones

Pay telephones

Cordless telephones

Cellular telephones

Answering systems

And other products or equipment of transmitting sound, images or other information by telecommunications

### 4. Consumer equipment

Radio sets

Television sets

Videocameras

Video recorders

Hi-fi recorders

Audio amplifiers

Musical instruments

And other products or equipment for the purpose of recording or reproducing sound or images, including signals or other technologies for the distribution of sound and image than by telecommunications

### 5. Lighting equipment

Luminaires for fluorescent lamps.

Straight fluorescent lamps

Compact fluorescent lamps

High intensity discharge lamps, including pressure sodium lamps and metal halide lamps

Low pressure sodium lamps

Other lighting or equipment for the purpose of spreading or controlling light.

6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)

Drills

Saws

Sewing machines

Equipment for turning, milling, sanding, grinding, sawing, cutting, shearing, drilling, making holes, punching, folding, bending or similar processing of wood, metal and other materials

Tools for riveting, nailing or screwing or removing rivets, nails, screws or similar uses

Tools for welding, soldering or similar use

Equipment for spraying, spreading, dispersing or other treatment of liquid or gaseous substances by other means

Tools for mowing or other gardening activities

7. Toys, leisure and sports equipment

Electric trains or car racing sets

Hand-held video game consoles

Video games

Computers for biking, diving, running, rowing etc

Sports equipment with electric or electronic components

Coin slot machines

8. Automatic dispensers

Automatic dispensers for hot drinks

Automatic dispensers for hot or cold bottles or cans

Automatic dispensers for solid products

Automatic dispensers for money

All appliances which deliver automatically all kinds of products

### **SCHEDULE 3** Regulation 4 (2)

1. Mercury in compact fluorescent lamps not exceeding 5 mg per lamp.

2. Mercury in straight fluorescent lamps for general purposes not exceeding

- halophosphate 10 mg

- triphosphate with normal lifetime 5 mg

- triphosphate with long lifetime 8 mg

3. Mercury in straight fluorescent lamps for special purposes.

4. Mercury in other lamps not specifically mentioned in this Schedule.

5. Lead in glass of cathode ray tubes, electronic components and fluorescent tubes.
6. Lead as an alloying element in steel containing up to 0,35 % lead by weight, aluminium containing up to 0,4% lead by weight and as a copper alloy containing up to 4% lead by weight.
7. - Lead in high melting temperature type solders (i.e. tin-lead solder alloys containing more than 85% lead),
  - lead in solders for servers, storage and storage array systems (exemption granted until 2010),
  - lead in solders for network infrastructure equipment for switching, signaling, transmission as well as network management for telecommunication,
  - lead in electronic ceramic parts (eg. piezoelectronic devices).
8. Cadmium plating except for applications banned under Directive 91/338/EEC<sup>(a)</sup> amending Directive 76/769/EEC<sup>(b)</sup> relating to restrictions on the marketing and use of certain dangerous substance and preparations.
9. Hexavalent chromium as an anti-corrosion of the carbon steel cooling system in absorption refrigerators.

## **EXPLANATORY NOTE**

---

<sup>(a)</sup> OJ No. L 186, 12.7.1991, p.59

<sup>(b)</sup> OJ No. L 262, 27.9.1976, p.201



9SS. Copies of these documents have been placed in the libraries of both Houses of Parliament.