

SPAIN / 3242

ROYAL DECREE 208/2005, 25th February, on electrical and electronic equipment and management of its waste.

(unofficial translation)

Directive 2002/96/CE of the European Parliament and the Council, of the 27th January 2003, on waste electrical and electronic equipment (WEEE), amended in article 9 thereof by Directive 2003/108/CE of the European Parliament and the Council, of 8th December 2003, has as its objectives: to reduce the amount of this type of waste and the hazardousness of its components; to encourage the reuse of equipment and the valorisation of its waste; and to specify what constitutes appropriate management, by attempting to improve the efficiency of environmental protection. In order to achieve these objectives, it establishes a series of rules applicable to the manufacture of a product, and other rules relative to its correct environmental management when it becomes a waste product.

At the same time, it is hoped to improve the environmental approach of all the agencies involved in the life cycle of electrical or electronic appliances (EEE), for example, producers, distributors, users, and in particular, of those agencies directly involved in the management of waste derived from these appliances.

The present Royal Decree, which incorporates into national law the above-mentioned directives, is promulgated under the aegis of provisions set out in articles 1 and 7 of Law 10/1998, of the 21st April, on Waste, which enables the Government to put in place particular clauses relative to the production and management of certain types of waste, in such a way as to facilitate its reuse, recycling and valorisation.

In accordance with the above, this royal decree establishes prevention measures concerning the design and manufacture phase of electrical or electronic appliances, with special emphasis on limiting the inclusion within them of hazardous substances. This incorporates, therefore, provisions set out in Directive 2002/95/CE of the European Parliament of the Council of the 27th January 2003, on restrictions on the use of certain hazardous substances in electrical or electronic appliances (RoHS), and also allows, under the terms of community law, a period of adaptation according to which such restrictions will finally become compulsory for appliances placed on the market as from 1st July 2006.

In addition, the present decree specifies how to manage electrical or electronic appliances in order to minimise the environmental impact of this type of waste, with special reference to waste deriving from private households, which forms the major percentage of waste arising from these appliances.

First of all, the Decree establishes that the final owners will be able to return appliances, at no cost to themselves, to distributors or to local authorities. These must temporarily receive any such waste deriving from private households and, subject to prior arrangement, any that has been used professionally. Subsequently, producers must take charge of this waste and its appropriate management. If producers do not carry out this management on their own account, they must deliver the waste to authorised dealers, or participate in integrated management systems in which different economic agencies can intervene.

At the same time, the royal decree gives details regarding operations relating to waste treatment, which must achieve the best technical level available, within the terms of Law 16/2002, of 1st July, on integrated prevention and control of pollution. The decree also establishes the legal framework depending on the nature of the operations, and the hazardousness of any components that become subject to such management.

In the spirit of "the polluter pays" principle, the producer must bear the costs of management, including collection from temporary storage facilities set up by local authorities or from distributors, of any waste generated after use of electrical or electronic equipment (EEE) placed on the market on and after 13th August 2005. Also covered is the financing of management costs of waste deriving from appliances placed on the market before that date, depending on whether they derive from private households or from professional users.

Producers of EEE must sign up to, or be signed up to, the Register of industrial establishments constituted under the aegis of Law 21/1992 of 16th July on Industry, and of the

Regulation of the Register of industrial establishments on a national level, approved by Royal Decree 697/1995, of 28th April.

In addition, any equipment placed on the market on and after 13th August 2005 must bear a producer's identification mark which also indicates when it was placed on the market after the said date, and must also bear a ticket/label, with the symbol contained in annex V, indicating the need for it to be collected separately from other municipal waste and selectively recovered, and according to the European standard that has been developed to this end.

Finally, the decree sets out requirements both for the reception facilities, including provisional ones, and facilities for the treatment of waste electrical or electronic equipment, and specifies the information that the different economic agencies must send to the autonomous communities and to the Register of industrial establishments on a national level, as well as the information that industrial establishments must remit to the Ministry of the Environment, to be sent on to the European Union.

To which end, following the proposal of the Ministers of the Environment, and the Ministers of Industry, Tourism and Commerce, and in accordance with the Council of State, and previous deliberation of the Council of Ministers at their meeting of the 25th February 2005

I HEREBY MAKE THE FOLLOWING PROVISIONS:

Article 1. *Subject and remit of application.*

The objective of the present royal decree is, under the terms of the transposition of Directives 2002/95/CE of the European Parliament and the Council of the 27th January 2003 on restrictions on the use of certain hazardous substances in electrical and electronic equipment; 2002/96/CE of the European parliament and the Council of the 27th January 2003 on waste electrical and electronic equipment; and 2003/108/CE of the European Parliament and the Council, of the 8th December 2003, which amends Directive 2002/96/CE; to establish measures to prevent the generation of waste deriving from electrical and electronic appliances, to reduce their disposal and the hazardousness of their components, as well as to regulate their management in order to improve protection of the environment.

At the same time, it is hoped to improve the environmental approach of all agencies intervening in the life cycle of electrical and electronic equipment, for example; producers, distributors, users, and in particular, the approach of those agencies directly involved in the management of waste derived from these appliances. The present royal decree applies to all electrical and electronic appliances that feature in the categories listed in annex I, and excludes any which are defined as belonging to another type of appliance not included within its remit of application, and excludes equipment defined as specifically military in character, and necessary for national security.

Article 2. *Definitions.*

For the purposes of the present royal decree, the following terms will be understood as follows:

a) Electrical and electronic equipment: equipment which requires electrical current or electro-magnetic fields to function, destined for use with a rated voltage not exceeding 1,000 V alternating current, and 1,500 V direct current, and appliances required to generate, transmit and measure currents and fields.

b) Waste electrical and electronic equipment: electrical and electronic equipment, its materials, components, consumables and subassemblies that it contains, deriving both from private households and professional use, as from the moment at which they become waste products.

Waste electrical and electronic appliances deriving from private households will be understood to mean those which derive from private dwellings and commercial, industrial, and

institutional sources, and other types that by their nature and quantity are similar to those which derive from private households. This waste will be considered to be urban waste, according to the definition of article 3.b) of Law 10/1998, of 21st April, on Waste.

c) Producers of electrical and electronic appliances: any person who, physically or in law, regardless of the method of sale used, including mail order or electronic sales, manufactures and sells electrical and electronic equipment under his own brand name; places on the market, under his own brand name, equipment manufactured by a third party; and anyone who imports or exports the same to third countries.

The distributor will not be considered to be a producer if the name of the producer appears on the appliance, where the owner of the brand name in question is registered on the Register of industrial establishments on a national level, as referred to in the first additional clause. Neither will anyone be considered a producer either physically or in law who merely finances operations related exclusively to placement of the product on the market, unless acting as a producer according to any of the instances set out in the previous paragraph.

d) Distributor or seller: any person who supplies electrical and electronic equipment, under commercial conditions, to another person or entity which might be the end user of the said product.

e) Treatment: any activity subsequent to the handing in of waste electrical and electronic equipment to a facility for decontamination; dismantling, shredding, valorisation, or preparation for disposal, and any other operation that is carried out with a view to valorisation and/or disposal of waste electrical and electronic equipment.

f) Hazardous substance or preparations: any substance or preparation that is identified as "hazardous" under the terms of the Regulation on the notification of new substances and the classification, packaging and labelling of hazardous substances, approved by Royal Decree 363/1995 of 10th March, or under the Regulation on classification, packaging and labelling of hazardous preparations, approved by Royal Decree 255/2003 of 28th February.

Article 3. *Preventative measures.*

Producers of electrical and electronic appliances, their materials and components must:

a) Design all appliances and the bulbs and lighting equipment of private households, in such a way that they contain no lead, mercury, cadmium, hexavalent chromium, polybromobiphenyl (PBB) or polybrominated diphenyl ether (PBDE), with the exception of, and under the conditions set out in, annex II. This measure will not affect equipment included in categories 8 and 9 of annex I.

At the same time, and with the exceptions set out in the said annex II, in the repair or reuse of electrical and electronic equipment, it will not be permissible to use parts and components manufactured with the substances set out in the previous paragraph.

b) Design and produce equipment so as to facilitate its dismantling, repair and, in particular, its reuse and recycling. With a view to this, any specific characteristics of design or manufacturing process of such equipment that impede its reuse must be avoided, except where the said characteristics present considerable advantages for the environment or the safety of the appliance.

c) Supply managers of waste electrical and electronic equipment, in so far as managers request this, with relevant information for dismantling, which facilitates the identification of different components and materials suitable for reuse and recycling, as well as the whereabouts of hazardous substances and preparations, and the manner in which the respective targets for reuse, recycling and valorisation as required in article 9 can be achieved for each appliance. Such information must be made available, via the medium considered appropriate in each case, within a maximum period of one year of the placing on the market of each type of appliance.

d) Inform users as to the criteria for correct environmental management of waste electrical and electronic equipment deriving from private households, systems of return and their free-of-charge status, and their selective recovery. Information must also be supplied regarding the meaning of the symbol in annex V, and the possible effects on the environment or human

health of hazardous substances that the appliance might contain. This information can be shown either in the instructions for use, the guarantee, or the documentation accompanying the appliance.

Article 4. Handing in of waste electrical and electronic appliances.

1. Users of household electrical and electronic appliances must hand them in, when they have no further use for them, so that they can be correctly managed. Handing-in must, as a minimum requirement, be free of charge to the last owner.

2. To this end, when the user acquires a new product, which must be of an equivalent type or perform the same function as the appliance being disposed of, they can hand it in at the same time as buying a new one from the distributor, who must receive it temporarily, provided it contains its essential components and does not include other waste which does not belong to the appliance. To this end, producers and distributors may reach an agreement on the form and conditions under which this reception will take place, as well as those governing the recovery process carried out according to the contents of section 7.

3. Local authorities of over 5,000 inhabitants must ensure via municipal systems, and within their statutory powers regarding management of urban waste, selective recovery of waste electrical and electronic equipment deriving from households. In municipalities of 5,000 inhabitants or less, or their clusters, this will be carried out under the terms set out in the regulations of their respective Autonomous Communities. In any case, they shall have a sufficient number of facilities distributed in accordance with criteria covering, among others, accessibility, availability and density of population.

4. Producers will establish systems for the selective recovery of waste electrical and electronic equipment that does not derive from private households so that it can be transported to authorised treatment centres. Producers will be responsible for the management of their own waste.

5. By means of voluntary agreements, local authorities or their clusters will be able to receive non-household waste electrical and electronic equipment from private homes, without cost to themselves. Reception will be carried out separately from other municipal waste and according to the manner to be established by the respective municipal regulations.

6. When the recovery of waste covered in sections 2, 3 and 4 implies a risk to the health or safety of personnel, through contamination, its return can be refused. In such cases the final owner of the waste will be responsible for its correct management and the corresponding legislation will be applied to them.

7. Producers will, within the necessary period of time, be obliged to recover and transport waste deriving from their products, whether from distributors or from municipal facilities, to authorised facilities for treatment. In these facilities will take place the sampling and sorting allowing characterisation and classification of the waste, and to each resulting fraction there will be applied the specific relevant legislation.

Producers may carry out this management individually, while guaranteeing that management objectives, as established in this royal decree are met, or by participating in an integrated management system.

Article 5. Treatment of waste electrical and electronic appliances

1. Waste electrical and electronic appliances containing hazardous materials or elements must be decontaminated. Decontamination must include, as a minimum, selective removal of fluids, components, materials, substances and preparations, in accordance with the contents of annex III.

2. Treatment operations must prioritise (in this order): reuse; recycling; energy valorisation, or disposal. Valorisation operations will be subject to the legal requirements set out in Law 10/98 of 21st April on Waste, taking into account the nature of the operations and the hazardousness of the components that are undergoing management.

3. All treatment operations will be carried out by applying the best available

technology. In particular, transfer operations for waste electrical and electronic equipment must be conducted in such a way as to obtain the best level of decontamination, reuse, and recycling, of complete appliances or their components.

4. Autonomous communities and local entities must encourage the adoption of internationally recognised certified systems of environmental management, for activities involving the environmental management of treatment of waste electrical and electronic equipment

5. The entry into and departure from national borders of waste electrical and electronic equipment for treatment, must be in accordance with legislation covering the transfer of waste, as set out in Law 10/98 of 21st April on Waste, and Regulation (CEE) n.º 259/93 of the Council of 1st February 1993, covering the monitoring and control of the transfer of waste within national borders, and upon entry into and departure from the European Community.

Article 6. Technical requirements for facilities for the recovery and treatment of waste electrical and electronic appliances.

1. Facilities at which recovery takes place of electrical and electronic appliances, including temporary facilities (but excluding distributors' premises) and where operations for the treatment of this waste are carried out, must as a minimum comply with the technical requirements set out in annex IV.

In addition, both the treatment facilities and the temporary storage areas allocated by municipalities, whenever the legislation of their autonomous community requires this to be applied, must be authorised by the relevant competent body of the community where they have been established.

2. Treatment facilities must make a register of their activities, the contents of which must comply with the contents of article 13.3 of Law 10/1998 of 21st April on Waste.

Article 7 Obligations of producers of electrical and electronic appliances

1. Each producer must adopt the necessary measures to ensure that any waste electrical and electronic equipment that it places on the market is recovered selectively and has appropriate environmental management, except where it is reused as an integral appliance. To this end, producers must establish systems to recover and manage the treatment of waste deriving from their equipment, as set out in articles 4, 5 and 6, and must finance the costs inherent in such management. These costs must not be displayed to the consumers separately at the moment of sale.

Producers must comply with the requirements established in the previous paragraph either individually, according to the contents of Law 10/98, of 21st April on Waste, or, via one of several integrated management systems according to the contents of article 8 of the present royal decree.

2. With regard to the financing of selective recovery of waste electrical and electronic equipment deriving from households, and under the terms of article 7 of Law 10/1998, of 21st April on Waste, producers who manage their waste individually and integrated management systems that are constituted under the terms of article 8 of this royal decree, must bear the cost of said selective recovery from delivery points. To this end they may come to a framework agreement with autonomous communities, to which local entities can voluntarily subscribe, so as to enable local entities to recoup the additional costs effectively borne by the selective recovery of this type of waste.

In negotiating the framework agreement, autonomous communities must guarantee the participation of these local entities, who must produce, to this effect, the documentary proof necessary for the calculation of the additional costs that they have effectively to bear.

Similarly, producers of electrical and electronic equipment will be able to sign up directly to agreements with local entities, for the same purpose.

3. Producers of electrical and electronic appliances must declare to the autonomous community in which their Head Office is located, and to the Register of industrial

establishments on a national level, their status as producers and the procedure they have chosen for compliance with the obligations set out in the present article.

4. Producers that do not participate in any integrated management system for waste electrical and electronic equipment and set up an individual system of specific management of their products must produce for the competent body of the autonomous community wherever they have declared their status as a producer, the accreditation documentation relating to the creation of the said individual system of management, with the minimum contents set out in annex VI. The contents must guarantee:

a) that under its terms, the return of waste electrical and electronic equipment will not be difficult to execute for the final user.

b) that management will continue to be free of charge for the final user handling in domestic waste.

c) that compliance with obligations covered in this royal decree is guaranteed.

d) that the targets set out in article 9 are attainable.

Autonomous communities must communicate to the Register of industrial establishments on a national level, the authorisations of individual systems within its borders.

5. Those producers that join up to an individual system of management must guarantee financing of the management of all waste electrical and electronic equipment placed by the producer on the market. The guarantee may consist of recycling insurance or of a frozen bank account.

Article 8. Integrated systems for the management of waste electrical and electronic equipment.

1. Producers of electrical and electronic appliances will be able to comply with obligations set out in section 1 of the previous article by participating, in association with other economic agencies, in one or several integrated management systems.

2. Integrated management systems must be authorised by the autonomous communities within whose borders they are established, and publicity must be given to their authorisation in the respective official bulletin.

3. Authorisation requests for integrated management systems must contain, at least, the following submissions:

a) Producers belonging to the integrated waste system.

b) The limits of the territorial coverage of the integrated management system.

c) The identity and location of the entity, with its own not-for-profit legal status, to which the management of the system can be allocated.

d) Identification of recovery points and managers who will carry out the management of waste electrical and electronic appliances.

e) The forecast recovery amount and forecast percentages of reuse, recycling and valorisation, with their respective timescales and tracking mechanisms, operational controls and monitoring of compliance levels. The said percentages must in no instance be lower than those fixed in article 9.

f) Mechanisms that are drawn up for financing and guarantees.

g) Procedures for the supply of information to the authorities.

h) The date of approval of its activity as an integrated management system or manager of electrical and electronic equipment by the autonomous community in which their head office or valorisation facilities are located.

4. Authorisations for the integrated management systems will be granted for five years and will be renewable for successive equal periods.

Article 9. Targets for recovery, valorisation, reuse and recycling.

1. Before 31st December 2006 compliance must take place, as a minimum, with the following recovery targets for reuse and recycling, and for valorisation:

a) Four kilograms must be recovered selectively, on average, per inhabitant, per year, of waste electrical and electronic equipment deriving from private households.

b) With regard to large domestic appliances and dispensing machines 80% by weight per category of each type of appliance must be valorised. With regard to components, materials and substances, 75% by weight per category of each type of appliance must be reused and recycled.

c) Regarding information and telecommunications equipment and consumer electronic appliances, 75% by weight per category of each type of appliance must be valorised. Regarding components, materials and substances 65% by weight per category of each type of appliance must be reused and recycled.

d) For small electro-domestic appliances, lighting equipment, electrical and electronic tools (except heavy duty fixed industrial tools), toys, sporting and leisure equipment and monitoring and control items, 70% by weight per category of each type of appliance must be valorised. With regard to their components, materials and substances, 50% by weight per category of each type of appliance must be reused and recycled.

e) The percentage of reuse and recycling of components, materials and substances from gas discharge lamps must achieve 80% by weight of the lamps.

2. In order to calculate these targets, account will be taken of waste electrical and electronic appliances sent for treatment to States of the European Union or to third countries, provided that they have accreditation that any operations covering valorisation, reuse, recycling, and disposal, are carried out in accordance with community laws as regards the environment, workers' health and safety, and are in accordance with the contents of this royal decree covering treatment operations.

Complete reused appliances will not be counted in calculations for valorisation targets fixed in section 1.b), c), d) and e), until the month of December 2008.

Article 10. Marking of electrical and electronic equipment.

All equipment must be marked with producer identification, and in order to record that it has been placed on the market after 13th August 2005, according to European standard arrived at for this purpose. In addition, equipment destined for households must be marked using the symbol contained in annex V. Exceptionally, if the appliances cannot be marked/labelled because of its size or the function that it is meant to fulfill, the symbol must be stamped on the packaging, on the instructions for use, and the appliance guarantee.

Article 11. Information to autonomous communities.

1. Producers that do not participate in an integrated management system must send on an annual basis to the competent body within the autonomous community where their head office is situated, the following data, certified by an external auditor, expressed in kilograms or, where this is not possible, in numbers of appliances:

a) Electrical and electronic appliances, by type of appliance placed on the market, within national borders in the previous year.

b) Waste electrical and electronic equipment recovered from distributors or local entities.

c) Directly managed waste, as well as waste delivered to authorised managers for treatment.

d) Compliance with targets.

2. Integrated management systems for electrical and electronic appliances, in the first three months of each year, must send to the competent body within the authorising

autonomous community a report certified by an external auditor, referring to their activities in the previous year, in which, as a minimum, an account is given of:

- a) The quantities of each type of appliance placed on the market nationally.
- b) The final amounts of managed waste, per category of product and material, in each autonomous community.

3. Businesses that carry out treatment operations, specified in article 5.1 must on an annual basis furnish registered data to the competent body of the respective autonomous community. All other economic agencies that carry out management operations must send to the competent autonomous community body its information on quantities of waste electrical and electronic equipment managed by them within this autonomous community as well as waste sent to other autonomous communities.

4. Data referring to waste treated according to article 9.2 must be sent by the treatment centre to the competent body of the autonomous community from which the waste has been sent.

Article 12. Information to the Ministry of the Environment.

In order to comply with the requirement to supply information to the European Commission, and to update the national waste Inventory, autonomous communities must send within the first six months of each year, to the General Directorate of Quality and Environmental Assessment of the Ministry of the Environment, a summary report referring to the previous year, which contains, expressed in kilograms (or where this is not possible, the number of appliances) the waste electrical and electronic equipment recovered, as well as percentages of reuse, recycling and valorisation reached in that autonomous community.

Such information can be supplied directly or via management entities when this refers to voluntary agreements and integrated management systems, and must be completed according to the European standard arrived at for this purpose.

Article 13. Sanctioning regime

Infractions committed against provisions contained in this royal decree will be subject to the sanctioning regime set out in Law 10/98, of 21st April, on Waste, and in Law 21/1992, of 16th July, on Industry.

First Additional Clause. Listing on the Register of industrial establishments within national borders.

1. All producers of electrical and electronic equipment must sign up to, or be signed up to, the national Register of industrial establishments, constituted under the terms of Law 21/1992, of 16th July, on Industry, and under the Regulation of the national Register of industrial establishments, as approved by Royal Decree 697/1995, of 28th April.

2. On the national Register of industrial establishments, a special section will be created for producers of electrical and electronic equipment, to which producers will have to send the following information:

- a) Identification of the producer.
- b) Contact made and the date of commencement of the producer, with an indication of the autonomous community and of the date of communication to it as a producer.
- c) Procedure governing compliance with obligations regarding management of its waste equipment:

1st If it is a collective system, the identification of the integrated management systems concerned.

2nd If it is an individual system, an indication, as a minimum, of the type and extent of the guarantee.

In both cases this must be accompanied by the relevant accreditation documentation.

d) Equipment placed on the market:

1st Category:

2nd Type of equipment:

3rd Origin:

Manufactured and placed on the market by the same business.

Manufactured by another business in Spain.

Imported.

Exported.

Acquired in an EU country.

4th Quantities. Weight in tonnes and, where this is not possible, in units.

5th Uses:

Households.

Non-households.

Both uses.

3. Every three months, the aforementioned register must communicate to each producer the allocation of economic charges incurred as a result of its waste management. The calculation of the quota must be based on data supplied by each producer in the previous quarter. This information will be subject to the second paragraph of article 14.1 of the Regulation of the national Register of industrial establishments, approved by the Royal Decree 697/1995, of 25th April, without prejudice to the contents in the section which follows.

4. The register will send, within in the first three months of each year, to the General Directorate of Quality and Assessment of the Ministry of the Environment, a summary report which includes the quantities of each type of appliance placed on the market, within national borders, by each producer, in the previous year.

a) Manufactured and sold under its own brand name.

b) Sold, under its own brand name, manufactured by a third party.

c) Imported.

d) Exported.

Second Additional Clause. Financing of the management of waste electrical and electronic equipment placed on the market before 13th August 2005 and of equipment that does not derive from private households

1. The costs of management of waste electrical and electronic equipment placed on the market before 13th August 2005 will be financed:

a) If the waste derives from private households and is recovered at a facility established in accordance with sections 2 and 3 of article 4, on a collective basis, by all existing producers in the market at that moment, in proportion to their market quota per type of appliance.

b) If the waste does not derive from private households and equipment is substituted for a new or equivalent item which performs the same function, the cost of management will be

borne by the producer of the equipment. If the user only hands in the used appliance for management without obtaining a replacement, the cost of management will be borne by the user.

2. Producers and users of equipment that does not derive from private households may stipulate, via an agreement, other means of financing the management of waste, that is different from that contained in the previous section and in article 7.1.

In this event, when the professional user takes on the management of the waste, the user must comply with obligations to guarantee valorisation, recycling and supply of information as established in the present royal decree.

Third Additional Clause. *Labour risk prevention*

With regard to the protection of the health and safety of workers, the above is subject to the provisions of Law 31/1995, of 8th November, on the Prevention of Labour Risks and its development regulation and, specifically, is subject to the provisions contained in Royal Decree 374/2001, of 6th April, governing the protection of the health and safety of workers against risks related to chemical agents at work, and to the provisions contained in Royal Decree 665/1997, of 12th May, on the protection of workers against risks relating to exposure to carcinogenic agents while at work.

Sole transitory clause. *Information on the impact on product price of the cost of management of historic waste.*

For appliances placed on the market after the present royal decree comes into force, producers must inform users of the impact on the final price of management costs of appliances already on the market before 13th August 2005, when they become waste. Such information must be specified on the invoice. The said requirement may be maintained until 13th February 2011, except for equipment include in category 1 of annex I, for which items this period may be extended until 13 February 2013.

First Final Clause. *Certificates of competence.*

The present royal decree constitutes basic legislation in accordance with the contents of article 149.1.13th and 23rd of the Constitution.

Second Final Clause *Development, application and adaptation of the royal decree.*

1. The Ministers of Industry, Tourism and Commerce and of the Environment will issue jointly or separately, according to subject area, and within the remit of their respective competencies, the wording of clauses requiring the development and application of this royal decree.

2. Power is given to the Ministers of Industry, Tourism and Commerce and of the Environment, under the same terms as the previous section, to insert into this royal decree, and in particular into its annexes, however many amendments of a technical nature as may be required to keep it up to date with technical innovations that may arise, and especially with the contents of community legislation.

Third Final Clause. *Entry into force.*

1. The present royal decree will come into force on the day following its publication in the Official State Bulletin.

2. Notwithstanding the above:

a) The prohibition of the use of hazardous substances in electrical and electronic equipment and of the use of parts and components containing the above-mentioned substances, in the repair, extension and reuse of such equipment as covered in section 1 of article 3, will only be applicable to appliances placed on the market as from 1st July 2006.

b) The requirement to supply managers of waste electrical and electronic equipment with information on dismantling, covered in section 3 of article 3, will be applicable as from 13th August 2005.

c) The marking/labelling requirement set out in article 10 will be applicable to equipment placed on the market as from 13th August 2005

d) The requirement upon producers to establish management systems for their own waste equipment and its financing, covered in article 7.1, will be applicable as from 13th August 2005.

Submitted in Madrid, 25th February 2005.

JUAN CARLOS R.

The First Vice-president of the Government
and Minister of the Presidency
MARÍA TERESA FERNÁNDEZ DE LA VEGA SANZ

ANNEX I

Categories of electrical and electronic equipment included within the remit of application of the present royal decree.

List of products, according to categories

Categories

1. Large electro-domestic appliances
2. Small electro-domestic appliances
3. Information technology and telecommunication equipment
4. Electronic consumer items.
5. Lighting equipment.
6. Electrical and electronic tools (except permanently fixed heavy-duty industrial tools, of a heavy duty type and installed by professionals).
7. Toys and sporting and leisure equipment.
8. Medical appliances (except all implanted and infected products).
9. Monitoring and inspection items.
10. Dispensing machines.

Guidance list of products covered in the above categories

1. Large electro-domestic appliances

Large refrigerating appliances
Fridges
Freezers

Other large appliances used for refrigeration, conservation and storage of food

Washing machines

Clothes dryers

Dish washing machines

Cookers

Electric stoves

Electric hot plates

Microwave ovens.

Other large appliances used for cooking and other processing of food

Electric heating appliances

Electric radiators

Other large appliances for heating rooms, beds, seating furniture

Electric fans

Air conditioning units

Other fanning, exhaust ventilation and conditioning equipment

2. Small household appliances

Vacuum cleaners

Carpet sweepers

Other appliances for cleaning and maintenance

Appliances used for sewing, knitting, weaving and other processing for textiles

Irons and other appliances for ironing, mangling and other care of clothing

Toaster;

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:

a) Centralised data processing

Mainframes

Minicomputers

Printer units

b) 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

Other products and equipment for the collection, storage, processing, presentation or communications of information by electronic means

User terminals and systems

Facsimile terminals
Telex terminals
Telephones
Pay telephones
Cordless telephones
Cellular telephones
Answering systems

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

4. Electronic Consumer equipment:

Radios
Televisions
Video cameras
Video recorders
Hi-fi recorders
Audio amplifiers
Musical instruments

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 with the exception of luminaires in households;
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 with the exception of filament bulbs

6. Electrical and electronic tools (with the exception of large-scale fixed industrial tools, installed by professionals)

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 the treatment of liquid or gaseous substances by other means

Tools for mowing or other gardening activities

Other tools

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

Other toys or leisure and sporting equipment

8. Medical devices (with the exception of all implanted and infected products)

Radiotherapy equipment
Cardiology
Dialysis
Pulmonary ventilators
Nuclear medicine
Laboratory equipment for *in vitro* diagnosis
Analysers
Freezers
Fertilisation tests

Other appliances for detecting, preventing, monitoring, treating, alleviating illness, injury or disability

9. Monitoring and control instruments

Smoke detectors
Heating regulators
Thermostats
Measuring, weighing or adjusting appliances for household or as laboratory equipment

Other monitoring and control instruments used in industrial installations (e.g. in control panels)

10. 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 automatically deliver all kind of products

ANNEX II

Exceptions to the use of lead, mercury, cadmium and hexavalente chromium in materials and components of electrical and electronic equipment

a) Mercury:

In compact fluorescent lamps not exceeding 5 mg per lamp

In straight, general-use fluorescent lamps if not exceeding:

Halophosphate — 10 Mg;

Normal lasting triphosphate — 5 Mg;

Long-lasting triphosphate — 8 Mg.

In straight fluorescent lamps for special uses.

In lamps not mentioned specifically in the present annex.

Other applications that do not exceed whatever maximum tolerable concentration values are set.

b) Lead:

In the glass of cathode ray tubes, electronic components and fluorescent lamps.

As an alloy in steel containing up to 0.35% (**corrected**) of lead in weight, aluminium containing up to 0.40% of lead in weight and as an alloy of copper containing up to 4% of lead in weight.

In high temperature fusion solders (that is, tin and lead alloy solders containing more than 85% of

lead).

In solders for servers, data storage systems, and storage arrays (exemption granted until 2010)
In solders for network infrastructure equipment for telecommunications switching, signalling, transmission and network management
In electronic ceramic components (for example, such as piezoelectric devices).

c) Cadmium plated products and components that do not exceed whatever maximum tolerable concentration values are set, except for the contents of Royal 1406/1969, of 10th November, under which limits are imposed on the commercialisation and use of certain hazardous substances and preparations, in compliance with the requirements imposed on member States by Directive 76/769/CEE, and its subsequent amendments.

d) Hexavalente chromium

As an anticorrosive in the carbon steel refrigeration systems in absorption refrigerators.
Other applications that do not exceed whatever maximum tolerable concentration values are set.

ANNEX III

Selective treatment for materials and components of waste electrical and electronic equipment

1. As a minimum, the following substances, preparations and components shall be removed from any separately collected waste electrical and electronic equipment:

Polychlorinated biphenyls (PCB) containing capacitors in accordance with Royal Decree 1378/1999, of the 27th August Council Directive 96/59/EC of 16 September 1996 on the measure for the disposal and management of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) and equipment that contains them.

Mercury containing components, such as switches or backlighting lamps;

Batteries and accumulators

Printed circuit boards of mobile phones generally, and of other devices if the surface of the printed circuit board is greater than 10 square centimetres,

Toner cartridges, liquid and paste, as well as colour toner;

Plastic containing brominated flame retardants;

Asbestos waste and components which contain asbestos;

Cathode ray tubes;

Chlorofluorocarbons (CFC), hydrochlorofluorocarbons (HCFC) or hydro-fluorocarbons (HFC), hydrocarbons (HC);

Gas discharge lamps;

Liquid crystal displays (together with their casing where appropriate) of a surface greater than 100 square centimetres and all those back-lighted with gas discharge lamps;

External electric cables;

Components containing refractory ceramic fibres as described in the Order of the 11th September 1998, which amends parts of annexes 1 and VI of the Regulation on the notification of new substances and the classification, packaging and labelling of dangerous substances approved by Royal Decree 363/1995, of 10th March.

Components containing radioactive substances with the exception of components that are below the exemption thresholds set out in the Regulation on nuclear radioactive facilities, approved by Royal Decree 1836/1999 of 3rd December.

Electrolyte capacitors containing hazardous substances of (height > 25 mm, diameter > 25 mm or proportionately similar volume);

These substances, preparations and components shall be disposed of or valorised in compliance with the contents of Law 10/1998, of 21st April, on Waste.

2. The following components of waste electrical and electronic equipment that are separately collected have to be treated as indicated:

Cathode ray tubes: the fluorescent coating must be removed.

Equipment containing gases that are ozone depleting or have a global warming potential (GWP) above 15, such as those contained in foams and refrigeration circuits: the gases must be properly extracted and properly treated. Ozone-depleting gases must be treated in accordance with Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer;

Gas discharge lamps: the mercury must be removed.

3. Taking into account environmental considerations and the desirability of reuse and recycling, paragraphs 1 and 2 shall be applied in such a way that appropriate reuse and recycling are not hindered.

ANNEX IV

Technical requirements for facilities

1) Sites for storage (including temporary storage) of waste electrical and electronic equipment:

Impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers.
Weatherproof covering for appropriate areas.

2) Sites for treatment of waste electrical and electronic equipment:

Balances to measure the weight of the treated waste;
Impermeable surfaces and waterproof covering for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers.
Appropriate storage for disassembled spare parts;
Appropriate containers for storage of batteries and accumulators, PCBs/PCTs containing capacitors and other hazardous waste. In the case of radioactive waste, the requirements established in the Regulation covering nuclear and radioactive facilities approved by Royal Decree 1836/1999 of 3rd December and in the Regulation on health protection against ionising radiation, approved by Royal Decree 783/2001 of 6th July.
Equipment for the treatment of water in compliance with health and environmental regulations.

ANNEX V

Symbol for the marking of electrical and electronic equipment

The symbol indicating separate collection for electrical and electronic equipment consists of the crossed-out wheeled bin, as shown below. The symbol must be printed visibly, legibly and indelibly.

ANNEX VI

Minimum information to be supplied by producers setting up an individual system of management of its own waste.

Declarations required according to article 7.3 must contain, at least, the following submissions:

a) Identification of the producer. Identification and headquarters of the producer, NIF, NIRI.

Types of electrical and electronic equipment.

Categories according to annex I

Use described as either household or non-household.

b) Accreditation documentation for the creation of the management system:

Territorial remit of the management system.

Identification of recovery points and the managers carrying out the management, including collection, of the waste electrical and electronic equipment.

Transport from delivery points and from distributors.

Forecast of compliance targets: percentages forecast for recovery, reuse, recycling and valorisation with corresponding deadlines and tracking mechanisms, operational control and verification of the level of compliance which in no instance should fall below the levels fixed in article 9. Treatment of waste. Techniques used.

Means of finance.

Procedure for the supply of information to public Administrative Bodies.

In the case of equipment not destined for households, relevant agreements further to section 2 of the second additional clause.