1995 No. 122

EUROPEAN COMMUNITIES

ENVIRONMENTAL PROTECTION

The Batteries and Accumulators (Containing Dangerous Substances) Regulations (Northern Ireland) 1995

Made	*23rd March 1995*
Coming into operation	*26th April 1995*

The Department of the Environment, being a department designated(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to measures relating to batteries and accumulators containing dangerous substances, in exercise of the powers conferred on it by that section and of every other power enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Batteries and Accumulators (Containing Dangerous Substances) Regulations (Northern Ireland) 1995 and shall come into operation on 26th April 1995.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**c**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these regulations, a reference to a battery or accumulator is a reference to a source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary (non-rechargeable) batteries or secondary (rechargeable) cells containing—

(*a*) either—

(i) more than 25mg mercury per cell; or

(ii) in the case of alkaline manganese batteries, more than 0.025% mercury by weight;

(*b*) more than 0.025% cadmium by weight; or

(*c*) more than 0.4% lead by weight.

(3) In these regulations—

''collection'' means the gathering, sorting and/or grouping together of spent batteries and accumulators;

(**a**) S.I. 1993/595
(**b**) 1972 c. 68
(**c**) 1954 c. 33 (N.I.)

"the Department" means the Department of the Environment for Northern Ireland;

"the Directive" means Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances(**a**);

"disposal" means any operation, provided that it is applicable to batteries and accumulators, included in Annex IIA to the Framework Directive;

"EEA" means the European Economic Area;

"excluded appliance" means an appliance within the list of categories of appliance contained in Annex II to the Directive and which is set out in Schedule 1;

"the Framework Directive" means Council Directive 75/442/EEC(**b**) as amended by Council Directive 91/156/EEC(**c**);

"heavy metal content mark" means, in the case of a battery or accumulator—

(*a*) which contains mercury, the chemical symbol "Hg";

(*b*) which contains cadmium, the chemical symbol "Cd"; or

(*c*) which contains lead, the chemical symbol "Pb";

"market" has the same meaning as in the Directive or the Marking Directive, as the context may require;

"the Marking Directive" means Commission Directive 93/86/EEC adapting the Directive to technical progress(**d**);

"prohibited battery" has the meaning given by regulation 3(2);

"recovery" means any operation, provided that it is applicable to batteries and accumulators, included in Annex IIB to the Framework Directive;

"relevant heavy metal content mark" in relation to a battery or accumulator means the heavy metal content mark which comprises the chemical symbol which relates to the heavy metal content of that particular battery or accumulator;

"separate collection mark" means one of the symbols shown in Article 2 of the Marking Directive and which are set out as to their forms in Schedule 2; and

"spent" in relation to a battery or accumulator means a battery or accumulator which is not re-usable and is intended for recovery or disposal.

Prohibition on marketing of certain types of batteries

3.—(1) No person shall market a prohibited battery.

(2) For the purposes of these regulations "prohibited battery" means—

(**a**) O.J. No. L78, 26.3.91, p. 38
(**b**) O.J. No. L194, 25.7.75, p. 47
(**c**) O.J. No. L78, 26.3.91, p. 32
(**d**) O.J. No. L264, 23.10.93, p. 51

(*a*) an alkaline manganese battery for prolonged use in extreme conditions, which contains more than 0.05% of mercury by weight, or

(*b*) any other alkaline manganese battery which contains more than 0.025% of mercury by weight,

except, in the case of both (*a*) and (*b*) above, alkaline manganese button cells or batteries composed of button cells.

(3) For the purposes of paragraph (2)(*a*) above, "use in extreme conditions" includes, without prejudice to the generality of that expression, use in—

(*a*) temperatures below 0 degrees Centigrade or above 50 degrees Centigrade; or

(*b*) conditions, circumstances or places in which the battery is likely to be exposed to shocks.

Marking of a battery or accumulator

4.—(1) Without prejudice to regulation 3 and subject to paragraph (3), a separate collection mark and the relevant heavy metal content mark shall be printed on a battery or accumulator or, as the case may be, on the packaging for that battery or accumulator in accordance with paragraph (2)—

(*a*) in relation to a battery or accumulator manufactured in Northern Ireland for sale in the EEA, by the manufacturer thereof; or

(*b*) in a case where—

(i) the manufacturer thereof is not established in Northern Ireland;

(ii) the battery or accumulator is to be marketed in Northern Ireland; and

(iii) a separate collection mark and the relevant heavy metal content mark have not already been printed thereon or, as the case may be, on the packaging thereof,

(*aa*) by the manufacturer's authorised representative established in Northern Ireland; or

(*bb*) by the person in Northern Ireland responsible for placing that battery or accumulator on the market.

(2) For the purposes of paragraph (1)—

(*a*) a separate collection mark shall be printed on a battery or accumulator or, as the case may be, on the packaging for that battery or accumulator in accordance with the requirements specified in Article 4(1) and (3) of the Marking Directive which for the purposes of these regulations are set out in paragraphs 1 and 3 of Schedule 3; and

(*b*) the relevant heavy metal content mark shall be printed on a battery or accumulator or, as the case may be, on the packaging for that battery or accumulator in accordance with the requirements of Article 4(2) and (3) of the Marking Directive which for the purposes of these regulations are set out in paragraphs 2 and 3 of Schedule 3.

(3) Paragraph (1) shall not apply in relation to a battery or accumulator which is marketed in Northern Ireland on or before 31st December 1995 and

which was manufactured in, or imported into, the EEA before the date on which these regulations come into operation.

Batteries or accumulators for incorporation into appliances

5.—(1) In relation to an appliance (other than an excluded appliance) into which a battery or accumulator is or, as the case may be, is to be incorporated, the manufacturer of that appliance shall ensure that the battery or accumulator which is or, as the case may be, is to be incorporated therein can be readily removed, when spent, by the consumer.

(2) An excluded appliance shall be accompanied by instructions which—

(*a*) inform the user of the appliance of the content of environmentally hazardous batteries or accumulators contained in the appliance; and

(*b*) show how the batteries or accumulators can be removed safely.

Enforcement

6.—(1) If the Department is notified that a battery or accumulator has not been marked in accordance with regulation 4, the Department may serve notice—

(*a*) in relation to a battery or accumulator which has been manufactured in Northern Ireland, on the manufacturer thereof; or

(*b*) in the case where the manufacturer thereof is not established in Northern Ireland and the battery or accumulator is being marketed in Northern Ireland on—

(i) the manufacturer's authorised representative established in Northern Ireland; or

(ii) the person in Northern Ireland responsible for placing that battery or accumulator on the market,

specifying the matters mentioned in paragraph (3).

(2) If the Department is notified that an appliance or an excluded appliance, as the case may be, does not meet the requirements of regulation 5 which apply to it, the Department may serve notice on the manufacturer thereof specifying the matters mentioned in paragraph (3).

(3) The following matters shall be specified in a notice served pursuant to paragraph (1) or (2)—

(*a*) the respects in which—

(i) that battery or accumulator has not been marked in accordance with regulation 4; or

(ii) that appliance or excluded appliance, as the case may be, does not meet the requirements of regulation 5 which apply to it; and

(*b*) that within the period specified in the notice the person on whom it is served must take steps to ensure that—

(i) in the case of a battery or accumulator which has not been marked in accordance with regulation 4, any battery or accumulator of the same type which—