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(Acts whose publication is obligatory)

COMMISSION DIRECTIVE 98/101/EC

of 22 December 1998

adapting to technical progress Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances [1], and in particular Article 10 thereof,

Whereas within the framework of the Act of Accession of Austria, Finland and Sweden, in particular in Articles 69 and 112, it is foreseen that during a period of four years from the date of accession the provisions concerning the mercury containing batteries referred to in Article 3 of Directive 91/157/EEC should be reviewed in accordance with EC procedures;

Whereas, in order to achieve a high level of environmental protection, the marketing of certain batteries should be prohibited, in view of the amount of mercury they contain; whereas that prohibition, in order to achieve its full effect for the environment, must cover appliances into which such batteries and accumulators are incorporated; whereas such prohibition may have a positive impact in facilitating the recovery of batteries;

Whereas the technical development of alternative heavy-metal-free batteries should be taken into account;

Whereas Directive 91/157/EEC should be adapted accordingly;

Whereas the measures provided for in this Directive are in accordance with the opinion expressed by the Committee established pursuant to Article 18 of Council Directive 75/442/EEC of 15 July 1975 on waste [2], as last amended by Commission Decision 96/350/EC [3],

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 91/157/EEC is amended as follows:

1. Article 3(1) is replaced by the following:

   '1. Member States shall prohibit, as from 1 January 2000 at the latest, the marketing of batteries and accumulators, containing more than 0,0005 % of mercury by weight, including in those cases where these batteries and accumulators are incorporated into appliances. Button cells and batteries composed of button cells with a mercury content of no more than 2 % by weight shall be exempted from this prohibition.';

2. Annex I is replaced by the text in the Annex to this Directive.

Article 2

Member States shall adopt and publish, before 1 January 2000, the provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 3

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Communities.*

[1] OJ L 78, 26. 3. 1991, p. 38.
[2] OJ L 194, 25. 7. 1975, p. 47.
[3] OJ L 135, 6. 6. 1996, p. 32.