

Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (Text with EEA relevance)

DIRECTIVE 2006/66/EC OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL

of 6 September 2006

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof and Article 95(1) thereof in relation to Articles 4, 6 and 21 of this Directive,

Having regard to the proposal from the Commission<sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>(2)</sup>,

Having regard to the opinion of the Committee of Regions<sup>(3)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>(4)</sup>, in the light of the joint text approved by the Conciliation Committee on 22 June 2006,

Whereas:

- (1) It is desirable to harmonise national measures concerning batteries and accumulators and waste batteries and accumulators. The primary objective of this Directive is to minimise the negative impact of batteries and accumulators and waste batteries and accumulators on the environment, thus contributing to the protection, preservation and improvement of the quality of the environment. The legal base is therefore Article 175(1) of the Treaty. However, it is also appropriate to take measures at Community level on the basis of Article 95(1) of the Treaty to harmonise requirements concerning the heavy metal content and labelling of batteries and accumulators and so to ensure the smooth functioning of the internal market and avoid distortion of competition within the Community.
- (2) The Commission Communication of 30 July 1996 on the Review of the Community Strategy for Waste Management established guidelines for future Community waste policy. That Communication stresses the need to reduce the quantities of hazardous substances in waste and points out the potential benefits of Community-wide rules limiting the presence of such substances in products and in production processes. It further states that, where the generation of waste cannot be avoided, that waste should be reused or recovered for its material or energy.

- (3) The Council Resolution of 25 January 1988 on a Community action programme to combat environmental pollution by cadmium<sup>(5)</sup> stressed the limitation of the uses of cadmium to cases where suitable alternatives do not exist and the collection and recycling of batteries containing cadmium as major elements of the strategy for cadmium control in the interests of the protection of human health and the environment.
- (4) Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances<sup>(6)</sup> has brought about an approximation of Member States' laws in this field. However, the objectives of that Directive have not been fully attained. Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002 laying down the Sixth Community Environment Action Programme<sup>(7)</sup> and Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE)<sup>(8)</sup> also underlined the need for Directive 91/157/EEC to be revised. Directive 91/157/EEC should therefore be revised and replaced in the interests of clarity.
- (5) In order to achieve its environmental aims, this Directive prohibits the placing on the market of certain batteries and accumulators containing mercury or cadmium. It also promotes a high level of collection and recycling of waste batteries and accumulators and improved environmental performance of all operators involved in the life cycle of batteries and accumulators, e.g. producers, distributors and end-users and, in particular, those operators directly involved in the treatment and recycling of waste batteries and accumulators. The specific rules needed to do this are supplementary to existing Community legislation on waste, in particular Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste<sup>(9)</sup>, Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste<sup>(10)</sup> and Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste<sup>(11)</sup>.
- (6) In order to prevent waste batteries and accumulators from being discarded in such a way as to pollute the environment, and to avoid end-user confusion about the different waste management requirements for different batteries and accumulators, this Directive should apply to all batteries and accumulators placed on the market within the Community. Such a wide scope should also ensure economies of scale in collection and recycling, as well as optimal resource saving.
- (7) Reliable batteries and accumulators are fundamental for the safety of many products, appliances and services, and are an essential energy source in our society.
- (8) It is appropriate to distinguish between portable batteries and accumulators on the one hand and industrial and automotive batteries and accumulators on the other. The disposal of industrial and automotive batteries and accumulators in landfill sites or by incineration should be prohibited.
- (9) Examples of industrial batteries and accumulators include batteries and accumulators used for emergency or back-up power supply in hospitals, airports or offices, batteries and accumulators used in trains or aircraft and batteries and accumulators used on offshore oil rigs or in lighthouses. Examples also include batteries and accumulators

designed exclusively for hand-held payment terminals in shops and restaurants, bar code readers in shops, professional video equipment for TV channels and professional studios, miners' lamps and diving lamps attached to mining and diving helmets for professionals, back up batteries and accumulators for electric doors to prevent them from blocking or crushing people, batteries and accumulators used for instrumentation or in various types of measurement and instrumentation equipment and batteries and accumulators used in connection with solar panel, photo-voltaic, and other renewable energy applications. Industrial batteries and accumulators also include batteries and accumulators used in electrical vehicles, such as electric cars, wheelchairs, bicycles, airport vehicles and automatic transport vehicles. In addition to this non exhaustive list of examples, any battery or accumulator that is not sealed and not automotive should be considered industrial.

- (10) Examples of portable batteries and accumulators, which are all-sealed batteries and accumulators that an average person could carry by hand without difficulty and that are neither automotive batteries or accumulators nor industrial batteries or accumulators, include single cell batteries (such as AA and AAA batteries) and batteries and accumulators used by consumers or professionals in mobile telephones, portable computers, cordless power tools, toys and household appliances such as electric toothbrushes, razors and hand-held vacuum cleaners (including similar equipment used in schools, shops, restaurants, airports, offices or hospitals) and any battery or accumulator that consumers may use for normal household applications.
- (11) The Commission should evaluate the need for adaptation of this Directive, taking account of available technical and scientific evidence. In particular, the Commission should carry out a review of the exemption from the cadmium ban provided for portable batteries and accumulators intended for use in cordless power tools. Examples of cordless power tools are tools that consumers and professionals use for turning, milling, sanding, grinding, sawing, cutting, shearing, drilling, making holes, punching, hammering, riveting, screwing, polishing or similar processing of wood, metal and other materials, as well as for mowing, cutting and other gardening activities.
- (12) The Commission should also monitor, and Member States should encourage, technological developments that improve the environmental performance of batteries and accumulators throughout their entire life cycle, including through participation in a Community eco-management and audit scheme (EMAS).
- (13) In order to protect the environment, waste batteries and accumulators should be collected. For portable batteries and accumulators, collection schemes achieving a high collection rate should be established. This means setting up collection schemes so that end-users can discard all waste portable batteries and accumulators conveniently and free of charge. Different collection schemes and financing arrangements are appropriate for the different battery and accumulator types.
- (14) It is desirable for Member States to achieve a high collection and recycling rate for waste batteries and accumulators so as to achieve a high level of environmental protection and material recovery throughout the Community. This Directive should therefore set minimum collection and recycling targets for Member States. It is appropriate to

calculate the collection rate on the basis of average annual sales in preceding years, so as to have comparable targets for all Member States that are proportionate to the national level of battery and accumulator consumption.

- (15) Specific recycling requirements should be established for cadmium and lead batteries and accumulators in order to attain a high level of material recovery throughout the Community and to prevent disparities between Member States.
- (16) All interested parties should be able to participate in collection, treatment and recycling schemes. Those schemes should be designed to avoid discrimination against imported batteries and accumulators, barriers to trade or distortions of competition.
- (17) Collection and recycling schemes should be optimised, in particular in order to minimise costs and the negative environmental impact of transport. Treatment and recycling schemes should use best available techniques, as defined in Article 2(11) of Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control<sup>(12)</sup>. The definition of recycling should exclude energy recovery. The concept of energy recovery is defined in other Community instruments.
- (18) Batteries and accumulators can be collected individually, by way of national battery collection schemes or together with waste electrical and electronic equipment, by way of national collection schemes set up on the basis of Directive 2002/96/EC. In the latter case, as an obligatory minimum treatment requirement, batteries and accumulators should be removed from the collected waste electrical and electronic equipment. After their removal from the waste electrical and electronic equipment, batteries and accumulators are subject to the requirements of this Directive, notably they count for achieving the collection target and are subject to recycling requirements.
- (19) Basic principles for financing the management of waste batteries and accumulators should be set at Community level. Financing schemes should help to achieve high collection and recycling rates and to give effect to the principle of producer responsibility. All producers as defined by this Directive should be registered. Producers should finance the costs of collecting, treating and recycling all collected batteries and accumulators minus the profit made by selling the materials recovered. However, under certain circumstances, the application of de minimis rules to small producers could be justified.
- (20) The provision of information to end-users on the desirability of separate collection, the collection schemes available and end-users' role in the management of waste batteries and accumulators is necessary for successful collection. Detailed arrangements should be made for a labelling system, which should provide end-users with transparent, reliable and clear information on batteries and accumulators and any heavy metals they contain.
- (21) If, in order to achieve the objectives of this Directive, and, in particular, to achieve high separate collection and recycling rates, Member States use economic instruments, such as differential tax rates, they should inform the Commission accordingly.

- (22) Reliable and comparable data on the quantities of batteries and accumulators placed on the market collected and recycled are necessary for monitoring whether the objectives of this Directive have been achieved.
- (23) Member States should lay down rules on the penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.
- (24) In accordance with paragraph 34 of the Interinstitutional agreement on better law-making<sup>(13)</sup>, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables, which will, as far as possible, illustrate the correlation between this Directive and the transposition measures and to make them public.
- (25) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(14)</sup>.
- (26) Since the objectives of this Directive namely protecting the environment and ensuring the proper functioning of the internal market cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (27) This Directive applies without prejudice to Community legislation on safety, quality and health requirements and specific Community waste management legislation, in particular Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles<sup>(15)</sup> and Directive 2002/96/EC.
- (28) As regards producer responsibility, producers of batteries and accumulators and producers of other products incorporating a battery or accumulator are responsible for the waste management of batteries and accumulators that they place on the market. A flexible approach is appropriate to enable financing schemes to reflect differing national circumstances and to take account of existing schemes, particularly those set up to comply with Directives 2000/53/EC and 2002/96/EC, while avoiding double charging.
- (29) Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment<sup>(16)</sup> does not apply to batteries and accumulators used in electrical and electronic equipment.
- (30) Automotive and industrial batteries and accumulators used in vehicles should meet the requirements of Directive 2000/53/EC, in particular Article 4 thereof. Therefore the use of cadmium in industrial batteries and accumulators for electrical vehicles should be prohibited, unless they can benefit from an exemption on the basis of Annex II to that Directive,

HAVE ADOPTED THIS DIRECTIVE:

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**Status:** *This is the original version (as it was originally adopted).*

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- (1) OJ C 96, 21.4.2004, p. 29.
- (2) OJ C 117, 30.4.2004, p. 5.
- (3) OJ C 121, 30.4.2004, p. 35.
- (4) Opinion of the European Parliament of 20 April 2004 (OJ C 104 E, 30.4.2004, p. 354), Council Common Position of 18 July 2005 (OJ C 264 E, 25.10.2005, p. 1) and Position of the European Parliament of 13 December 2005 (not yet published in the Official Journal). European Parliament Legislative Resolution of 4 July 2006 (not yet published in the Official Journal) and Decision of the Council of 18 July 2006.
- (5) OJ C 30, 4.2.1988, p. 1.
- (6) OJ L 78, 26.3.1991, p. 38. Directive as amended by Commission Directive 98/101/EC (OJ L 1, 5.1.1999, p. 1).
- (7) OJ L 242, 10.9.2002, p. 1.
- (8) OJ L 37, 13.2.2003, p. 24. Directive as amended by Directive 2003/108/EC of the European Parliament and of the Council (OJ L 345, 31.12.2003, p. 106).
- (9) OJ L 114, 27.4.2006, p. 9.
- (10) OJ L 182, 16.7.1999, p. 1. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).
- (11) OJ L 332, 28.12.2000, p. 91.
- (12) OJ L 257, 10.10.1996, p. 26. Directive as last amended by Regulation (EC) No 166/2006 of the European Parliament and of the Council (OJ L 33, 4.2.2006, p. 1).
- (13) OJ C 321, 31.12.2003, p. 1.
- (14) OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).
- (15) OJ L 269, 21.10.2000, p. 34. Directive as last amended by Council Decision 2005/673/EC (OJ L 254, 30.9.2005, p. 69).
- (16) OJ L 37, 13.2.2003, p. 19. Directive as last amended by Commission Decision 2006/310/EC (OJ L 115, 28.4.2006, p. 38).