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STATUTORY INSTRUMENTS

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**2000 No. 3097**

**HEALTH AND SAFETY**

**The Batteries and Accumulators (Containing Dangerous Substances) (Amendment) Regulations 2000**

*Made* - - - - *20th November 2000*  
*22nd November*  
*Laid before Parliament* *2000*  
*Coming into force* - - *18th December 2000*

The Secretary of State, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures relating to batteries and accumulators containing dangerous substances, in exercise of the powers conferred on him by that section and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Batteries and Accumulators (Containing Dangerous Substances) (Amendment) Regulations 2000 and shall come into force on 18th December 2000.

(2) These Regulations extend to Great Britain.

**Amendment of the Batteries and Accumulators (Containing Dangerous Substances) Regulations 1994**

2. The Batteries and Accumulators (Containing Dangerous Substances) Regulations 1994<sup>(3)</sup> are amended as follows:—

(a) in regulation 2(1), all after “secondary (rechargeable) cells” is omitted;

(b) in regulation 2(2)—

(i) for the definition of “Community” there is substituted—

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(1) S.I. 1993/595.  
(2) 1972 c. 68.  
(3) S.I. 1994/232.

- “the Community” means the European Community, and a reference to the Community includes a reference to the European Economic Area(4);”;
- (ii) for the definition of “the Directive” there is substituted—
- “the Directive” means Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances(5) as amended by Commission Directive 98/101/EC(6);”;
- (iii) for the definition of “prohibited battery” there is substituted—
- “prohibited battery” and “prohibited accumulator” have the meanings given by regulation 3(2) below;”;
- (c) after regulation 2 there is inserted—

**“Application**

- 2A.** These Regulations apply on and after 18th December 2000 to—
- (a) batteries and accumulators put on the market as from 1st January 1999 containing more than 0.0005% of mercury by weight;
- (b) batteries and accumulators put on the market as from 18th September 1992 and containing:—
- (i) more than 25mg of mercury per cell, except alkaline manganese batteries;
- (ii) more than 0.025% of cadmium by weight;
- (iii) more than 0.4% of lead by weight;
- (c) alkaline manganese batteries containing more than 0.025% of mercury by weight placed on the market as from 18th September 1992.”;
- (d) for regulation 3 there is substituted—

**“Prohibition on marketing of certain types of batteries and accumulators**

- 3.—**(1) No person shall market a prohibited battery or prohibited accumulator.
- (2) In these Regulations, “prohibited battery” and “prohibited accumulator” refer respectively to batteries and accumulators (whether incorporated into appliances or otherwise) containing more than 0.0005% of mercury by weight, other than button cells and batteries composed of button cells with a mercury content of no more than 2% by weight.”;
- (e) to regulation 4(1) the following footnote is inserted and referenced “(d)” in the headpiece after “the relevant heavy metal content mark”—
- “(d) The second indent in the second paragraph of Article 4.2 of the Directive provided for the indications to include a recycling mark, where appropriate. No such mark was provided for subsequently in the Marking Directive(7).”;
- (f) for regulation 4(3) there is substituted—

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(4) The European Economic Area was set up by the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993, and came into existence on 1st January 1994. The Agreement came into force in relation to Liechtenstein on 1st May 1995.

(5) OJ No L78, 26.3.91, p. 38. The application of the Directive was extended to the EEA by Article 23 of, and paragraph 11 of section XI (Dangerous Substances) of Annex II to, the EEA Agreement.

(6) OJ No L1, 5.1.99, p. 1.

(7) Commission Directive 93/86/EEC (OJ L264, 23.10.93, p. 51).

“(3) Paragraph (1) above shall not apply in relation to a battery or accumulator which is marketed in Great Britain on or after 18th December 2000 and which was manufactured for sale in, or imported into, the Community on or after 1st January 1994.”; and

(g) for regulation 7(1) there is substituted—

“(1) Subject to paragraphs (2) and (3) below, any person who without reasonable excuse contravenes or fails to comply with any of the provisions of regulation 3 above, or any notice served pursuant to regulation 6 above within the period specified in that notice, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.”.

*Patricia Hewitt,*  
Minister of State for Small Business and E-  
Commerce,  
Department of Trade and Industry

20th November 2000

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Commission Directive [98/101/EC](#) (OJ No L1, 5.1.99, p. 1; “the amending Directive”), which amends Council Directive [91/157/EEC](#) on batteries and accumulators containing certain dangerous substances (OJ No L78, 26.3.91, p. 38; “the Batteries Directive”). The Batteries Directive was implemented by the Batteries and Accumulators (Containing Dangerous Substances) Regulations 1994 (S.I. [1994/232](#)) (“the principal Regulations”), which these Regulations amend.

The principal changes are—

- (a) the principal Regulations apply as from the date of coming into force of these amending Regulations to—
  1. Batteries and accumulators put on the market as from 1st January 1999 containing more than 0.0005% of mercury by weight;
  2. Batteries and accumulators put on the market as from 18th September 1992 and containing:
    - more than 25mg of mercury per cell, except alkaline manganese batteries,
    - more than 0.025% of cadmium by weight,
    - more than 0.4% of lead by weight;
  3. Alkaline manganese batteries containing more than 0.025% of mercury by weight placed on the market as from 18th September 1992;  
(regulation 2(c) of these Regulations, regulation 2A of the principal Regulations, implementing Article 1.2 of and the Annex to the amending Directive);
    - (a) a prohibited battery or accumulator means batteries and accumulators (whether incorporated into appliances or otherwise) containing more than 0.0005% of mercury by weight, other than button cells and batteries composed of button cells with a mercury content of no more than 2% by weight (regulation 2(d) of these Regulations, regulation 3(2) of the principal Regulations, implementing Article 1.1 of the amending Directive); and
    - (b) the maximum penalty for any offence under the principal Regulations is increased to level 5 on the standard scale (regulation 2(g) of these Regulations, regulation 7(1) of the principal Regulations). At the time of making these Regulations, level 5 stands at £5,000.

A regulatory Impact Assessment is available, copies of which have been placed in the libraries of both Houses of Parliament. Copies are also available from the Environment Directorate of the Department of Trade and Industry, Bay 425, 151, Buckingham Palace Road, London SW1W 9SS.