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► **B** **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
(OJ L 37, 13.2.2003, p. 19)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Commission Decision 2005/618/EC of 18 August 2005	L 214	65	19.8.2005
► <u>M2</u>	Commission Decision 2005/717/EC of 13 October 2005	L 271	48	15.10.2005
► <u>M3</u>	Commission Decision 2005/747/EC of 21 October 2005	L 280	18	25.10.2005
► <u>M4</u>	Commission Decision 2006/310/EC of 21 April 2006	L 115	38	28.4.2006
► <u>M5</u>	Commission Decision 2006/690/EC of 12 October 2006	L 283	47	14.10.2006
► <u>M6</u>	Commission Decision 2006/691/EC of 12 October 2006	L 283	48	14.10.2006
► <u>M7</u>	Commission Decision 2006/692/EC of 12 October 2006	L 283	50	14.10.2006
► <u>M8</u>	Directive 2008/35/EC of the European Parliament and of the Council of 11 March 2008	L 81	67	20.3.2008
► <u>M9</u>	Commission Decision 2008/385/EC of 24 January 2008	L 136	9	24.5.2008



**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**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and
in particular Article 95 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Having regard to the opinion of the Committee of Regions ⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the
Treaty in the light of the joint text approved by the Conciliation
Committee on 8 November 2002 ⁽⁴⁾,

Whereas:

- (1) The disparities between the laws or administrative measures adopted by the Member States as regards the restriction of the use of hazardous substances in electrical and electronic equipment could create barriers to trade and distort competition in the Community and may thereby have a direct impact on the establishment and functioning of the internal market. It therefore appears necessary to approximate the laws of the Member States in this field and to contribute to the protection of human health and the environmentally sound recovery and disposal of waste electrical and electronic equipment.
- (2) The European Council at its meeting in Nice on 7, 8 and 9 December 2000 endorsed the Council Resolution of 4 December 2000 on the precautionary principle.
- (3) The Commission Communication of 30 July 1996 on the review of the Community strategy for waste management stresses the need to reduce the content 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.
- (4) The Council Resolution of 25 January 1988 on a Community action programme to combat environmental pollution by cadmium ⁽⁵⁾ invites the Commission to pursue without delay the development of specific measures for such a programme. Human health also has to be protected and an overall strategy that in particular restricts the use of cadmium and stimulates research into substitutes should therefore be implemented. The

⁽¹⁾ OJ C 365 E, 19.12.2000, p. 195 and OJ C 240 E, 28.8.2001, p. 303.

⁽²⁾ OJ C 116, 20.4.2001, p. 38.

⁽³⁾ OJ C 148, 18.5.2001, p. 1.

⁽⁴⁾ Opinion of the European Parliament of 15 May 2001 (OJ C 34 E, 7.2.2002, p. 109), Council Common Position of 4 December 2001 (OJ C 90 E, 16.4.2002, p. 12) and Decision of the European Parliament of 10 April 2002 (not yet published in the Official Journal). Decision of the European Parliament of 18 December 2002 and Decision of the Council of 16 December 2002.

⁽⁵⁾ OJ C 30, 4.2.1988, p. 1.

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Resolution stresses that the use of cadmium should be limited to cases where suitable and safer alternatives do not exist.

- (5) The available evidence indicates that measures on the collection, treatment, recycling and disposal of waste electrical and electronic equipment (WEEE) as set out in Directive 2002/96/EC of 27 January 2003 of the European Parliament and of the Council on waste electrical and electronic equipment⁽¹⁾ are necessary to reduce the waste management problems linked to the heavy metals concerned and the flame retardants concerned. In spite of those measures, however, significant parts of WEEE will continue to be found in the current disposal routes. Even if WEEE were collected separately and submitted to recycling processes, its content of mercury, cadmium, lead, chromium VI, PBB and PBDE would be likely to pose risks to health or the environment.
- (6) Taking into account technical and economic feasibility, the most effective way of ensuring the significant reduction of risks to health and the environment relating to those substances which can achieve the chosen level of protection in the Community is the substitution of those substances in electrical and electronic equipment by safe or safer materials. Restricting the use of these hazardous substances is likely to enhance the possibilities and economic profitability of recycling of WEEE and decrease the negative health impact on workers in recycling plants.
- (7) The substances covered by this Directive are scientifically well researched and evaluated and have been subject to different measures both at Community and at national level.
- (8) The measures provided for in this Directive take into account existing international guidelines and recommendations and are based on an assessment of available scientific and technical information. The measures are necessary to achieve the chosen level of protection of human and animal health and the environment, having regard to the risks which the absence of measures would be likely to create in the Community. The measures should be kept under review and, if necessary, adjusted to take account of available technical and scientific information.
- (9) This Directive should apply without prejudice to Community legislation on safety and health requirements and specific Community waste management legislation, in particular Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances⁽²⁾.
- (10) The technical development of electrical and electronic equipment without heavy metals, PBDE and PBB should be taken into account. As soon as scientific evidence is available and taking into account the precautionary principle, the prohibition of other hazardous substances and their substitution by more environmentally friendly alternatives which ensure at least the same level of protection of consumers should be examined.
- (11) Exemptions from the substitution requirement should be permitted if substitution is not possible from the scientific and technical point of view or if the negative environmental or health impacts caused by substitution are likely to outweigh the human and environmental benefits of the substitution. Substitution of the hazardous substances in electrical and electronic equipment should also be carried out in a way so as to be compatible with the health and safety of users of electrical and electronic equipment (EEE).

⁽¹⁾ See page 24 of this Official Journal.

⁽²⁾ 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).

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- (12) As product reuse, refurbishment and extension of lifetime are beneficial, spare parts need to be available.
- (13) The adaptation to scientific and technical progress of the exemptions from the requirements concerning phasing out and prohibition of hazardous substances should be effected by the Commission under a committee procedure.
- (14) 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 ⁽¹⁾,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objectives

The purpose of this Directive is to approximate the laws of the Member States on the restrictions of the use of hazardous substances in electrical and electronic equipment and to contribute to the protection of human health and the environmentally sound recovery and disposal of waste electrical and electronic equipment.

Article 2

Scope

1. Without prejudice to Article 6, this Directive shall apply to electrical and electronic equipment falling under the categories 1, 2, 3, 4, 5, 6, 7 and 10 set out in Annex IA to Directive No 2002/96/EC (WEEE) and to electric light bulbs, and luminaires in households.
2. This Directive shall apply without prejudice to Community legislation on safety and health requirements and specific Community waste management legislation.
3. This Directive does not apply to spare parts for the repair, or to the reuse, of electrical and electronic equipment put on the market before 1 July 2006.

Article 3

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (a) ‘electrical and electronic equipment’ or ‘EEE’ means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields falling under the categories set out in Annex IA to Directive 2002/96/EC (WEEE) and designed for use with a voltage rating not exceeding 1 000 volts for alternating current and 1 500 volts for direct current;
- (b) ‘producer’ means any person who, irrespective of the selling technique used, including by means of distance communication according to Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts ⁽²⁾:

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

⁽²⁾ OJ L 144, 4.6.1997, p. 19. Directive as amended by Directive 2002/65/EC (L 271, 9.10.2002, p. 16).

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- (i) manufactures and sells electrical and electronic equipment under his own brand;
- (ii) resells under his own brand equipment produced by other suppliers, a reseller not being regarded as the 'producer' if the brand of the producer appears on the equipment, as provided for in subpoint (i); or
- (iii) imports or exports electrical and electronic equipment on a professional basis into a Member State.

Whoever exclusively provides financing under or pursuant to any finance agreement shall not be deemed a 'producer' unless he also acts as a producer within the meaning of subpoints (i) to (iii).

*Article 4***Prevention**

1. Member States shall ensure that, from 1 July 2006, new electrical and electronic equipment put on the market does not contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) or polybrominated diphenyl ethers (PBDE). National measures restricting or prohibiting the use of these substances in electrical and electronic equipment which were adopted in line with Community legislation before the adoption of this Directive may be maintained until 1 July 2006.
2. Paragraph 1 shall not apply to the applications listed in the Annex.
3. On the basis of a proposal from the Commission, the European Parliament and the Council shall decide, as soon as scientific evidence is available, and in accordance with the principles on chemicals policy as laid down in the Sixth Community Environment Action Programme, on the prohibition of other hazardous substances and the substitution thereof by more environment-friendly alternatives which ensure at least the same level of protection for consumers.

*Article 5***Adaptation to scientific and technical progress****▼M8**

1. Any amendments which are necessary in order to adapt the Annex to scientific and technical progress for the following purposes shall be adopted:

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- (a) establishing, as necessary, maximum concentration values up to which the presence of the substances referred to in Article 4(1) in specific materials and components of electrical and electronic equipment shall be tolerated;
- (b) exempting materials and components of electrical and electronic equipment from Article 4(1) if their elimination or substitution via design changes or materials and components which do not require any of the materials or substances referred to therein is technically or scientifically impracticable, or where the negative environmental, health and/or consumer safety impacts caused by substitution are likely to outweigh the environmental, health and/or consumer safety benefits thereof;
- (c) carrying out a review of each exemption in the Annex at least every four years or four years after an item is added to the list with the aim of considering deletion of materials and components of electrical and electronic equipment from the Annex if their elimination or substitution via design changes or materials and components which do not require any of the materials or substances referred

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to in Article 4(1) is technically or scientifically possible, provided that the negative environmental, health and/or consumer safety impacts caused by substitution do not outweigh the possible environmental, health and/or consumer safety benefits thereof.

▼M8

The measures referred to in points (a), (b) and (c) of the first subparagraph, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 7(2).

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2. Before the Annex is amended pursuant to paragraph 1, the Commission shall *inter alia* consult producers of electrical and electronic equipment, recyclers, treatment operators, environmental organisations and employee and consumer associations. Comments shall be forwarded to the Committee referred to in Article 7(1). The Commission shall provide an account of the information it receives.

*Article 6***Review**

Before 13 February 2005, the Commission shall review the measures provided for in this Directive to take into account, as necessary, new scientific evidence.

In particular the Commission shall, by that date, present proposals for including in the scope of this Directive equipment which falls under categories 8 and 9 set out in Annex IA to Directive 2002/96/EC (WEEE).

The Commission shall also study the need to adapt the list of substances of Article 4(1), on the basis of scientific facts and taking the precautionary principle into account, and present proposals to the European Parliament and Council for such adaptations, if appropriate.

Particular attention shall be paid during the review to the impact on the environment and on human health of other hazardous substances and materials used in electrical and electronic equipment. The Commission shall examine the feasibility of replacing such substances and materials and shall present proposals to the European Parliament and to the Council in order to extend the scope of Article 4, as appropriate.

▼M8*Article 7***Committee**

1. The Commission shall be assisted by the Committee set up by Article 18 of Council Directive 75/442/EEC of 15 July 1975 on waste.⁽¹⁾

2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

⁽¹⁾ OJ L 194, 25.7.1975, p. 39. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

*Article 8***Penalties**

Member States shall determine penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.

*Article 9***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 13 August 2004. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of all laws, regulations and administrative provisions adopted in the field covered by this Directive.

*Article 10***Entry into force**

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Union*.

*Article 11***Addressees**

This Directive is addressed to the Member States.

▼ B*ANNEX***▼ M2**

Applications of lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) or polybrominated diphenyl ethers (PBDE) which are exempted from the requirements of Article 4(1)

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1. Mercury in compact fluorescent lamps not exceeding 5 mg per lamp.
2. Mercury in straight fluorescent lamps for general purposes not exceeding:

— halophosphate	10 mg
— triphosphate with normal lifetime	5 mg
— triphosphate with long lifetime	8 mg.
3. Mercury in straight fluorescent lamps for special purposes.
4. Mercury in other lamps not specifically mentioned in this Annex.
5. Lead in glass of cathode ray tubes, electronic components and fluorescent tubes.
6. Lead as an alloying element in steel containing up to 0,35 % lead by weight, aluminium containing up to 0,4 % lead by weight and as a copper alloy containing up to 4 % lead by weight.

▼ M3

7. — Lead in high melting temperature type solders (i.e. lead-based alloys containing 85 % by weight or more lead),
 - lead in solders for servers, storage and storage array systems, network infrastructure equipment for switching, signalling, transmission as well as network management for telecommunications,
 - lead in electronic ceramic parts (e.g. piezoelectronic devices).
8. Cadmium and its compounds in electrical contacts and cadmium plating except for applications banned under Directive 91/338/EEC ⁽¹⁾ amending Directive 76/769/EEC ⁽²⁾ relating to restrictions on the marketing and use of certain dangerous substances and preparations.

▼ B

9. Hexavalent chromium as an anti-corrosion of the carbon steel cooling system in absorption refrigerators.

▼ M2

- 9a. DecaBDE in polymeric applications.
- 9b. Lead in lead-bronze bearing shells and bushes.

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10. Within the procedure referred to in Article 7(2), the Commission shall evaluate the applications for:
 - Deca BDE,
 - mercury in straight fluorescent lamps for special purposes,
 - lead in solders for servers, storage and storage array systems, network infrastructure equipment for switching, signalling, transmission as well as network management for telecommunications (with a view to setting a specific time limit for this exemption), and
 - light bulbs,

as a matter of priority in order to establish as soon as possible whether these items are to be amended accordingly.

▼ M3

11. Lead used in compliant pin connector systems.
12. Lead as a coating material for the thermal conduction module c-ring.
13. Lead and cadmium in optical and filter glass.

⁽¹⁾ OJ L 186, 12.7.1991, p. 59.

⁽²⁾ OJ L 262, 27.9.1976, p. 201.

▼ M3

14. Lead in solders consisting of more than two elements for the connection between the pins and the package of microprocessors with a lead content of more than 80 % and less than 85 % by weight.
15. Lead in solders to complete a viable electrical connection between semiconductor die and carrier within integrated circuit Flip Chip packages.

▼ M4

16. Lead in linear incandescent lamps with silicate coated tubes.
17. Lead halide as radiant agent in High Intensity Discharge (HID) lamps used for professional reprography applications.
18. Lead as activator in the fluorescent powder (1 % lead by weight or less) of discharge lamps when used as sun tanning lamps containing phosphors such as BSP ($\text{BaSi}_2\text{O}_5\text{:Pb}$) as well as when used as speciality lamps for diazo-printing reprography, lithography, insect traps, photochemical and curing processes containing phosphors such as SMS ($(\text{Sr,Ba})_2\text{MgSi}_2\text{O}_7\text{:Pb}$).
19. Lead with PbBiSn-Hg and PbInSn-Hg in specific compositions as main amalgam and with PbSn-Hg as auxiliary amalgam in very compact Energy Saving Lamps (ESL).
20. Lead oxide in glass used for bonding front and rear substrates of flat fluorescent lamps used for Liquid Crystal Displays (LCD).

▼ M6

21. Lead and cadmium in printing inks for the application of enamels on borosilicate glass.
22. Lead as impurity in RIG (rare earth iron garnet) Faraday rotators used for fibre optic communications systems.
23. Lead in finishes of fine pitch components other than connectors with a pitch of 0.65 mm or less with NiFe lead frames and lead in finishes of fine pitch components other than connectors with a pitch of 0.65 mm or less with copper lead frames.
24. Lead in solders for the soldering to machined through hole discoidal and planar array ceramic multilayer capacitors.
25. Lead oxide in plasma display panels (PDP) and surface conduction electron emitter displays (SED) used in structural elements; notably in the front and rear glass dielectric layer, the bus electrode, the black stripe, the address electrode, the barrier ribs, the seal frit and frit ring as well as in print pastes.
26. Lead oxide in the glass envelope of Black Light Blue (BLB) lamps.
27. Lead alloys as solder for transducers used in high-powered (designated to operate for several hours at acoustic power levels of 125 dB SPL and above) loudspeakers.

▼ M7

28. Hexavalent chromium in corrosion preventive coatings of unpainted metal sheetings and fasteners used for corrosion protection and Electromagnetic Interference Shielding in equipment falling under category three of Directive 2002/96/EC (IT and telecommunications equipment). Exemption granted until 1 July 2007.

▼ M5

29. Lead bound in crystal glass as defined in Annex I (Categories 1, 2, 3 and 4) of Council Directive 69/493/EEC ⁽¹⁾.

▼ M1

For the purposes of Article 5(1)(a), a maximum concentration value of 0,1 % by weight in homogeneous materials for lead, mercury, hexavalent chromium, polybrominated biphenyls (PBB) and polybrominated diphenyl ethers (PBDE) and of 0,01 % by weight in homogeneous materials for cadmium shall be tolerated.

▼ M9

30. Cadmium alloys as electrical/mechanical solder joints to electrical conductors located directly on the voice coil in transducers used in high-powered loudspeakers with sound pressure levels of 100 dB (A) and more.
31. Lead in soldering materials in mercury free flat fluorescent lamps (which e.g. are used for liquid crystal displays, design or industrial lighting).
32. Lead oxide in seal frit used for making window assemblies for Argon and Krypton laser tubes.

⁽¹⁾ OJ L 326, 29.12.1969, p. 36. Directive as last amended by 2003 Act of Accession.