

Draft 4
07-08-2000
Government Decision on batteries and accumulators containing hazardous substances

Whereas the provisions under Article 107 of the Romanian Constitution and under Article 54 par. 1 letter c) of the Government Urgency Ordinance on the Waste Regime, No. 78/2000

The Romanian Government adopts the following decision:

CHAPTER I

General Provisions

Article 1

The object of this Government decision is the regulation of the management of batteries and accumulators containing hazardous substances, specified in Annex No. 1 of this decision, in a way providing conditions for the protection of the public health and the environment, and conditions for creating a domestic competition market.

Article 2

The meanings of the specific terms used in this Government Decision are presented in Annex No. 2.

Article 3

The management of spent batteries and accumulators is based on the general principles presented in the Government Urgency Ordinance No. 78/2000.

CHAPTER II

General conditions for the management of batteries and accumulators containing hazardous substances

Article 4

(1) From the date of coming into force of this Government decision, it is forbidden the marketing of batteries and accumulators containing more than 0.0005% weight Mercury, including the case when such batteries and accumulators are integrated in other equipment.

(2) Are excepted from this restriction the pill like components and the batteries consisting in pill like components, with a maximum 2% weight content of mercury.

Article 5

(1) Within 90 days from coming into force of this Government Decision, the Ministry of Industry and Commerce, and the Ministry of Waters, Forests and Environmental Protection shall draw up a list with the types of batteries and accumulators accepted to be traded on the Romanian territory.

(2) The Ministry of Industry and Commerce, and the Ministry of Waters, Forests and Environmental Protection shall allow for a period of years from the date of coming

into force of this Government Decision, the marketing of batteries and accumulators manufactured prior to this date, and not included on a list specified in the previous paragraph.

Article 6

By this Government Decision, the following deeds are forbidden for the natural and legal persons:

- a) to discard spent batteries and accumulators together with household waste, in garbage cans, landfills for household waste, etc.;
- b) to dump spent batteries and accumulators on land, in woods, river streams, etc.;
- c) to discharge liquid or solid components of spent batteries and accumulators on soil, surface river streams, underground river streams or sewage systems;
- d) to damage the shells of the spent batteries and accumulators, in order to avoid the drainage during transport of their liquid or solid components.

Article 7

The batteries and accumulators shall not be integrated in equipment unless they are easy to remove without risk by the user, when are exhausted.

Article 8

The categories of equipment specified in Annex No. 5 are not subjected to the provisions of Article 7.

CHAPTER III

Obligations regarding the management of batteries and accumulators containing hazardous substances

SECTION 1

Obligations of the manufacturers of batteries and accumulators

Article 9

The economic entities manufacturing batteries and accumulators are liable:

- 1) to include by labelling indications regarding:
 - a) separate collection of the spent batteries and accumulators;
 - b) the recycling of spent batteries and accumulators;
 - c) the heavy metals content, as percentage, of the new batteries and accumulators.
- 2) to print on the battery or accumulator, or to apply a label in a visible manner, with the name or mark of the natural and legal persons responsible for their disposal after use.

Article 10

In case when the manufacturer of batteries and accumulators is from abroad and does not comply with the provisions of Article 9, these are mandatory for the importer economic entities.

SECTION 2

Obligations of the economic entities performing collection activities of spent batteries and accumulators

Article 11

The economic entities performing collection activities of spent batteries and accumulators must be authorised according to the provisions of this Government Decision.

Article 12

The economic entities authorised to carry out collection activities of spent batteries and accumulators are liable:

- a) to take over and collect from natural and legal persons all the spent batteries and accumulators complying with the conditions specified in Annex No. 1;
- b) to have precincts fitted for storing the batteries and accumulators in conditions that do not pose risks for the environment: water, air, soil, fauna and flora, and for the public health;
- c) to submit the collected spent batteries and accumulators to the economic entities that are authorised for the transport activity or to those authorised for the activity of disposal the spent batteries and accumulators.

SECTION 3

The obligations of the transporters of spent batteries and accumulators

Article 13

The economic entities performing the transport activity for the spent batteries and accumulators must be authorised according to the provisions of this Government Decision.

Article 14

The economic entities authorised to carry out the transport activity for the spent batteries and accumulators are liable:

- a) to have vehicles, equipment, endowments suitable for the safe transport of the spent batteries and accumulators, ensuring the traffic safety;
- b) to perform the transport of spent batteries and accumulators without damaging them and without harming the environment or public health;
- c) to have all the necessary documents accompanying the goods, specifying the types and quantity of transported spent batteries and accumulators, the types and quantity of substances contained by these, and the destination place;
- d) to submit the spent batteries and accumulators only to economic entities that are authorised for the disposal activity of batteries and accumulators.

SECTION 4

The obligations of the economic entities performing the activity of disposal the spent batteries and accumulators

Article 15

The economic entities performing the activity of disposal the spent batteries and accumulators must be authorised according to the provisions of this g v Decision.

Article 16

The economic entities authorised to carry out the activity of disposal the spent batteries and accumulators are liable:

- a) to ensure the full disposal, in due time of the spent batteries and accumulators;
- b) to use authorised technologies and equipment for the disposal of spent batteries and accumulators;
- c) to observe the norms in force regarding the environmental protection, by monitoring and control of the emissions and imissions of pollutants resulted from the process of disposal of spent batteries and accumulators.

SECTION 5

Other obligations of natural and legal persons

Article 17

The natural and legal persons having apparatuses, vehicles and / or equipment fitted with batteries and accumulators are liable to submit the spent batteries and accumulators, with all the contained liquid and solid components, to the economic entities authorised for their collection, according to the provisions of this Government Decision.

Article 18

According to this Government Decision and with the Government Decision No. 155/1999, the economic entities authorised for the activity of collection and / or disposal of spent batteries and accumulators are liable to keep the record and to report annually to the Environmental protection agencies and, by request, to any competent authority, data regarding the collected and / or disposed batteries and accumulators, according to Annex No. 3, Tables 1 and 2.

CHAPTER IV

Functions and responsibilities of the competent authorities

Article 19

According to the provisions of this Government Decision, the competent authorities incurring functions and responsibilities regarding the management of spent batteries and accumulators are: the Ministry of Waters, Forests and Environmental Protection, the Ministry of Industry and Commerce, the Transport Ministry, the Public function Ministry, the Ministry of the Interior and the National Defence Ministry.

Article 20

The Ministry of Waters, Forests and Environmental Protection has the following functions:

- a) to include in the National Strategy for waste management and in the National Action Plan for waste management, special chapters regarding the management of spent batteries and accumulators;
- b) to take all the necessary measures, together with other competent authorities, for the achievement of the objectives regarding the collection and disposal of the spent batteries and accumulators, objectives proposed in the National Strategy for waste management;

- c) to monitor the impact of the spent batteries and accumulators on the environment;
- d) to control and regulates the activities of spent batteries and accumulators management in compliance with the functions and competencies established by law;
- e) to organise by the subordinated and co-ordinated units, the collection and processing at national level of the data on the manufactured batteries and accumulators, and on the spent batteries and accumulators, collected and / or disposed;
- f) to regulate, together with other competent authorities, the import and export activity for the spent batteries and accumulators;
- g) to organise, together with other competent authorities, briefings, programs for public training and education, in the field of the management of spent batteries and accumulators.

Article 21

The Ministry of Waters, Forests and Environmental Protection, the holder of the national data base at national level regarding the management of spent batteries and accumulators, shall publish yearly briefings regarding this activity, and shall sent information to the other competent authorities, and to the interested international organisations, according to the obligations resulting from the conventions in which Romania is a party.

Article 22

The Ministry of Industry and Commerce has the following functions:

- a) to decide to introduction within the sectorial strategies and programs on waste management, of chapters regarding the management of spent batteries and accumulators, and on the operations of capitalisation and / or disposal of spent batteries and accumulators;
- d) to regulate the activity of import and export of the spent batteries and accumulators, with the endorsement of the Ministry of Waters, Forests and Environmental Protection;
- e) to draw up the program for the reduction of the heavy metals content in batteries and accumulators, and for the promotion of the research for this purpose;
- f) the organise programs for public information, regarding the gradual reduction of spent batteries and accumulators in the household waste, and for their separate storage.

Article 23

The Ministry if Industry and Commerce shall draw up programs for the achievement of the following objectives:

- a) the reduction of the content of heavy metals in batteries;
- b) the promotion of marketing of batteries and accumulators containing lower quantities of hazardous and / or pollutant substances;
- c) the gradual reduction in the household waste, of the spent batteries and accumulators included in Annex No. 1;
- d) the promotion of the research aiming the reduction of the content of hazardous substances, and the use of less pollutant substitutes in batteries and accumulators, and of the research of recycling methods;
- e) the separate storage of spent batteries and accumulators included in Annex No. 1.

Article 24

(1) The programs specified at Article 23 shall cover a 4-year period.

(2) The programs shall be reviewed and updated at least every 4 years, considering the technical progress.

Article 25

The transport ministry has the following functions:

a) to regulate and check the transport activity for the spent batteries and accumulators, according to the competencies established by law;

b) to authorise the transport activity for the spent batteries and accumulators;

c) to regulate, together with other competent authorities, the import and export activity for the spent batteries and accumulators.

Article 26

The Public Function Ministry has the following functions:

a) monitors and ensure the enforcement by the local public authorities of the provisions of this Government Decision.

Article 27

The Ministry of the Interior has the following functions:

a) to check the activity of management the spent batteries and accumulators, according to the functions and competencies established by law;

b) to support the other competent authorities in the enforcement and observance of the responsibilities incurring to them by this Government Decision;

c) to check by the customs authorities, the compliance with the regulations regarding the import and export of the spent batteries and accumulators.

Article 28

The National Defence Ministry has the following functions:

a) to draw up the strategy and program for the management of spent batteries and accumulators resulting from the military field, and to ensure the conditions that are necessary in order to carry out these;

b) to monitor and control the compliance of the subordinated units with the provisions of this Government Decision.

Article 29

The competent central and local authorities shall take measures so that within Years from coming into force of this Government Decision, all the users of batteries and accumulators shall get information regarding:

a) the available ways of collecting the spent batteries and accumulators

b) their role and obligations regarding the collection of spent batteries and accumulators;

c) the significance of the signs and symbols on the batteries and accumulators;

d) information on the toxicity and hazard degree of the materials contained in batteries and accumulators;

e) particular elements of the plans of management the spent batteries and accumulators;

Article 30

The symbol showing the separate collection of batteries and accumulators referred to by this Government Decision, consists in one of the containers on wheels, crossed, presented in Annex No. 4.

Article 31

The marking of batteries and accumulators of any type shall be done mandatory, according to Annex No. 4 to this Government Decision, by the manufacturer or importer, as the case may be.

Article 32

The decision regarding the selection of the symbol to be used on the batteries and accumulators referred to by this Government Decision shall be taken by the producer or importer, and notified to the Ministry of Industry and Commerce, and to the Ministry of Waters, Forests and Environmental Protection, within 30 days from the date of coming into force of this Government Decision.

Article 33

The symbol described in Annex No. 4 shall cover 3% of the greatest free surface of the batteries and accumulators, and shall have the maximum size of 5 x 5 cm.

Article 34

In case the size of the batteries or accumulators allows only a symbol smaller than 0,5 x 0,5 cm, that batteries or accumulators shall be marked with a symbol of 1 x 1 cm, printed on the packaging.

Article 35

The symbols showing the content of heavy metals in batteries and accumulators shall include the chemical symbols of those metals: Hg, Cd or Pb, according to Annex No. 1.

Article 36

The symbols specified in Article 35 shall be printed by the producer or importer, under the symbol specified in Article 30.

Article 37

Both the symbols specified in Article 30, and the symbols specified in Article 35 shall be printed in a clear, visible manner, so that they may not be removed or deleted.

CHAPTER VI**Authorisation****Article 38**

The economic entities performing activities of collection and / or disposal of spent in batteries and accumulators are liable to request within 90 days from the date of coming into force of this Government Decision, the authorisation at the Ministry of Industry and Commerce – the National Commission for Materials Recycling.

Article 39

The economic entities performing the transport activity for the spent in batteries and accumulators are liable to request within 90 days from the date of coming into force of this Government Decision, the authorisation at the Ministry of Transport.

Article 40

(1) For issuing the authorisation it is mandatory the payment of the authorisation fee.
(2) The amount of that fee shall be established, at the proposal of the Ministry of Industry and Commerce, or at the proposal of the Ministry of Transport, respectively, by Government Decision.

Article 41

The authorisation procedure for the economic entities specified under Article 38 and 39, respectively, shall be established within 60 days from the date of coming into force of this Government Decision, in the Official Journal of Romania, by Methodological Norms, that shall be issued by the ministry of Industry and Commerce and the Ministry of Transport, respectively, with the endorsement of the Finance Ministry and of the Ministry of Waters, Forests and Environmental Protection.

Article 42

(1) In case of new elements, unknown at the date of issuing the authorisation, the authorised economic entity is liable to request the reconsideration of the authorisation to the Ministry of Industry and Commerce – The National Commission for Materials Recycling, or to the Ministry of Transport, respectively.
(2) The reconsideration of the authorisation shall be done by the annulment of the existing authorisation and issuing a new authorisation, in compliance with the Methodological Norms specified at Article 41 of this Government Decision.

Article 43

The authorisations for the activities of collection, transport and / or disposal of the spent in batteries and accumulators shall be issued for a period of 3 years.

CHAPTER VII

The international trade with spent in batteries and accumulators

Article 44

The export of spent batteries and / or accumulators may be performed only in compliance with the legal regulations in force, with the approval of the competent authorities specified by the importer country, and in compliance with the provisions of the international conventions in which Romania is a Party.

Article 45

The Ministry of Industry and Commerce, with the endorsement of the Ministry of Waters, Forests and Environmental Protection, shall draw up – within 60 days from the date of coming into force of this Government Decision – methodological Norms

regarding the conditions for obtaining the export licence for spent in batteries and accumulators.

CHAPTER VIII

Economic Instruments

Article 46

According to the principle “the polluter pays”, and for the efficient organisation of the separate collection of the spent batteries and accumulators, the deposit – guarantee system is introduced.

Article 47

The deposit system shall represent the value in ROL, at the current rate of exchange, of 5 US\$, and shall be destined to the stimulation of the activity of collection the spent batteries and accumulators from natural and legal persons, for their rewarding.

Article 48

The deposit system shall be applied mandatory by the economic entities trading new batteries and accumulators, on the retail price for these products.

Article 49

The operation mechanism of the deposit system shall be regulated by Norms that shall be issued by the Ministry of Industry and Commerce, with the endorsement of the Finance Ministry, within 90 days form the date of publishing this Government Decision in the Official Journal of Romania.

CHAPTER IX

Penalties

Article 50

(1) The infringement of the obligations specified in this Government Decision is deemed contravention if, according to the criminal law, is not deemed offence, and shall be penalised as follows:

- a) with a fine from 10,000,000 to 15,000,000 ROL for the infringement of the provisions under Article 6, par. (a), (b) and (c), Article 38, Article 39 and Article 48;
- b) with a fine from 8,000,000 to 10,000,000 for the infringement of the provisions of Article 12, par. (a), (b) and (c), Article 14, par. (a), (b), (c) and (d), Article 16, par. (a), (b) and (c), Article 17 and Article 18;
- c) with a fine from 5,000,000 to 8,000,000 for the infringement of the provisions of Article 9, par. (1), and (2), Article 6, par. (d);
- d) with a fine from 3,000,000 to 5,000,000 for the infringement of the provisions of Article 31;

(2) The ascertainment by the empowered authorities of the failure to fulfil the conditions on which was based the issuing of the authorisation specified under Article 38, Article 39 and Article 42 par. (10) incurs the annulment of the authorisation.

Article 51

(1) The ascertainment of the infringements and the enforcement of the penalties specified under Article 50 shall be done by the personnel empowered for this purpose by the Ministry of Industry and Commerce, the Ministry of Waters, Forests and Environmental Protection, the Ministry of Transport, the Ministry of the Interior, and by the personnel of the local public administration authorities, according to the obligations established by law.

(2) The ascertainment and penalty report may be contested at the competent court within 30 days from the notification.

(3) For the infringements specified under Article 50 are applicable the provisions of the Law No. 32/1968 regarding the ascertaining and penalising the infringements, supplemented and modified by Government Ordinance No. 12/ 1994, approved and modified by Law No. 65/1994.

**CHAPTER X
Final Provisions**

Article 52

(1) Annexes No. 1 – 5 are integral part of this Government Decision

(2) The annexes of this Government Decision may be supplemented and updated by Government decision.

Article 53

This Government decision comes into force at 90 days from its publishing in the Official Journal of Romania.

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Annex no. 1

Batteries and accumulators referred to by this Government Decision

1. Batteries and accumulators marketed from the date of, containing more than: 0.0005% by weight mercury;

2. Batteries and accumulators marketed from the date of, containing:
a) more than 25 mg mercury/ element, except the alkaline batteries with manganese;
b) more than 0.025% by weight cadmium;
c) more than 0.4% by weight lead.

3. Alkaline batteries with manganese containing more than 0.025% by weight, mercury, marketed from the date of

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Annex No. 2

The meanings of the specific terms used in this Government Decision

- *battery or accumulator* - a source of electric energy, generated by the direct conversion of the chemical energy, consisting in one or several primary non-rechargeable batteries, or secondary, rechargeable batteries, as specified in Annex No. 1 of this decision;

- *spent battery or accumulator* – a battery or accumulator that is not reusable and is destined for collection and / or disposal;
 - *disposal* – any operation applicable to batteries and accumulators, included in Annex II of the Government Urgency Ordinance on the Waste Regime;
 - *capitalisation* – the gathering, sorting and/or regrouping (temporary storage) of the spent batteries and accumulators for their transport;
 - *deposit system* – the system by which the buyer pays to the seller – at the purchase of batteries and accumulators – an amount that is reimbursed at the return of the spent batteries and accumulators.
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Annex No. 3

Table 1 – data regarding the spent batteries and accumulators, collected

Table 2 – data regarding the spent batteries and accumulators, disposed

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Annex No. 4

Symbols for the marking of batteries and accumulators, referred to in this Government decision

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Annex No. 5

The list with the apparatuses exempted from the provisions of Article 8

1. Those apparatuses whose batteries are glued, welded or permanently attached to the clamps, in order to ensure the continuous feed with power in the industry processes and for the preservation of the memory and functions of the computers and information and commercial equipment, when the use of the batteries and accumulators specified in Annex 1 is necessary from a technical point of view.
2. The accumulator elements of the professional and scientific equipment, batteries and accumulators of the medical devices designed to sustain the vital and cardiac functions, where the uninterrupted operation is essential, and the replacement is performed only by qualified personnel.
3. (a) Portable apparatuses where the replacement of the batteries by non-qualified personnel may pose risks for the user's safety or may impair the equipment operation, professional equipment designed for use in highly sensitive media.
 (b) These apparatuses, whose batteries and accumulators can not be replaced by the users, shall be accompanied by directions informing the user about the content that is hazardous for the environment, of the batteries and accumulators, and showing how must be performed the replacement under safety conditions.