

## Which appliances fall under the Decree/Regulations for the management of electrical and electronic equipment?

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Questions 1, 2 and 3 concern the Electrical and Electronic Equipment (Management) Regulations (implementing the WEEE Directive) and question 4 concerns the Electrical and Electronic Equipment (Management) Decree of the Netherlands (implementing the Directive on the restriction of use of certain hazardous substances in electrical and electronic equipment).

### Question 1

Which appliances are covered by the term "electrical/electronic equipment" used in the Electrical and Electronic Equipment (Management) Regulations<sup>1</sup> ("the Regulations")?

### Answer 1

The definition given in article 1, paragraph 1, item b, of the Regulations states that these are appliances that:

1. need electrical currents or electromagnetic fields in order to work properly and that generate, transmit and measure such currents and fields; and
2. fall into one of the categories mentioned in annex IA of Directive 2002/96/EC; and
3. are intended for use at a voltage not exceeding 1000 V alternating current (AC) and 1500 V direct current (DC).

Before we look at these three items, we need to stress that the information provided here concerns appliances. Individual parts (like a washing machine motor) are not considered an appliance. The three requirements stated above are cumulative, i.e. a product must satisfy all three criteria before being considered electrical/electronic equipment within the meaning of the legislation. Notes on each part of the definition are provided below.

1. The term "needs electrical currents or electromagnetic fields in order to work properly" means that the product cannot perform its primary function without electricity.
  - a refrigerator without electricity cannot function as a refrigerator because the cooling function will not work;
  - a cuddly toy with a small lamp built into its nose can still perform its primary function (cuddly toy) without a battery/electricity supply.

Note that the appliance does not necessarily need to have its **own** power supply. Appliances that need electricity and obtain it from another appliance (e.g. through a lead that must be connected to another appliance) are also considered appliances that need electrical currents or magnetic fields. Therefore, appliances without a plug or without a battery may also be considered an electrical/electronic appliance. The decisive factor is whether a current passes through the appliance, which enables the appliance to perform its function.

- Examples of appliances that need electricity and obtain it from another appliance are headsets, loudspeakers, USB sticks and external hard drives.
- Examples of products that do not need electrical currents or magnetic fields to work

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<sup>1</sup> This definition is identical to the one given in article 1, item d of the Electrical and Electronic Equipment (Management) Decree.

properly are CDs, CD-ROMs, phonecards, toners, cartridges and videotapes. However, products of this kind must be collected and recycled (under article 1, paragraph 1, item c., of the Regulations) if they form part of an appliance at the time it is discarded. An example is a toner that is still inside a discarded printer.

2. Annex IA of the Directive lists ten categories. Annex IB of the Directive contains a non-exhaustive list of examples that fall under these ten categories. Sometimes a product may satisfy the first criterion mentioned above, but cannot be placed in any of the ten categories, as in the case of a lift.

Note that some exceptions are mentioned in the categories. This concerns the three exceptions mentioned in:

- category 5 (lighting equipment). All lighting fittings for households fall outside the scope of this category as do light bulbs. This exclusion applies only to the waste management rules (contained in the Electrical and Electronic Equipment (Management) Regulations) and not to the rules for use of hazardous substances, as listed in article 2 of the Electrical and Electronic Equipment (Management) Decree<sup>2</sup>;
- category 6 (tools). The text is: "6. Electrical and electronic tools (with the exception of large, unmovable industrial installations)." The term "unmovable" is interpreted as "permanent fixtures". This applies, for example, to fixed car lifting bridges in garages and mechanical engineering appliances like fixed robot systems at manufacturing companies. This exception applies only to equipment characterisable as tools;
- category 8 (medical equipment). This final exception is mentioned in category 8: implanted and infected products fall outside the scope of the legislation. Appliances that are only infected (and not implanted) fall within the scope of the legislation so the obligations apply. Such appliances must be taken back in conformity with other legislation in this field (like health and safety rules).

3. Products that need a voltage higher than 1000 V AC and 1500 V DC are not electrical/electronic equipment. The decisive factor is the voltage used by the appliance, i.e. the voltage the appliance draws as its power supply. An oil refinery is an example of an appliance that needs a higher voltage than specified above.

## Question 2

Say an appliance is considered electrical/electronic equipment (because it satisfies the definition). Can it still fall outside the scope of the Electrical and Electronic Equipment (Management) Regulations?

## Answer 2

Certain equipment may satisfy all parts of the definition in article 1, but still fall outside the scope of the legislation. This is because the legislation makes two exceptions (under article 2 of the Electrical and Electronic Equipment (Management) Regulations):

- a. electrical and electronic equipment **that is part of other equipment** that is not electrical or electronic equipment within the meaning of these regulations;
- b. electrical and electronic equipment that is employed in protecting the fundamental interests of the security of the Netherlands or another European Union member state, and also arms, munitions and war materials except for equipment not intended specifically for military purposes.

re a: Equipment that forms part of other equipment that is not electrical/electronic equipment within the meaning of this legislation

This exception falls into two parts:

- when is something "part of"?
- what is "other equipment that is not electrical or electronic equipment within the meaning

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<sup>2</sup> Question 4 of this document discusses the regulation of use of hazardous substances in greater detail.

of the legislation"?

Both criteria must be satisfied before the exception applies.

### **When is something "part of"?**

This concerns appliances that are not a "finished product"<sup>3</sup>. The guiding principle is whether the product, or the part of an appliance, has an independent/direct function, has its own casing and (if applicable) has connecting points intended for the end-user. The term "independent/direct function" is interpreted as meaning the function that enables the kind of use specified by the manufacturer in the user's manual written for the end-user. The independent function can be performed without further modifications or connections, unless they are simple actions that anybody can carry out. This may also cover appliances/parts that are part of a larger installation and are not intended to be put on the market separately as an independent functional or commercial part.

Summarising, "part of" applies if the product does not have its own independent function for the end-user.

### **What is "other equipment that is not electrical or electronic equipment within the meaning of the legislation"?**

This concerns, for example, appliances that do not satisfy the definition of an electrical/electronic appliance, because they use a higher voltage or because the appliance cannot be placed into any of the categories. Examples are cars and lorries (these cannot be placed into one of the categories), tools that are a fixed industrial installation (excluded in category 6) and lifts (these cannot be placed into any of the categories).

Examples of appliances that consequently fall under the exception are:

- car radios and other devices built in at the time of production of cars, lorries or ships. Appliances of this kind that are pre-installed in vehicles form part of another appliance that is not an electrical/electronic equipment within the meaning of this legislation. Appliances like radios or navigation equipment that are built in later (i.e. after the time of production, for example by the dealer) do not fall under this exception. The activities necessary to build in the appliances at the time of production cannot be carried out by anybody. While a car, lorry or ship could be seen as an appliance, it is not an electrical/electronic appliance within the meaning of the definition given in article 1.

Appliances that do **not** fall under this exception include:

- cooking equipment that must be installed in a large professional kitchen. Appliances of this kind have an independent function (i.e. preparation of food);
- a professional air-conditioning system built into an office building. Firstly, the air-conditioning system has an independent function for the end-user. What's more, it is an appliance that has been "built into" a building. A building is not "other equipment", so this is another reason why the air-conditioning system does not fall under the exception. Therefore, this appliance (like the above-mentioned cooking equipment) does fall under the scope of the legislation.

Note that European Commission documents state that all "fixed installations" fall outside the scope of the European legislation because they are said to be covered by this exception. In the opinion of the Netherlands Ministry of Housing, Spatial Planning and the Environment, however, this interpretation cannot be based on the present Directive. After all, the appliances concerned must be part of **another appliance** that falls outside the scope. Additionally, it has been stipulated only for category 6 (tools) that "large unmovable industrial installations" fall outside the scope. Given this unclear situation, the ministry sent the European Commission a letter on 18 March 2005 requesting clarification of this and other points. To date, the ministry has not received an answer. If new information becomes available, it may result in revision of this Q&A document.

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<sup>3</sup> The interpretation of "finished product" is based on Directive 89/336/EEC and the European guidelines for implementing that Directive.

re b. Equipment employed in protecting the fundamental interests of the security of the Netherlands or other European Union member states and also arms, munitions and war materials, except for equipment not intended specifically for military purposes.

Specific war materials fall outside the scope of the legislation. However, the scope of the legislation does cover other equipment that is used for defensive purposes but is not intended specifically for that purpose. Examples of appliances that are used for defensive purposes but are covered by the scope of the legislation are cooking equipment and computers.

### **Question 3**

Is it sufficient to mark the appliance or do all of its constituent parts or peripherals have to be marked separately?

### **Answer 3**

Appliances that are electrical/electronic appliances and fall under the scope of the Electrical and Electronic Equipment (Management) Regulations (see questions 1 and 2) must be marked if they were put on the market after 13 August 2005. This requirement is regulated in article 13 of the Regulations. In the case of peripheral equipment (like external hard drives and monitors), the question arises of whether all separate appliances must be marked or only the "main appliance" (like the computer).

The legislation requires that all equipment must be marked. Consequently, each product that is an "electrical/electronic appliance" within the meaning of article 1, item b of the Electrical and Electronic Equipment (Management) Regulations (see question 1) must be provided with a marking. This means that external hard drives, USB sticks, headsets and similar must be individually marked. An exception has been made for computers. Annex IB mentions computers in category 3. It states that the processor, mouse, display and keyboard must be regarded as a single product, namely computers. If the products will be sold as separate units, each individual product must be provided with a marking.

The marking must contain three indications:

- the symbol of annex IV of the WEEE Directive (No. 2002/96/EC), i.e. the crossed-out rollable waste container. This symbol must be provided visibly. If that is not possible (on account of the product's dimensions or function), the symbol must be placed on the packaging, user manual or guarantee certificate of the equipment;
- an indication that identifies the manufacturer. The Directive does not stipulate that this indication must be visible;
- an indication that shows the appliance was put on the market after 13 August 2005. The Directive does not stipulate that this indication must be visible

### **Question 4**

Which appliances are subject to the prohibition of use of certain hazardous substances under article 2 of the Electrical and Electronic Equipment (Management) Decree?

### **Answer 4**

Article 2, paragraph 1 of the Electrical and Electronic Equipment (Management) Decree stipulates that the prohibition applies to electrical and electronic equipment in categories 1, 2, 3, 4, 5, 6, 7 and 10 of annex IA no. 2002/96 and to household lighting fittings and light bulbs. This prohibition will come into force on 1 July 2006.

The term "electrical and electronic equipment" has been defined in article 1, paragraph 1 of the Decree and is identical to the definition of the same term given in the Electrical and Electronic Equipment (Management) Regulations. Consequently, we can refer to the answer given to question 1 in this document.

Note that while household lighting fittings and light bulbs are not electrical/electronic equipment within the meaning of the legislation, these products are subject to the prohibition on the use of hazardous substances. This is because household lighting fittings and light bulbs are mentioned explicitly besides "electrical/electronic equipment".

The appliances that are excluded from the scope of article 2, paragraph 1, of the Electrical and Electronic Equipment (Management) Decree are those in category 8 (medical instruments) and category 9 (measuring and regulating instruments). However, these appliances may as yet be made subject to the prohibition in due course, although at present there are no concrete proposals for doing this at European level.

Besides the category 8 and category 9 exclusions mentioned above, there are some other exceptions (mentioned in article 2, paragraph 2 of the Electrical and Electronic Equipment (Management) Decree). The exemptions are summarised below:

- category 8 (medical instruments) and category 9 (measuring and regulating instruments) of annex IA of Directive 2002/96;
- the applications mentioned in the annex to Directive no. 2002/95/EC on the restriction of use of certain hazardous substances in electrical and electronic equipment. Note that the annex to this Directive was revised under Decision no. 2005/618/EC of the European Commission (published in the Official Journal of the European Union dated 18 August 2005, L214/65) and more changes are likely to be made (visit the EU website for new legislation: [www.europa.eu.int/eur-lex](http://www.europa.eu.int/eur-lex));
- reuse as products of electrical/electronic equipment put on the market within the European Community prior to 1 July 2006 and also spare parts for the repair of such equipment;
- electrical/electronic equipment put on the market prior to 1 July 2006. The term "put on the market" means the provision of a product for the first time on the market of the European Union, with a view to the distribution and/or use of the product in the EU. The product is considered to have been provided for the first time if after the production phase it is transferred with the intention of distributing the product (or usage of the product). Appliances introduced in a European country prior to 1 July 2006, or appliances that have been imported into a European country before that date, are covered by the aforementioned exemption. Such appliances may still be distributed and used. However, the owner/manager of the appliances must be able to demonstrate that the appliances were actually manufactured or imported before the aforementioned date. A consequence of this exemption is that trade stocks located in the EU on 1 July 2006 may be used up and are not subject to the prohibition;
- electrical/electronic equipment that is produced within the European Community but will not be put on the market in the European Community;
- equipment employed in protecting the fundamental interests of the security of the Netherlands or another European Union member state, and also arms, munitions and war materials, except for equipment not intended specifically for military purposes<sup>4</sup>;
- equipment that is part of other equipment that is not electrical/electronic equipment within the meaning of the legislation<sup>5</sup>. Refer to question 2 of this document for an interpretation of this criterion.

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Ministry of Housing, Spatial Planning and the Environment

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<sup>4</sup> This exception is not based on an article of the Electrical and Electronic Equipment (Management) Decree, but stems directly from European legislation. As the Decree (like article 2, paragraph 1 of the Directive no. 2002/95/EC on the restriction of use of certain hazardous substances in electrical and electronic equipment) refers to annex IA of the WEEE Directive (no. 2002/96/EC), the provisions made in article 2 of the WEEE Directive in respect of its scope of application also apply in respect to this matter.

<sup>5</sup> See note 3.