

## **Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005 - S.I. 341 of 2005**

### **Interpretation of ‘Placed on the Market’**

The Department wishes to provide the following clarification with regard to products ‘placed on the market’ in the context of the above Regulations.

Article 4(1) of 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 states:

*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, poly-brominated 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.*

In transposing this Directive, Article 5 of the RoHS Regulations states:

*On and from 1 July 2006, –*

*(a) producers, shall be prohibited from placing on the market, or, as appropriate,*

*(b) distributors shall be prohibited from distributing,*

*electrical and electronic equipment listed in categories 1, 2, 3, 4, 5, 6, 7 and 10 of the First Schedule together with electric light bulbs and luminaires in private households which contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) or polybrominated biphenyl ethers (PBDE).*

The European Commission’s position is that the term ‘placed on the market’ indicates the time when a product is made available for the first time on the Community market and they have made this view explicit in their Frequently Asked Questions Guidance Document of May 2005, which can be viewed on the Departments website at [www.environ.ie](http://www.environ.ie).

As the RoHS Directive is an Article 95 Directive, and the scope is the same across all Member States, the Department concurs with the European Commission’s interpretation of ‘placed on the market’.

With regard to compliance with the Irish Regulations, producers should note that they may only import or distribute EEE placed on the market on and after 1 July 2006, if these products are RoHS compliant. Products containing the hazardous substances specified in the RoHS Directive that were placed on the market in the European Union before 1 July 2006, can continue to be placed on the market in Ireland and/or distributed. However, any producer and/or distributor will be required to provide written substantiation to the enforcement authorities where this is requested, to prove that such products were placed on the market in the European Union in advance of that date.

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