

DIRECTIVE 2003/108/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 8 December 2003
amending Directive 2002/96/EC on waste electrical and electronic equipment (WEEE)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consultation of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) During the adoption procedure concerning Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) ⁽³⁾ concerns were raised about the possible financial implications of the wording of Article 9 of that Directive for producers of the equipment concerned.
- (2) At the meeting of the Conciliation Committee of 10 October 2002 on that Directive the European Parliament, Council and Commission expressed their intention in a Joint Declaration to examine the issues relating to Article 9 of Directive 2002/96/EC, concerning financing in respect of WEEE from users other than private households, at the earliest opportunity.
- (3) In accordance with the Joint Declaration, the Commission has examined the financial implications for producers following from the actual wording of Article 9 of Directive 2002/96/EC, and has found that the take-back obligation for WEEE put on the market in the past creates a retroactive liability for which no provision was made and which is likely to expose certain producers to serious economic risks.
- (4) In order to prevent such risks, the financial responsibility for the collection, treatment, re-use, recovery and recycling of WEEE from users other than private households put on the market before 13 August 2005 should be borne by producers when supplying new products replacing products of equivalent type or fulfilling the same functions. Where such waste is not replaced by new

products, the responsibility should be borne by those users. Member States, producers and users should have the possibility to make alternative arrangements.

- (5) Pursuant to Article 17 of Directive 2002/96/EC, Member States are to bring into force the laws, regulations and administrative provisions necessary to comply with that Directive by 13 August 2004. In order to avoid having to amend Member States' legislation adopted by that date, this Directive should be adopted as soon as possible and implemented in Member States' legislation at the same time as Directive 2002/96/EC.
- (6) Directive 2002/96/EC should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Article 9 of Directive 2002/96/EC shall be replaced by the following:

'Article 9

Financing in respect of WEEE from users other than private households

1. Member States shall ensure that, by 13 August 2005, the financing of the costs for the collection, treatment, recovery and environmentally sound disposal of WEEE from users other than private households from products put on the market after 13 August 2005 is to be provided for by producers.

Member States shall ensure that, by 13 August 2005, for WEEE from products put on the market before 13 August 2005 (historical waste), the financing of the costs of management is as set out in the third and fourth subparagraphs.

For historical waste being replaced by new equivalent products or by new products fulfilling the same function, the financing of the costs shall be provided for by producers of those products when supplying them. Member States may, as an alternative, provide that users other than private households also be made, partly or totally, responsible for this financing.

For other historical waste, the financing of the costs shall be provided for by the users other than private households.

⁽¹⁾ OJ C 234, 30.9.2003, p. 91.

⁽²⁾ Opinion of the European Parliament of 21 October 2003 (not yet published in the Official Journal) and Council decision of 19 November 2003.

⁽³⁾ OJ L 37, 13.2.2003, p. 24.

2. Producers and users other than private households may, without prejudice to this Directive, conclude agreements stipulating other financing methods.'

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 13 August 2004. They shall forthwith 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 reference shall be laid down by Member States.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 8 December 2003.

For the European Parliament

The President

P. COX

For the Council

The President

F. FRATTINI
