

---

STATUTORY INSTRUMENTS

---

**2009 No. 890**

**The Waste Batteries and Accumulators Regulations 2009**

**PART 1**

**GENERAL**

**Interpretation**

**2.—(1) In these Regulations—**

“appliance” means any electrical or electronic equipment, as defined by Directive [2002/96/EC](#) of the European Parliament and of the Council on waste electrical and electronic equipment<sup>(1)</sup>, which is fully or partly powered by batteries or is capable of being so;

“appropriate authority” has the meaning given in regulation [3](#);

“appropriate person” has the meaning given in regulation [5](#);

“approved battery exporter” means an exporter who has been approved under regulation [59](#);

“approved battery treatment operator” means a battery treatment operator who has been approved under regulation [59](#);

“automotive battery” means a battery used for automotive starter, lighting or ignition power;

“batteries evidence note” means an evidence note issued by—

- (a) an approved battery treatment operator, as evidence of the acceptance of the tonnage of waste portable batteries specified in the note for treatment and recycling, or
- (b) an approved battery exporter, as evidence of the acceptance of the tonnage of waste portable batteries specified in the note for treatment and recycling outside the United Kingdom;

“battery” means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or consisting of one or more secondary battery cells (rechargeable; an accumulator);

“battery compliance scheme” means a battery compliance scheme that has been approved under regulation [49](#);

“battery pack” means a set of batteries that are connected together or encapsulated within an outer casing so as to form a complete unit that the end-user is not intended to split up or open;

“battery producer registration number” means the registration number allocated to a producer by the appropriate authority under regulation [28](#) or by the Secretary of State under regulation [45](#);

“battery treatment operator” means a person who, in the ordinary course of a trade, occupation or profession, carries out the treatment or recycling of waste batteries;

---

(1) OJ No L 37, 13.2.2003, p 24. Directive as last amended by Directive [2008/112/EC](#) (OJ No L 345, 23.12.2008, p 68).

“best available techniques” has the meaning given in Article 2(12) of Directive [2008/1/EC](#) of the European Parliament and of the Council concerning integrated pollution prevention and control(2);

“category of battery” means any of the following types of batteries—

- (a) automotive batteries;
- (b) industrial batteries;
- (c) portable batteries;

“chemistry type” means, except in regulation [35](#) (take back: industrial batteries)—

- (a) lead-acid,
- (b) nickel-cadmium, or
- (c) any other chemistry;

“compliance period” means—

- (a) the year 2010 (“the first compliance period”); or
- (b) any year following the first compliance period;

“company registered in the United Kingdom” means a company registered in any part of the United Kingdom under—

- (a) the Companies Act 2006(3);
- (b) the provisions of the Companies Act 1985(4) or the Companies (Northern Ireland) Order 1986(5) that remain in force; and
- (c) any former enactment relating to companies;
- (d) but a company incorporated outside the United Kingdom which has registered particulars under those Acts is not registered in the United Kingdom for the purposes of these Regulations;

“declaration of compliance” means the declaration of compliance referred to in regulation [18](#) or [25](#);

“Department of the Environment” means the Department of the Environment in Northern Ireland;

“disposal” means any of the applicable operations provided for in Annex IIA to Directive [2006/12/EC](#) of the European Parliament and of the Council on waste(6);

“distributor” means a person that provides batteries on a professional basis to an end-user;

“economic operator” means a producer, distributor, collector, recycler or other treatment operator;

“EEA” means the area comprised by the EEA States;

“electric vehicle” means a vehicle which uses electricity as a source of power for propulsion and includes a vehicle which in addition uses, or is capable of using, other sources of power for this purpose;

“end-user of industrial batteries” means—

- (a) the person who last used the battery; or

---

(2) OJ No L 24, 29.1.2008, p 8.

(3) [2006 c. 46](#).

(4) [1985 c. 6](#).

(5) [S.I. 1986/1032 \(N.I. 6\)](#).

(6) OJ No L 114, 27.4.2006, p 9.

(b) a waste disposal authority or any person acting on behalf of such an authority in connection with its functions under section 51 of the Environmental Protection Act 1990(7);

“enforcement authority” has the meaning given in regulation 86(5);

“enforcement notice” means a notice served under regulation 87(1);

“enforcement officer” has the meaning given in regulation 88(11);

“exporter” means a person who in the ordinary course of a trade, occupation or profession exports waste batteries for treatment or recycling outside the United Kingdom;

“extension of approval charge” means—

(a) subject to regulation 65(1), where the appropriate authority is the Environment Agency or SEPA, the extension of approval charge specified in regulation 65(2)(b) or, if superseded by an extension of approval charge specified for the purpose in a charging scheme made under section 41 of the Environment Act 1995(8), that charge;

(b) where the appropriate authority is the Department of the Environment, the extension of approval charge specified for the purpose in the Waste Batteries and Accumulators (Charges) Regulations (Northern Ireland) 2009(9);

“final holder of automotive batteries” means—

(a) a person who, in the ordinary course of a trade, occupation or profession removes automotive batteries from vehicles;

(b) a person who carries on the business of a scrap metal dealer within the meaning given by section 9(1) of the Scrap Metal Dealers Act 1964(10);

(c) an authorised treatment facility as defined in regulation 2 of the End-of-Life Vehicles (Producer Responsibility) Regulations 2005(11); or

(d) a waste disposal authority or any person acting on behalf of such an authority in connection with its functions under section 51 of the Environmental Protection Act 1990;

“industrial battery” means any battery or battery pack which is—

(a) designed exclusively for industrial or professional uses;

(b) used as a source of power for propulsion in an electric vehicle;

(c) unsealed but is not an automotive battery; or

(d) sealed but is not a portable battery;

“partnership” includes an unincorporated partnership and a Scottish partnership;

“Planning Appeals Commission” means the Planning Appeals Commission within the meaning of Article 110 of the Planning (Northern Ireland) Order 1991(12);

“portable battery” means any battery or battery pack which—

(a) is sealed,

(b) can be hand-carried by an average natural person without difficulty, and

(c) is neither an automotive battery nor an industrial battery;

---

(7) 1990 c. 43. Section 51 has been amended by section 31 of the Waste and Emissions Trading Act 2003 (c. 33) and Part 4 of Schedule 5 to the Clean Neighbourhoods and Environment Act 2005 (c. 16).

(8) 1995 c. 25. Section 41 is amended by regulation 94 of and Schedule 8 to these Regulations. There are other amendments which are not relevant to these Regulations.

(9) S.R. 2009/157.

(10) 1964 c. 49. Section 9(1) has been amended by paragraph 2 of the Schedule to the Vehicles (Crime) Act 2001 (c. 3).

(11) S.I. 2005/263.

(12) S.I. 1991/1220 (N.I. 19) as amended by S.I. 1999/663, and S.R. 2003/430 (N.I. 8).

“premises” includes any land or means of transport;

“producer” means any person in the United Kingdom that, irrespective of the selling technique used, including by means of distance communication as defined in Directive 97/7/EC of the European Parliament and of the Council on the protection of consumers in respect of distance contracts(13), places batteries, including those incorporated into appliances or vehicles, on the market for the first time in the United Kingdom on a professional basis;

“proposed scheme” means a proposed battery compliance scheme that is the subject of an application for approval made under regulation 47;

“quarter period” means a period—

- (a) commencing on 1st January and ending on 31st March;
- (b) commencing on 1st April and ending on 30th June;
- (c) commencing on 1st July and ending on 30th September; or
- (d) commencing on 1st October and ending on 31st December;

“recycling” means the reprocessing in a production process of waste materials for their original purpose or for other purposes, but excluding energy recovery;

“relevant approval period” has the meaning given in regulation 61(2);

“relevant compliance period” means a compliance period in respect of which a person has any obligation under regulation 7(2), 19(1), 35(2) or 36(2);

“scheme application charge” means—

- (a) subject to regulation 55(1), where the appropriate authority is the Environment Agency or SEPA, the application charge specified in regulation 55(2)(a) or, if superseded by an application charge specified for the purpose in a charging scheme made under section 41 of the Environment Act 1995, that charge;
- (b) where the appropriate authority is the Department of the Environment, the application charge specified for the purpose in the Waste Batteries and Accumulators (Charges) Regulations (Northern Ireland) 2009;

“scheme member” means, in relation to a battery compliance scheme, a producer who is a member of that scheme;

“scheme operator” means the operator of a battery compliance scheme;

“scheme subsistence charge” means—

- (a) subject to regulation 55(1), where the appropriate authority is the Environment Agency or SEPA, the subsistence charge specified in regulation 55(2)(b) or if superseded by a subsistence charge specified for the purpose in a charging scheme made under section 41 of the Environment Act 1995, that charge;
- (b) where the appropriate authority is the Department of the Environment, the subsistence charge specified for the purpose in the Waste Batteries and Accumulators (Charges) Regulations (Northern Ireland) 2009;

“SEPA” means the Scottish Environment Protection Agency;

“small producer” means a producer of portable batteries who places 1 tonne or less of portable batteries on the market in the United Kingdom during a year;

“specified site” means a site specified in a notification of a grant of approval of a battery treatment operator under regulation 60(2)(a);

“treatment” means any activity carried out on waste batteries after they have been handed over to a person for sorting, preparation for recycling or preparation for disposal;

---

(13) OJ No L 144, 4.6.1997, p 19. Directive as last amended by Directive 2007/64/EC (OJ No L 319, 5.12.2007, p 1).

“treatment, recycling and export application charge” means—

- (a) subject to regulation 65(1), where the appropriate authority is the Environment Agency or SEPA, the application charge specified in regulation 65(2)(a) and (3) or, if superseded by an application charge specified for the purpose in a charging scheme made under section 41 of the Environment Act 1995, that charge;
- (b) where the appropriate authority is the Department of the Environment, the application charge specified for the purpose in the Waste Batteries and Accumulators (Charges) Regulations (Northern Ireland) 2009;

“waste battery” means any battery which is waste within the meaning of Article 1(1)(a) of Directive 2006/12/EC;

“waste collection authority” means—

- (a) in England, Wales and Scotland, an authority mentioned in section 30(3) of the Environmental Protection Act 1990(14); and
- (b) in Northern Ireland, a district council within the meaning of section 1 of the Local Government Act (Northern Ireland) 1972(15);

“waste disposal authority” means—

- (a) in England, Wales and Scotland, an authority mentioned in section 30(2) of the Environmental Protection Act 1990(16); and
- (b) in Northern Ireland, a district council within the meaning of section 1 of the Local Government Act (Northern Ireland) 1972;

“writing” includes text that is—

- (a) transmitted by electronic means,
- (b) received in legible form, and
- (c) capable of being used for subsequent reference; and

“year” means a calendar year commencing on 1st January.

(2) In these Regulations—

- (a) any requirement to make, keep or retain a record or to maintain any register may be satisfied in electronic form if the text is capable of being produced in a legible documentary form by the person who is subject to the requirement;
- (b) any requirement for a signature may be satisfied by an electronic signature incorporated into the document; and
- (c) for the purposes of sub-paragraph (b), “electronic signature” means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.

---

(14) 1990 c. 43. Section 30(3) has been amended by the Local Government (Wales) Act 1994, Schedule 9, paragraph 17 and Schedule 18 and the Local Government etc (Scotland) Act 1994, Schedule 13, paragraph 167.

(15) 1972 c. 9 (N.I.).

(16) Section 30(2) has been amended by the Local Government (Wales) Act 1994, Schedule 9, paragraph 17 and the Local Government etc (Scotland) Act 1994, Schedule 13, paragraph 167.