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STATUTORY INSTRUMENTS

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**2009 No. 890**

**The Waste Batteries and Accumulators Regulations 2009**

**PART 11**

**APPEALS**

**Right of appeal**

- 83.**—(1) An appeal may be made by—
- (a) a scheme operator or an operator of a proposed scheme;
  - (b) a battery treatment operator or an exporter,
- against a decision of the Environment Agency, SEPA or the Department of the Environment.
- (2) An appeal—
- (a) against a decision of the Environment Agency must be made to the Secretary of State or to the Welsh Ministers, as determined by paragraph (3);
  - (b) against a decision of SEPA must be made to the Scottish Ministers; and
  - (c) against a decision of the Department of the Environment must be made to the Planning Appeals Commission.
- (3) An appeal against a decision by the Environment Agency must be made—
- (a) to the Secretary of State where—
    - (i) in the case of an appeal by a scheme operator, operator of a proposed scheme or battery exporter, the registered office of the person making the appeal or, if that person is not a company registered in the United Kingdom, its principal place of business in the United Kingdom, is located in England;
    - (ii) in the case of an appeal by a battery treatment operator, the site to which the decision relates is located in England; and
  - (b) to the Welsh Ministers where—
    - (i) in the case of an appeal by a scheme operator, operator of a proposed scheme or battery exporter, the registered office of the person making the appeal or, if that person is not a company registered in the United Kingdom, its principal place of business in the United Kingdom, is located in Wales;
    - (ii) in the case of an appeal by a battery treatment operator, the site to which the decision relates is located in Wales.
- (4) For the purposes of an appeal by a person mentioned in paragraph (1)(a), a decision means a decision to—
- (a) make a determination to refuse approval of that operator's proposed scheme under regulation 49;
  - (b) withdraw approval of that scheme operator's battery compliance scheme under regulation 54.

(5) For the purposes of an appeal by a person mentioned in paragraph (1)(b), a decision means a decision to—

- (a) refuse under regulation 59 to grant an application for approval made by that battery treatment operator or that exporter;
- (b) refuse to grant an extension of a grant of approval made to that exporter under regulation 62; or
- (c) suspend or cancel a grant of approval made in relation to that battery treatment operator or that exporter under regulation 64.

(6) For the purposes of this Part and Schedule 7, “appeal body” means whichever of the following an appeal is made to in accordance with this regulation—

- (a) the Secretary of State;
- (b) the Welsh Ministers;
- (c) the Scottish Ministers; or
- (d) the Planning Appeals Commission.