
STATUTORY INSTRUMENTS

2009 No. 890

The Waste Batteries and Accumulators Regulations 2009

PART 13

OFFENCES AND PENALTIES

Offences

- 89.**—(1) A producer is guilty of an offence who—
- (a) contravenes or fails to comply with any requirement of—
 - (i) regulation 7 (financing: portable batteries);
 - (ii) regulation 9 (duty to be a member of a battery compliance scheme);
 - (iii) regulation 11 (information provided to operators of battery compliance schemes);
 - (iv) regulation 12 (record keeping);
 - (v) regulation 13 (reporting: portable batteries placed on the market by a small producer);
 - (vi) regulation 15 (duty to join another scheme on withdrawal of approval);
 - (vii) regulation 16 (treatment, recycling, record keeping and reporting after withdrawal of scheme approval);
 - (viii) regulation 18 (declaration of compliance by producer);
 - (ix) regulation 26(4) (duty of a small producer to register);
 - (x) regulation 29 (notification of changes to registration details);
 - (xi) regulation 30 (declaration of battery producer registration number);
 - (xii) regulation 35 (take back: industrial batteries);
 - (xiii) regulation 36 (collection: automotive batteries);
 - (xiv) regulation 38 (treatment and recycling);
 - (xv) regulation 39 (record keeping);
 - (xvi) regulation 40 (reporting: industrial and automotive batteries placed on the market);
 - (xvii) regulation 41 (reporting: waste batteries);
 - (xviii) regulation 42 (registration of producers: industrial batteries or automotive batteries);
 - (xix) regulation 43(1) (timing of an application by a producer to register);
 - (xx) regulation 44 (notification of changes to registration details);
 - (xxi) regulation 46 (declaration of battery producer registration number);
 - (b) furnishes information under regulation 11 (information provided to operators of battery compliance schemes), 27 (application by a small producer to register), 29 (notification of changes to registration details), 43 (application by a producer to register) or 44 (notification of changes to registration details) and either—

- (i) knows the information to be false in a material particular; or
 - (ii) furnishes the information recklessly and it is false and misleading in a material particular;
 - (c) furnishes a declaration of compliance under regulation 18 (declaration of compliance by producer) and either—
 - (i) knows the information provided in, or in connection with, the declaration to be false in a material particular; or
 - (ii) furnishes the information recklessly and it is false and misleading in a material particular;
 - (d) furnishes a report under regulation 13 (reporting: portable batteries placed on the market by a small producer), 16(5) or (6) (reporting: portable batteries), 40 (reporting: industrial and automotive batteries placed on the market) or 41 (reporting: waste batteries) and either—
 - (i) knows the information provided in, or in connection with, the report to be false in a material particular; or
 - (ii) furnishes the information recklessly and it is false and misleading in a material particular.
- (2) A scheme operator is guilty of an offence who—
- (a) contravenes or fails to comply with any requirement of—
 - (i) regulation 19 (financing: portable batteries) other than a failure to comply with regulation 19(1)(a) in respect of the compliance period 2010 or 2011;
 - (ii) regulation 21 (treatment and recycling);
 - (iii) regulation 22 (record keeping);
 - (iv) regulation 23 (reporting: batteries placed on the market by scheme members);
 - (v) regulation 24 (reporting: waste batteries);
 - (vi) regulation 25 (declaration of compliance by battery compliance scheme);
 - (vii) regulation 26 (registration of scheme members);
 - (viii) regulation 29 (notification of changes to registration details);
 - (ix) regulation 32(2) (duty to arrange for and ensure collection from distributors);
 - (x) regulation 33(2) (duty to accept waste portable batteries without charge);
 - (b) furnishes a report under regulation 23 (reporting: batteries placed on the market by scheme members) or 24 (reporting: waste batteries) or makes a notification under regulation 29 (notification of changes to registration details) and either—
 - (i) knows the information provided in, or in connection with, the report or notification to be false in a material particular; or
 - (ii) furnishes the information recklessly and it is false and misleading in a material particular;
 - (c) furnishes a declaration of compliance under regulation 25 (declaration of compliance by battery compliance scheme) and either—
 - (i) knows the information provided in, or in connection with, the declaration to be false in a material particular; or
 - (ii) furnishes the information recklessly and it is false and misleading in a material particular.
- (3) A distributor is guilty of an offence who contravenes or fails to comply with any requirement of—

- (a) regulation 31 (take back);
 - (b) regulation 34 (prohibition on showing the costs of collection, treatment and recycling of portable batteries).
- (4) An approved battery treatment operator or an approved battery exporter is guilty of an offence who—
- (a) contravenes or fails to comply with any requirements of—
 - (i) regulation 63 (conditions of approval);
 - (ii) regulation 66 (reporting);
 - (iii) regulation 67 (record keeping);
 - (b) furnishes a report under regulation 66 (reporting) and either—
 - (i) knows the information provided in, or in connection with, the report to be false in a material particular; or
 - (ii) furnishes such information recklessly and it is false and misleading in a material particular.
- (5) An enforcement officer or other person who enters any premises by virtue of regulation 88 (powers of entry and inspection) is guilty of an offence if that officer or person discloses to any other person any information obtained by the officer in the premises with regard to any secret manufacturing process or trade secret, unless—
- (a) the disclosure was made in the performance of the officer's duty;
 - (b) the person from whom the information was received has consented to the disclosure; or
 - (c) the information was disclosed more than 50 years after it was received.
- (6) A person is guilty of an offence who—
- (a) contravenes or fails to comply with any requirement of regulation 56 (prohibition on disposing of waste automotive and industrial batteries in a landfill or by incineration);
 - (b) contravenes or fails to comply with any requirement of regulation 57 (requirement for approval of battery treatment operators and exporters);
 - (c) discloses information in contravention of regulation 82 (disclosure of information);
 - (d) without reasonable cause, fails to comply with an enforcement notice served under regulation 87 (enforcement notices);
 - (e) without reasonable cause, fails to comply with a requirement imposed under regulation 88 (powers of entry and inspection);
 - (f) intentionally obstructs—
 - (i) an enforcement officer acting in the execution of these Regulations; or
 - (ii) any person accompanying the enforcement officer in accordance with regulation 88(2)(b)(i) and assisting in the exercise or performance of the officer's powers or duties under these Regulations;
 - (g) without reasonable cause, fails to give to an enforcement officer acting in the execution of these Regulations or any person referred to in paragraph (6)(f)(ii) any assistance or information which may reasonably be required by them for the performance of the enforcement officer's functions under these Regulations;
 - (h) without reasonable cause, fails to produce a record or information when required to do so by an enforcement officer acting in the execution of these Regulations or any person referred to in paragraph (6)(f)(ii);

- (i) furnishes to an enforcement officer acting in the execution of these Regulations or any person referred to in paragraph (6)(f)(ii) any information which the person furnishing—
 - (i) knows to be false or misleading in a material particular; or
 - (ii) furnishes recklessly and it is false or misleading in a material particular.

- (7) If an offence under these Regulations committed by a body corporate is shown—
 - (a) to have been committed with the consent or connivance of an officer, or
 - (b) to be attributable to any neglect on the part of the officer,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(8) If the affairs of a body corporate are managed by its members, paragraph (7) applies in relation to the acts and defaults of a member in connection with the functions of management of that member as if the member were a director of the body.

- (9) If an offence under these Regulations committed by a partnership is shown—
 - (a) to have been committed with the consent or connivance of a partner; or
 - (b) to be attributable to neglect on the part of a partner,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(10) If an offence under these Regulations committed by an unincorporated body, other than a partnership, is shown—

- (a) to have been committed with the consent or connivance of an officer of the body or a member of its governing body, or
- (b) to be attributable to any neglect on the part of such an officer or member,

that officer or member as well as the body is guilty of the offence and liable to be proceeded against and punished accordingly.

(11) In this regulation—

- (a) “officer”, in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity; and
- (b) “partner” includes a person purporting to act as a partner.