

2012 No. 1139

ENVIRONMENTAL PROTECTION

**The Batteries and Accumulators (Placing on the Market)
(Amendment) Regulations 2012**

<i>Made</i> - - - -	<i>24th April 2012</i>
<i>Laid before Parliament</i>	<i>25th April 2012</i>
<i>Coming into force</i> - -	<i>31st May 2012</i>

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in respect of matters relating to batteries and accumulators.

The Secretary of State, in exercise of the powers conferred by section 2(2) of that Act, makes the following Regulations.

Citation and Commencement

1. These Regulations may be cited as the Batteries and Accumulators (Placing on the Market) (Amendment) Regulations 2012 and come into force on 31st May 2012.

Amendments

2.—(1) The Batteries and Accumulators (Placing on the Market) Regulations 2008(c) are amended as follows.

(2) After regulation 5, insert—

“Capacity Labelling

5A.—(1) No person shall place on the market any portable secondary (rechargeable) battery or automotive battery or accumulator to which Article 1 of the Capacity Labelling Regulation applies unless the capacity of the battery is indicated upon it visibly, legibly and indelibly in accordance with the requirements of that Regulation.

(2) The “Capacity Labelling Regulation” means Commission Regulation (EU) No 1103/2010 of 29 November 2010 establishing, pursuant to Directive 2006/66/EC of the European Parliament and of the Council, rules as regards capacity labelling of portable secondary (rechargeable) and automotive batteries and accumulators(d).”

(3) In regulation 15(1)(b), for “regulation 5 or 7” insert “regulation 5, 5A or 7”.

(a) S.I. 2007/3471.

(b) 1972 c.68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(c) S.I. 2008/2164 to which there are amendments not relevant to these Regulations.

(d) OJ No L 313, 30.11.2010, p3.

(4) In regulation 18(1), after “15(1)(a),” insert “(b) in relation to a contravention of, or failure to, comply with regulation 5A,”.

(5) After regulation 25, insert—

“Review

26.—(1) The Secretary of State must from time to time—

- (a) carry out a review of regulations 1 to 24,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the requirements for placing batteries and accumulators on the market in Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC^(a) and in the Capacity Labelling Regulation (which are implemented by means of these Regulations) are implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of the period of 5 years beginning with the 31st May 2012.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”.

Mark Prisk

Minister of State for Business and Enterprise
Department for Business, Innovation and Skills

24th April 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Batteries and Accumulators (Placing on the Market) Regulations 2008 (S.I. 2008/2164) (the “Principal Regulations”) which transpose Articles 4, 6(2), 11 and 21(1), (3), (4), (5) and (6) of Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJ No L 266, 26.9.2006, p1) (“the Directive”).

These Regulations give effect to Article 21(2) of the Directive to provide for the capacity labelling of portable secondary (rechargeable) and automotive batteries and accumulators in accordance with Commission Regulation (EU) No 1103/2010 (OJ No L 313, 30.11.2010, p3) (“the Capacity Labelling Regulation”). The Capacity Labelling Regulation contains detailed rules to implement the requirement for capacity labelling in Article 21(2) of the Directive.

(a) OJ No L 266, 26.9.2006, p1.

Regulation 2(2) inserts a new regulation 5A into the Principal Regulations to give effect to the requirement for capacity labelling in accordance with the Capacity Labelling Regulation. This applies to portable secondary (rechargeable) batteries and automotive batteries and accumulators to which Article 1 of the Capacity Labelling Regulation applies which are placed on the market on or after 31st May 2012.

Regulation 2(3) amends regulation 15 of the Principal Regulations to provide for the enforcement of, and sanctions relating to, the new regulation 5A. Regulation 2(4) allows for the recovery of costs of enforcement in the event of a conviction for an offence relating to a contravention of regulation 5A.

Regulation 2(5) inserts a provision into the Principal Regulations requiring the Secretary of State to review the operation and effect of the Principal Regulations (as amended by these Regulations) and publish a report within five years of the date these amending Regulations come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Principal Regulations (as amended) should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Principal Regulations or to amend them.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. A transposition note setting out how the Government has transposed Article 21(2) of the Directive and the Capacity Labelling Regulation in the United Kingdom has been produced and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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STATUTORY INSTRUMENTS

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£4.00

E3317 04/2012 123317T 19585

ISBN 978-0-11-152380-3



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