

EXPLANATORY MEMORANDUM TO
THE WASTE BATTERIES AND ACCUMULATORS (AMENDMENT) REGULATIONS
2015

2015 No. 1935

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to amend certain provisions of the Waste Batteries and Accumulators Regulations 2009.

2.2 The amendments will reduce regulatory burdens on businesses, allowing for increased focus on the key aims of the core regulations, including delivery of environmental benefits.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The instrument amends legislation implementing the EU directive in respect of batteries and accumulators.

5. Extent and Territorial Application

5.1 The instrument extends to the United Kingdom.

5.2 Ministers in Northern Ireland; Wales; and Scotland were consulted and agreed to these regulatory changes.

6. European Convention on Human Rights

- 6.1 The Waste Batteries and Accumulators (Amendment) Regulations 2016 instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The concept of Producer Responsibility is an overarching principle that requires certain producers of products, such as batteries, to take responsibility for the products they place on the market. By improving the reuse, recycling and recovery of these “end of life” materials, producer responsibility aims to achieve a more sustainable approach to resource use; build viable economic enterprises and reduce the quantity of waste going to landfill.
- 7.2 The Battery Directive came into force in 2006. It aims to harmonise national measures to minimise the negative impact of batteries and accumulators on the environment, by promoting a high level of collection and recycling of waste batteries and accumulators and prohibiting certain batteries and accumulators containing mercury or cadmium.
- 7.3 In addition the Directive aims to avoid obstacles to trade and the distortion and restriction of competition within the EU.
- 7.4 In 2013, 36.6 thousand tonnes of portable batteries were placed onto the UK market.
- 7.5 The batteries regulations have been in place for a significant period. Discussions with businesses, administrators and regulators, provided a sought after opportunity by these groups to review how the regulations were working in practice and for Government to make appropriate proposals via consultation.
- 7.6 Broadly these regulations enact the following changes:
- a) removal of the requirement to provide operational plans;
 - b) removal of the requirement to submit independent audit reports;
 - c) allows an “approved person” to delegate the responsibility for signing off reports.
- 7.7 The regulations make the following key changes:
- i) Removes references to operational plans (as plans are no longer required); removes requirement to undertake scheme information campaigns plans and includes the latter as a requirement for scheme approval; and removes the requirement to provide a report from an independent auditor.

- ii) Allows the appropriate authority to approve delegation by an approved person to any other person (allowing delegation for signing-off reports).

8. Consultation outcome

8.1 A public consultation, which covered both batteries and packaging was launched on 27th March 2015 and closed on 22nd May 2015. The Government received responses from 53 organisations, which broadly included producers of packaging and batteries; compliance scheme operators, waste management companies; disposal authorities; reprocessors; trade associations; and charities. Informal consultation with other government departments and regulators also took place in developing the proposals contained within the associated Evidence Base and consultation document.

8.2 Overall consultees responded positively to the Government's proposed regulatory changes in respect of batteries as follows:

- i) The proposal to replace operational plans and annual confirmation of scheme approval received 23 responses with 83% agreeing with the proposal or not providing a firm response either way.
- ii) The proposal that the "appropriate person" should be allowed to delegate responsibility for signing off reports received 24 responses with 100% agreeing with the proposal or not providing a firm response either way.
- iii) The proposal to remove the requirement for an independent audit report received 21 responses with 81% agreeing with the proposal or not providing a firm response either way.

9. Guidance

9.1 It is not anticipated that guidance will be required in respect of these regulations.

10. Impact

10.1 The impact on business, charities or voluntary bodies is to make significant regulatory savings as detailed in the associated Evidence Base.

10.2 The impact on the public sector is expected to be minimal.

10.3 An Evidence Base is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

11.1 De-minimis provisions are already in place.

- 11.2 Producers who place less than 1 tonne of batteries on the market per year are not required to join a compliance scheme. However, they must still register with the Environment Agency each year and submit information on the amount of batteries placed on the market.
- 11.3 Battery distributors who supply less than 32kg of portable batteries per year are exempt from the requirement to take back batteries within store.

12. Monitoring & review

- 12.1 The Department and its agencies will continue to monitor and review the impact of the regulations as part of its standard business as usual policy-making and will ensure that the provisions are implemented, adhered to and that significant savings are realised by business.

13. Contact

Clive Woods at the Department for Environment, Food and Rural Affairs Tel: 020 7238 5739; email: clive.woods@defra.gsi.gov.uk, can answer any queries regarding the instrument.