

EXPLANATORY MEMORANDUM TO

THE BATTERIES AND ACCUMULATORS (PLACING ON THE MARKET) (AMENDMENT) REGULATIONS 2015

2015 No. 63

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments

2. **Purpose of the instrument**

2.1 The Batteries and Accumulators (Placing on the Market) (Amendment) Regulations 2015 (the “Regulations”) implement Directive 2013/56/EU of the European Parliament and of the Council (the “2013 Directive”), amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators (the “2006 Directive”), transposed by the Batteries and Accumulators (Placing on the Market) Regulations 2008 (the “2008 Regulations”).

The 2013 Directive removes certain exemptions from the prohibitions in the 2006 Directive on the placing on the market of a battery containing more than 0.0005% of mercury by weight and of a battery containing more than 0.002% of cadmium by weight. The exemptions removed by the 2013 Directive relate to the placing on the market of button cells with a mercury content of no more than 2% by weight and of portable batteries intended for use in cordless power tools. The 2013 Directive also amends provisions in the 2006 Directive relating to the removability of waste batteries from appliances.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 The Regulations implement the 2103 Batteries Directive. The Regulations amend the 2008 Regulations which transpose the 2006 Directive.

4.2 An explanatory memorandum (8245/12) was submitted on 24 April 2012 on the Proposal for a Directive of the European Parliament and of the Council amending Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators as regards the placing on the market of portable batteries and accumulators containing cadmium intended for use in cordless power tools. The Commons European Scrutiny Committee considered it politically important and cleared it (Report 2, Session 12/13). The Lords Select Committee on the European Union cleared it (Progress of Scrutiny 24/07/2012).

4.3 A Transposition Note has been prepared and is attached as an Annex.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The purpose of the 2013 Directive, which these Regulations implement, is to remove exemptions concerning placing on the market of portable batteries and accumulators containing cadmium for use in cordless power tools (CPTs), and of button cells with low mercury content.

7.2 Currently the exemptions mean the negative externality of adverse health effects are not taken into account by firms producing and selling cadmium and mercury batteries. The materials used in the batteries of CPTs, such as cadmium and mercury, are both carcinogenic and highly toxic. In both cases, alternative, safer chemistries are available.

7.3 The Regulations provide for the removal of the cadmium and mercury exemptions over a reasonable period of time (from 1 January 2017 and 1 October 2015 respectively). The intention is to diminish the amount of NiCd batteries in household waste which are released into the environment through landfill and to help reduce the risk of mercury polluting the environment.

7.4 The Regulations introduce another amendment to the 2013 Directive, which also requires amendment of the 2008 Regulations. This amendment provides for the removability of waste batteries from appliances by the end user or by an independent qualified professional where ready removal by the end-user is not possible and for instructions enabling this to accompany the battery. The intention is to ensure the safe removal of batteries and increase competition and consumer choice by enabling consumers to go to independent qualified professionals, not exclusively those representing the manufacturers, for replacement of batteries in products.

8. Consultation outcome

8.1 BIS has been in regular contact with the main affected industries and stakeholders both throughout the negotiating period for the 2006 Directive and since it was agreed and published in December 2013.

8.2 BIS ran an online public consultation during the period 6 August to 5 November 2014. Interested parties likely to be directly affected by these Regulations were invited to comment on the proposals via an email mail-out. These included businesses, individuals and a range of representative bodies. The consultation exercise broadly confirmed that the Regulations will result in a negligible cost to consumers and businesses.

9. Guidance

9.1 Information on the new regulations can be found on Gov.UK *insert link*. The UK guidance is complementary to the European Commission “Frequently Asked Questions” document which can be downloaded from

<http://ec.europa.eu/environment/waste/batteries/pdf/faq.pdf>

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible although some responses to the consultation opined that the familiarisation costs were higher than those suggested by the Impact Assessment.

10.2 The impact on the public sector is negligible. It is not anticipated that there will be any increase in enforcement costs.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the OPSI website.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 As a single market European measure (obligating universal application of the Directive by all Member States), and one applying to environmental protection and human health, it is not possible or appropriate to make adaptations or minimise the impact of the requirements on firms employing up to 20 people. The approach taken to small businesses is therefore no different to the rest of the market.

12. Monitoring & review

12.1 Whilst the existing 2008 Regulations do not require a review, the Batteries Directive 2006/66/EC provides for the European Commission to review the Directive in 2017.

13. Contact

Grahame Dovey at the Department for Business, Innovation and Skills Tel: 020 7215 6187 or email grahame.dovey@bis.gsi.gov.uk can answer any queries regarding the instrument.