
STATUTORY INSTRUMENTS

2009 No. 890

The Waste Batteries and Accumulators Regulations 2009

PART 5

PRODUCER OBLIGATIONS: INDUSTRIAL AND AUTOMOTIVE BATTERIES

Take back: industrial batteries

35.—(1) This regulation applies to a producer of industrial batteries in respect of each compliance period during which it places such batteries on the market for the first time in the United Kingdom.

(2) The producer must take back waste industrial batteries free of charge and within a reasonable time from an end-user of industrial batteries when requested by that end-user during the compliance period—

- (a) if the end-user is supplied by the producer with new industrial batteries during the compliance period;
- (b) if—
 - (i) the end-user is not able for any reason to return waste industrial batteries to another producer under sub-paragraph (a); and
 - (ii) the waste industrial batteries which are the subject of the request are of the same chemistry type as the new industrial batteries that the producer placed on the market for the first time in the United Kingdom in the compliance period or any of the three preceding years;
- (c) if the end-user is not able for any reason to return waste industrial batteries to another producer under sub-paragraphs (a) and (b).

(3) The producer must publish details of how an end-user of industrial batteries should request the take back of waste industrial batteries by that producer under paragraph (2)(b) and (c)—

- (a) on or before 1st December in the year preceding the compliance period; or
 - (b) if the producer does not place industrial batteries on the market for the first time in the United Kingdom until after that date, within 28 days of the date of such placing on the market.
- (4) The details required to be published under paragraph (3) must—
- (a) be published in such a manner as is reasonably likely to bring them to the notice of end-users of industrial batteries; and
 - (b) give details of the chemistry type of the industrial batteries placed or intended to be placed on the market by the producer during the compliance period and the three preceding years.

(5) Where the compliance period in respect of which the producer has obligations under paragraph (2) is a year prior to 2012, the period of four years referred to in paragraphs (2)(b)(ii) and (4)(b) is replaced by the following—

- (a) where the relevant compliance period is the year 2010, that compliance period and the year 2009; and

(b) where the relevant compliance period is the year 2011, that compliance period and the years 2009 and 2010.

(6) In this regulation “chemistry type” in relation to a battery, means the type of the battery by reference to its main chemical constituents, for example, lead, nickel-cadmium, nickel-metal hydride or lithium.

Collection: automotive batteries

36.—(1) This regulation applies to a producer of automotive batteries in respect of each compliance period during which the producer places such batteries on the market for the first time in the United Kingdom.

(2) The producer must collect waste automotive batteries free of charge and within a reasonable time from a final holder of automotive batteries when requested by that final holder during the compliance period.

(3) The producer must publish details of how final holders of automotive batteries should request the collection of waste automotive batteries from that producer under paragraph (2)—

- (a) on or before 1st December in the year preceding the compliance period; or
- (b) if the producer does not place automotive batteries on the market for the first time in the United Kingdom until after that date, within 28 days of the date of such placing on the market.

(4) The details required to be published under paragraph (3) must be published in such a manner as is reasonably likely to bring them to the notice of final holders of automotive batteries.

Alternative financing agreements

37.—(1) Nothing in these Regulations prevents a producer of industrial or automotive batteries from concluding an agreement under which the parties to the agreement make arrangements between themselves to finance the net costs of the collection, treatment and recycling of waste industrial or automotive batteries which differ from the arrangements provided for under these Regulations.

(2) Any such agreement entered into by a producer of industrial or automotive batteries is without prejudice to the obligations of that producer under these Regulations.

Treatment and recycling

38. A producer of industrial or automotive batteries must ensure that all identifiable waste batteries taken back or collected by that producer under this Part are delivered to and accepted by—

- (a) an approved battery treatment operator for treatment and recycling; or
- (b) an approved battery exporter for export for treatment and recycling outside the United Kingdom.

Record keeping

39.—(1) A producer of industrial or automotive batteries must keep records in writing of—

- (a) the amount in tonnes of—
 - (i) industrial batteries; and
 - (ii) automotive batteries,

which that producer has placed on the market for the first time in the United Kingdom during 2009 and any relevant compliance period; and

- (b) the amount in tonnes of—

(i) waste industrial batteries; and

(ii) waste automotive batteries,

which that producer has been responsible for taking back or collecting and delivering to an approved battery treatment operator for treatment or recycling or to an approved battery exporter for treatment or recycling outside the United Kingdom during a relevant compliance period.

(2) A record kept under this regulation must specify the amount in tonnes of batteries by reference to—

(a) each category of battery; and

(b) the chemistry type for each category of battery.

(3) A record kept under this regulation must be kept for four years from the date on which it is made and must be made available to the Secretary of State on demand.

(4) The duties in this regulation apply only to records that were in existence on the coming into force of these Regulations and to records made after that date.

Reporting: industrial and automotive batteries placed on the market

40.—(1) A producer of industrial or automotive batteries must provide to the Secretary of State information on the total amount in tonnes of industrial or automotive batteries which that producer has placed on the market for the first time in the United Kingdom in—

(a) 2009; and

(b) each relevant compliance period.

(2) The information referred to in paragraph (1) must—

(a) be in writing and signed by the appropriate person;

(b) specify the amount in tonnes of the industrial and automotive batteries by reference to—

(i) each category of battery; and

(ii) the chemistry type for each category of battery; and

(c) be submitted in the format published by the Secretary of State under regulation 74.

(3) The duty in paragraph (1)(a) does not require a producer to provide information relating to batteries placed on the market for the first time on the United Kingdom during 2009 but before the coming into force of these Regulations.

(4) The information referred to in paragraph (1)(a) must be provided on or before 31st March 2010.

(5) The information referred to in paragraph (1)(b) must be provided for each compliance period on or before 31st March of the next year.

Reporting: waste batteries

41.—(1) A producer of industrial or automotive batteries must provide to the Secretary of State information on the total amount in tonnes of waste industrial and automotive batteries which that producer has been responsible for—

(a) taking back or collecting; and

(b) delivering to an approved battery treatment operator for treatment and recycling or an approved battery exporter for treatment and recycling outside the United Kingdom,

during each relevant compliance period.

- (2) The information referred to in paragraph (1) must—
 - (a) be in writing and signed by the appropriate person;
 - (b) specify the amount in tonnes of waste industrial and automotive batteries—
 - (i) taken back or collected, and
 - (ii) delivered to an approved battery treatment operator or an approved exporter; and
 - (c) be submitted in the format published by the Secretary of State under regulation 74.
- (3) The amount in tonnes of waste batteries referred to paragraph (2)(b) must be given by reference to—
 - (a) each category of battery; and
 - (b) the chemistry type for each category of battery.
- (4) The information referred to in paragraph (1) must be provided for each compliance period on or before 31st March of the next year.

Registration of producers: industrial batteries or automotive batteries

42. With effect from 16th October 2009 a producer who places industrial or automotive batteries on the market for the first time in the United Kingdom must be registered with the Secretary of State unless—

- (a) the producer's details already appear on a register kept under regulation 76;
- (b) the producer is a member of a battery compliance scheme in relation to portable batteries and the scheme operator is under an obligation to ensure the producer is registered with an appropriate authority; or
- (c) the producer is also a small producer and is under an obligation to register with an appropriate authority under regulation 26(4).

Application to register

43.—(1) A producer who is required by regulation 42 to be registered must make an application for registration within 28 days of the first date on which that producer places industrial or automotive batteries on the market for the first time in the United Kingdom after 15th October 2009.

- (2) The application to the Secretary of State to register must—
 - (a) be in writing and signed by the appropriate person;
 - (b) be in the format published by the Secretary of State under regulation 74; and
 - (c) contain the information set out in Schedule 2.

Notification of changes to registration details

44.—(1) If there is a change to the details entered in respect of a producer of industrial or automotive batteries on a register maintained under regulation 76, the producer must notify the Secretary of State of it within one month of the change.

(2) If a producer of industrial or automotive batteries ceases to be a producer, the former producer must notify the Secretary of State of that change of circumstance within one month of the change.

- (3) A notification under this regulation must—
 - (a) be made in writing and signed by the appropriate person;
 - (b) contain, in addition to notification of the change of details or circumstance, the name and battery producer registration number of the producer or former producer;

(c) be submitted in the format published by the Secretary of State under regulation 74.

(4) This regulation does not apply to a producer of industrial or automotive batteries who is also a producer of portable batteries.

Duties of the Secretary of State in relation to registration of producers

45.—(1) The Secretary of State must grant an application for registration where the applicant—

- (a) has complied with the requirements of regulation 43;
- (b) does not appear on a register maintained under regulation 76; and
- (c) has not stated in the information submitted under regulation 43(2)(c) that the applicant is a member of a battery compliance scheme.

(2) Otherwise the Secretary of State must refuse the application.

(3) Where an application for registration is granted, the Secretary of State must, within 28 days of receipt of the application—

- (a) confirm to the applicant in writing that the applicant is registered with the Secretary of State; and
- (b) subject to paragraph (4), allocate a new battery producer registration number to the applicant and confirm it in writing.

(4) If the applicant appeared on a register maintained under regulation 76 during any of the five compliance periods preceding the compliance period during which the application for registration is made, the Secretary of State must, instead of allocating a new battery producer registration number, allocate the applicant's most recently allocated battery producer registration number.

Declaration of battery producer registration number

46. A producer who is registered with the Secretary of State under regulation 45 must declare its battery producer registration number to any person to whom that producer intends to sell, sells or otherwise supplies batteries in the United Kingdom.