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STATUTORY INSTRUMENTS

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**2009 No. 890**

**The Waste Batteries and Accumulators Regulations 2009**

**PART 7**

**DISPOSAL, TREATMENT AND RECYCLING**

**Prohibition on disposing of waste automotive and industrial batteries in a landfill or by incineration**

**56.**—(1) No person may dispose of waste industrial or automotive batteries in a landfill or by incineration.

(2) Paragraph (1) does not affect the disposal of residues of any batteries that have undergone both treatment and recycling in accordance with these Regulations.

(3) In this regulation, “landfill” has the meaning given in Article 2(g) of Council Directive [1999/31/EC](#) on the landfill of waste<sup>(1)</sup> but does not include any operation excluded from the scope of that Directive by Article 3(2).

**Requirement for approval of battery treatment operators and exporters**

**57.**—(1) No person may issue a batteries evidence note in relation to the treatment and recycling of waste portable batteries unless—

- (a) that person is at the time of issue an approved battery treatment operator;
- (b) the waste portable batteries have been accepted at a specified site by that operator for treatment and recycling; and
- (c) the operator is approved to issue such evidence notes in respect of waste portable batteries accepted at that site for treatment and recycling.

(2) No person may issue a batteries evidence note in relation to waste portable batteries exported for treatment or recycling unless that person is at the time of issue an approved battery exporter who is approved to issue such evidence notes.

(3) No person may treat or recycle waste industrial or automotive batteries unless—

- (a) that person is at the time of the treatment or recycling an approved battery treatment operator;
- (b) the waste industrial or automotive batteries have been accepted at a specified site by that operator for treatment and recycling; and
- (c) the operator is approved to treat and recycle waste industrial or automotive batteries accepted at that site for treatment and recycling.

(4) Paragraph (3) does not apply where the waste industrial or automotive batteries have previously been accepted by an approved battery treatment operator for treatment and recycling at

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(1) OJ No L 182, 16.7.1999, p 1. Directive as last amended by Regulation [\(EC\) No 1137/2008](#) (OJ No L 311, 21.11.2008, p 1).

a specified site approved for those purposes and the person carrying out the treatment or recycling is doing so for or on behalf of that operator.

(5) No person may export waste industrial or automotive batteries for treatment or recycling unless that person is at the time of export an approved battery exporter.

### **Application for approval**

**58.** An application for approval of a battery treatment operator in respect of a site or for approval of an exporter under this Part must be made to the appropriate authority and must—

- (a) be in writing and signed by the appropriate person;
- (b) contain the information set out in Part 1 of Schedule 4, which must be submitted in the format published by the appropriate authority under regulation 80; and
- (c) be accompanied by the treatment, recycling and export application charge.

### **Decision in relation to application**

**59.—**(1) An application for approval made—

- (a) by a battery treatment operator to—
  - (i) issue batteries evidence notes in respect of waste portable batteries accepted at a site for treatment and recycling; or
  - (ii) treat or recycle waste industrial or automotive batteries accepted at a site for treatment and recycling; or
- (b) by an exporter to—
  - (i) issue batteries evidence notes in respect of waste portable batteries that are exported for treatment or recycling in one or more specified treatment or recycling operations at a named site outside the United Kingdom, or a combination of such operations, or
  - (ii) to export waste industrial or automotive batteries for such purposes,

must be granted where the appropriate authority is satisfied as to the matters set out in paragraph (2) and must otherwise be refused.

(2) The matters referred to in paragraph (1) are—

- (a) for the purposes of paragraph (1)(a)—
  - (i) that the applicant is a battery treatment operator;
  - (ii) that the applicant will comply with the conditions referred to in regulation 63(1); and
  - (iii) that the application has been made in accordance with regulation 58; and
- (b) for the purposes of paragraph (1)(b)—
  - (i) that the applicant is an exporter;
  - (ii) where the application for approval relates to one or more treatment or recycling sites outside the EEA, that the minimum treatment requirements set out in paragraph 10(3)(b) of Schedule 4 and the requirements as to minimum recycling efficiencies set out in paragraph 10(3)(c) of that Schedule will be met;
  - (iii) that the applicant will comply with the conditions referred to in regulation 63(2); and
  - (iv) that the application has been made in accordance with regulation 58.

(3) Where approval is refused under this regulation, the appropriate authority is not under a duty to refund the whole or any part of the treatment, recycling and export application charge.

### **Notification of decision**

**60.**—(1) The appropriate authority must notify the applicant in writing of its decision under regulation 59 no later than 12 weeks after the application was made.

(2) A notification that the appropriate authority has decided to grant approval must state—

(a) in the case of the approval of a battery treatment operator—

- (i) whether the operator is approved to issue batteries evidence notes in respect of waste portable batteries accepted by that operator for treatment and recycling and, if so, must specify the site to which the approval relates; and
- (ii) whether the operator is approved to treat and recycle waste industrial and automotive batteries accepted by that operator for treatment and recycling and, if so, must specify the site to which the approval relates; and

(b) in the case of the approval of a battery exporter—

- (i) whether the exporter is approved to issue batteries evidence notes in respect of waste portable batteries that are exported for treatment or recycling outside the United Kingdom, and, if so, must specify the site to which the approval relates; and
- (ii) whether the exporter is approved to export waste industrial or automotive batteries for such purposes, and, if so, must specify the site to which the approval relates.

(3) A notification that the appropriate authority has decided to refuse approval must state—

- (a) the reason for the decision; and
- (b) the right of appeal under Part 11.

(4) If—

- (a) an applicant appeals against a decision to refuse approval; and
- (b) that appeal is successful,

the appropriate authority must within 28 days of the date of the determination of the appeal notify the applicant of its decision to grant approval under regulation 59.

### **Effect and consequences of a grant of approval**

**61.**—(1) Where approval is granted under regulation 59 it will take effect—

(a) where the application is made in the year before that for which the applicant has applied to be approved—

- (i) from 1st January in the year for which the applicant has applied to be approved where the decision to grant approval was made before that date; and
- (ii) in all other cases, from the date of the decision,

and will remain in force until 31st December in the year for which the applicant has applied to be approved;

(b) where the application is made during the year for which the applicant has applied to be approved, from the date of the decision, and will remain in force until 31st December in that year.

(2) In these Regulations, “relevant approval period” means the period for which a grant of approval that has been made under this regulation remains in force.

**Application for extension of approval of an exporter to an additional site**

**62.**—(1) An application made by a battery exporter to extend an approval granted under regulation 59 to include an additional site to which that exporter wants to export waste batteries for treatment or recycling must be made to the appropriate authority and must—

- (a) be in writing and signed by the appropriate person;
- (b) contain the information set out in paragraph 8 of Schedule 4, which must be submitted in the format published by the appropriate authority under regulation 80; and
- (c) be accompanied by the extension of approval charge.

(2) An application to extend an exporter's approval to include an additional site located within the EEA must be granted by the appropriate authority where it is satisfied that the application has been made in accordance with paragraph (1), and must otherwise be refused.

(3) An application to extend an exporter's approval to include an additional site located outside the EEA must be granted by the appropriate authority where it is satisfied that—

- (a) that site will meet the minimum treatment requirements set out in paragraph 10(3)(b) of Schedule 4 and the requirements as to minimum recycling efficiencies set out in paragraph 10(3)(c) of that Schedule; and
- (b) the application was made in accordance with paragraph (1),

and must otherwise be refused.

(4) The appropriate authority must notify the applicant in writing of a decision made under paragraph (2) or (3) no later than 12 weeks after the application was made and, if the decision is a decision to refuse approval, such a notification must state—

- (a) the reasons for the decision; and
- (b) the right of appeal under Part 11.

(5) Subject to regulation 64, where an application is granted under paragraph (2) or (3), it takes effect from the date of that decision or the date that the applicant's grant of approval under regulation 59 took effect, whichever is the later date, and remains in force until the date that the applicant's approval granted under regulation 59 expires.

(6) Where extension of approval is refused under this regulation the appropriate authority is not under a duty to refund the whole or any part of the extension of approval charge.

**Conditions of approval**

**63.**—(1) An approved battery treatment operator must comply with the conditions set out in—

- (a) Part 2 of Schedule 4; and
- (b) if approved to issue batteries evidence notes in respect of waste portable batteries accepted at a specified site, Part 3 of Schedule 4.

(2) An approved battery exporter must comply with the conditions set out in—

- (a) Part 2 of Schedule 4; and
- (b) if approved to issue batteries evidence notes in respect of the treatment and recycling of portable batteries outside the United Kingdom, Part 4 of Schedule 4.

**Suspension and cancellation of approval**

**64.**—(1) The appropriate authority may suspend or cancel the approval of a battery treatment operator or exporter where it appears to it that the person who is approved has failed, or is likely to fail, to comply with any of the conditions specified in Part 2 of Schedule 4.

(2) The appropriate authority may suspend or cancel the approval of a battery treatment operator or exporter to the extent that it relates to the issuing of batteries evidence notes where it appears to it that the person who is approved has failed, or is likely to fail to comply with any of the conditions in—

- (a) in the case of an approved battery treatment operator, Part 3 of Schedule 4;
- (b) in the case of an approved battery exporter, Part 4 of Schedule 4.

(3) Where—

- (a) an approved battery treatment operator is approved in relation to two or more specified sites; or
- (b) an approved battery exporter is approved in relation to two or more sites outside the United Kingdom,

the appropriate authority may limit a suspension or cancellation under paragraph (1) or (2) to one or more of those sites.

(4) Where the appropriate authority is no longer satisfied that the minimum treatment requirements set out in paragraph 10(3)(b) of Schedule 4 or that the requirements as to minimum recycling efficiencies set out in paragraph 10(3)(c) of that Schedule are met in relation to waste batteries exported to a site outside the EEA, the appropriate authority must cancel the approval of an exporter to the extent that it relates to that site.

(5) Where the appropriate authority suspends or cancels a grant of approval under paragraph (1) or (2) or cancels the approval of an exporter to the extent that it relates to a site under paragraph (4) it must serve on the battery treatment operator or exporter concerned a notification in writing stating—

- (a) its decision to suspend or cancel (as the case may be) the grant of approval;
- (b) the extent of the suspension or cancellation (as the case may be);
- (c) its reasons for the decision;
- (d) the right of appeal under Part 11;
- (e) in the case of a cancellation, the date when the cancellation will take effect, not being earlier than the expiration of the time limit for an appeal against the notice; and
- (f) in the case of a suspension—
  - (i) the date when the suspension will take effect, not being earlier than the date of receipt of the notification;
  - (ii) the period of the suspension; and
  - (iii) any steps which are required to be taken in order to bring the suspension to an end.

(6) Where an appeal against a decision to suspend or cancel the approval of a battery treatment operator or exporter is pending—

- (a) a decision to cancel the approval of a battery treatment operator or an exporter will not take effect until the appeal is disposed of and—
  - (i) if the appeal is dismissed or withdrawn, the decision will take effect from the end of the day on which the appeal is dismissed or withdrawn; and
  - (ii) if the appeal body determines that the decision of the appropriate authority must be altered, the decision will not take effect until the appropriate authority gives effect to the determination;
- (b) a decision to suspend approval of a battery treatment operator or an exporter will remain in force.

(7) The approval of a battery treatment operator or exporter ceases to have effect—

- (a) on the date on which that person ceases to be a battery treatment operator or an exporter (as the case may be);
- (b) if that person requests that its approval should be cancelled, with effect from the date of cancellation that person specifies.

(8) Where approval is suspended or cancelled under this regulation the appropriate authority is not under a duty to refund the whole or any part of the treatment, recycling and export application charge or the extension of approval charge.

## Charges

**65.**—(1) Notwithstanding the power to make a charging scheme under section 41 of the Environment Act 1995<sup>(2)</sup>, the Environment Agency and SEPA may impose the charges set out in paragraph (2) until—

- (a) those charges are superseded by such a charging scheme; or
- (b) 1st April 2013,

whichever is the earlier.

(2) The charges referred to in paragraph (1) are—

- (a) the application charge (which is required to be paid under regulation 58(c)) set out in paragraph (3);
- (b) an extension of approval charge (which is required to be paid under regulation 62(1)(c)) of £110.

(3) The application charge is—

- (a) for an applicant who is a battery treatment operator—
  - (i) if the applicant gives the undertaking mentioned in paragraph (4), £500 for each site in respect of which the application is made;
  - (ii) otherwise, £2,590 for each site in respect of which the application is made;
- (b) for an applicant who is an exporter—
  - (i) if the applicant gives the undertaking mentioned in paragraph (4), £500;
  - (ii) otherwise, £2,590.

(4) The undertaking referred to in paragraph (3) is an undertaking, in respect of the relevant approval period, to—

- (a) issue batteries evidence notes in respect of not more than 15 tonnes of waste portable batteries; and
- (b) accept not more than 150 tonnes of waste automotive and industrial batteries for treatment and recycling.

(5) If an approved battery treatment operator or an approved batteries exporter—

- (a) gives the undertaking;
- (b) pays the charge set out in paragraph (3)(a)(i) or (3)(b)(i); and
- (c) subsequently exceeds either of the limits in respect of which the undertaking was given,

that battery treatment operator or exporter is from the date the limit was exceeded liable to pay the appropriate authority the balance of the charge which would have been payable had the undertaking not been given.

(2) 1995 c. 25. Section 41 is amended by regulation 95 of and Schedule 8 to these Regulations. There are other amendments which are not relevant to these Regulations.

## Reporting

66.—(1) An approved battery treatment operator or approved battery exporter must provide reports to the appropriate authority—

- (a) in the case of information relating to waste portable batteries, for each quarter period of a relevant approval period on or before the last day of the month following the end of that quarter period; and
- (b) in the case of information relating to waste industrial and automotive batteries, for each relevant approval period on or before 31st January of the year following the end of that approval period.

(2) The reports referred to in paragraph (1) must be in writing, be signed by the appropriate person, be in the format published by the appropriate authority under regulation 80 and include details of—

- (a) in the case of an approved battery treatment operator—
  - (i) the total amount in tonnes of waste batteries accepted by that approved battery treatment operator at a specified site for treatment and recycling (“relevant waste batteries”) and, for waste portable batteries, the amount by reference to each battery compliance scheme from which they were accepted;
  - (ii) the total amount in tonnes of relevant waste batteries treated and recycled by that approved battery treatment operator;
  - (iii) the amount in tonnes of relevant waste batteries delivered to an approved battery exporter for treatment and recycling outside the United Kingdom;
  - (iv) where paragraph (iii) applies, the name and address of the exporter referred to in that paragraph; and
  - (v) where paragraph (i), (ii) or (iii) applies, details of the amount in tonnes of relevant waste batteries must be provided by reference to—
    - (aa) each specified site;
    - (bb) each category of battery; and
    - (cc) the chemistry type for each category of battery;
- (b) in the case of an approved battery exporter, the total amount of waste batteries in tonnes accepted and then exported for treatment and recycling by reference to—
  - (i) each category of battery;
  - (ii) the chemistry type for each category of battery;
  - (iii) the total number of batteries evidence notes issued;
  - (iv) for waste portable batteries, the battery compliance scheme from whom they were accepted.

(3) The reports referred to in paragraph (1) must not include details of any waste batteries which have not arisen as waste in the United Kingdom.

(4) An approved battery treatment operator or approved battery exporter must also provide a report to the appropriate authority on or before 31st May in the year following the relevant approval period which must—

- (a) be from an independent auditor; and
- (b) demonstrate to the satisfaction of the appropriate authority that—
  - (i) the treatment of waste batteries accepted at a specified site, in the case of an approved battery operator, or exported, in the case of an approved battery exporter, meets the minimum treatment requirements set out in paragraph 10(3)(b) of Schedule 4;

- (ii) recycling of waste batteries accepted at a specified site, in the case of an approved battery operator, or exported, in the case of an approved battery exporter, meets the requirements as to minimum recycling efficiencies set out in paragraph 10(3)(c) of that Schedule;
  - (iii) the batteries evidence notes issued by the approved battery treatment operator or approved battery exporter during the relevant approval period are consistent with the amount of waste portable batteries in tonnes accepted at a specified site for treatment and recycling or exported for treatment and recycling in that relevant approval period.
- (5) For the purposes of paragraph (4), an “independent auditor” means—
  - (a) an auditor who would be eligible for appointment as the statutory auditor of the approved battery treatment operator or the approved battery exporter under Part 42 of the Companies Act 2006(3); or
  - (b) an auditor who is—
    - (i) independent of the approved battery treatment operator or approved battery exporter;
    - (ii) independent of any operator of a battery compliance scheme; and
    - (iii) a member of a professional body for auditors that is recognised as such by the appropriate authority.

### **Record keeping**

**67.**—(1) An approved battery treatment operator or approved battery exporter must maintain records that enable completion of the reports referred to in regulation 66(1) and (4) in relation to a relevant approval period.

(2) A record maintained under this regulation must be kept for four years from the date on which it is made and must be made available to the appropriate authority on demand.