

2015 No. 1935

ENVIRONMENTAL PROTECTION

**The Waste Batteries and Accumulators (Amendment)
Regulations 2015**

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|-------------------------------|---------|---------------------------|
| <i>Made</i> | - - - - | <i>18th November 2015</i> |
| <i>Laid before Parliament</i> | | <i>26th November 2015</i> |
| <i>Coming into force</i> | - - | <i>1st January 2016</i> |

The Secretary of State makes these Regulations under the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Secretary of State is designated(b) for the purposes of the Act in relation to batteries and accumulators.

Citation, commencement and amendment

1.—(1) These Regulations may be cited as the Waste Batteries and Accumulators (Amendment) Regulations 2015 and come into force on 1st January 2016.

(2) The Waste Batteries and Accumulators Regulations 2009(c) are amended in accordance with regulations 2 to 10.

New regulation 5A

2. After regulation 5 (signature of documents: meaning of appropriate person), insert—

“Delegation of document-signing function

5A.—(1) The appropriate authority may approve the delegation by an appropriate person of the function of signing documents or information under these Regulations to any other person.

(2) A person who proposes to delegate under paragraph (1) must apply for approval to the appropriate authority on a form supplied for that purpose by the authority and signed by the person.

(3) An application for approval under paragraph (2) must, within 28 days of receipt of the application—

(a) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
(b) S.I. 2007/3471.
(c) S.I. 2009/890, to which there are amendments not relevant to these Regulations.

- (a) be granted where the appropriate authority is satisfied that the proposed delegate, taking into account the factors specified in paragraph (4), is capable of carrying out the function; or
 - (b) otherwise be refused.
- (4) The factors mentioned in paragraph (3)(a) are—
- (a) if the proposed delegate is an employee of the producer or the operator of the scheme, the proposed delegate’s level of seniority;
 - (b) if the proposed delegate is not an employee of the producer or the operator of the scheme, the nature of the proposed delegate’s relationship with the appropriate person;
 - (c) the degree of the proposed delegate’s knowledge of, or access to, information necessary for the purposes of carrying out the function; and
 - (d) any other factor which the appropriate authority reasonably thinks relevant.
- (5) An approval granted in accordance with paragraph (3)(a) may be for such period, or subject to such other conditions, as the appropriate authority may specify.
- (6) Where an application for approval is granted in accordance with paragraph (3)(a), the appropriate authority must, within 28 days of its decision, notify the appropriate person in writing of this and of any conditions it has imposed pursuant to paragraph (5).
- (7) A person whose function has been delegated in accordance with paragraph (3)(a) may continue to perform the function.
- (8) The appropriate authority may withdraw an approval granted under paragraph (3)(a) and, if so, must notify the appropriate person in writing of this and of—
- (a) the reasons for withdrawal of the approval; and
 - (b) the date when the withdrawal takes effect, not being earlier than 28 days from the date of the notice.
- (9) If an appropriate person proposes to revoke a delegation approved under paragraph (3)(a), the person must serve written notice on the appropriate authority of this and of the date when the revocation takes effect, not being earlier than 28 days from the date of the notice.
- (10) For the purposes of these Regulations, an act of a delegate acting in accordance with an approval granted under paragraph (3)(a) is treated as an act of the appropriate person.”.

Regulation 19

3. In regulation 19 (financing: portable batteries), in paragraph (2), for “paragraph 10”, substitute “paragraph 15(2)”.

Regulation 47

4. In regulation 47 (application for approval of a proposed battery compliance scheme), for paragraph (5)(b), substitute—

“(b) include the information set out in Part 1 of Schedule 3, which must be submitted in the format published by the appropriate authority under regulation 79;”.

Regulation 49

5. In regulation 49 (approval of proposed schemes), in paragraph (1)(c), for “and operational plan provided in accordance with regulation 47 demonstrate”, substitute “provided in accordance with regulation 47 demonstrates”.

Regulation 52

6. In regulation 52 (conditions of approval), omit paragraph (2)(b), (e)(ii)(bb) and (g).

Regulation 53

7. Omit regulation 53 (annual confirmation of approval of a battery compliance scheme).

Regulation 66

8. In regulation 66 (reporting), omit paragraphs (4) and (5).

Regulation 67

9. In regulation 67 (record keeping), in paragraph (1), omit “and (4)”.

Schedule 3

10. In Schedule 3 (approval of proposed schemes)—

- (a) omit Part 2;
- (b) omit paragraph 12(a);
- (c) in paragraph 13, for “three compliance periods covered by the operational plan”, substitute “first three compliance periods to which the application relates”;
- (d) paragraph 15 is renumbered as sub-paragraph (1) of that paragraph;
- (e) after that sub-paragraph, insert—
 - “(2) In sub-paragraph (1)(c), “a scheme information campaign” means a campaign to disseminate information to ensure that end-users of portable batteries are fully informed of—
 - (a) the desirability of not disposing of waste batteries as unsorted municipal waste and of participating in their separate collection so as to facilitate treatment and recycling;
 - (b) the collection and recycling facilities available to them;
 - (c) their role in contributing to the recycling of waste batteries;
 - (d) the meaning of the symbol of the crossed-out wheeled bin shown in Schedule 5 and the chemical symbols “Hg”, “Cd” and “Pb”.”.

18th November 2015

Rory Stewart
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Waste Batteries and Accumulators Regulations 2009 (S.I. 2009/890) (“WaBAR”), which partially implement Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators (OJ No L 266, 26.9.2006, p 1).

Regulation 2 inserts regulation 5A in WaBAR so that an appropriate person may delegate the function of signing documents in accordance with those Regulations to another person.

Regulation 4 amends regulation 47 of WaBAR to remove the requirement that an application for approval of a proposed battery compliance scheme include an operational plan.

Regulation 8 omits regulation 66(4) and (5) of WaBAR to remove the requirement that an approved battery treatment operator or approved battery exporter provide an independent auditor's report to the appropriate authority on or before 31st May in the year following the relevant approval period.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Producer Responsibility Unit, Defra, Nobel House, 17 Smith Square, London, SW1P 3JR and is annexed to the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk.

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