

**EXPLANATORY MEMORANDUM TO
THE EUROPEAN COMMUNITIES (DESIGNATION) (No. 5) ORDER 2007**

2007 No. 3471

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Description

This Order, which comes into force on 9th January 2008, designates the Secretary of State and any Northern Ireland department so that they may each exercise the powers conferred by section 2(2) of the European Communities Act 1972 (“section 2(2)”) in relation to batteries and accumulators. This Order also revokes the existing designation which designates the Secretary of State and any Northern Ireland department in relation to measures relating to batteries and accumulators containing dangerous substances, which is superseded by this Order.

This Order also revokes the existing designation in relation to measures relating to the allocation of take off and landing slots for aircraft at airports which has been superseded by an earlier Order.

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

None.

4. Legislative Background

4.1 Section 2(2) confers a power which may be exercised by a designated Minister or government department, or by the devolved administrations of Wales or Northern Ireland.

4.2 A designated Minister, government department or devolved administration can then make provision by order, rules, regulations, or scheme for the purpose of enabling a Community right to be exercised or implementing a Community obligation (or to deal with matters arising out of or related to any such obligation) in relation to the subject matter of the designation.

Council Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators (“the Batteries Directive”)

4.4 Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators (“the Batteries Directive”)¹ repeals and replaces Directive

¹ A copy of the Directive can be accessed at this link:
http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_266/l_26620060926en00010014.pdf

91/157/EEC on batteries and accumulators containing certain dangerous substances.

- 4.5 Subordinate legislation will be made under section 2(2), as described in Section 7 of this Explanatory Memorandum, as the powers available to the Secretary of State and Northern Ireland departments under other existing legislation are not sufficient to effect full implementation of the Directive.
- 4.6 The Directive must be fully implemented by 26th September 2008.
- 4.7 The new designation will supersede the existing designation of the Secretary of State and any Northern Ireland department in relation to measures relating to batteries and accumulators containing dangerous substances in the European Communities (Designation) Order 1993 (S.I. 1993/595). This designation is therefore revoked.

Revocation of superseded designation in relation to “measures relating to the allocation of take off and landing slots for aircraft at airports”

- 4.8 This designation has been superseded by the European Communities (Designation) (No.3) Order 1993 (S.I. 1993/2661) and is therefore being revoked.
- 4.9 S.I. 1993/2661 designates the Secretary of State in relation to air transport.

5. Territorial Extent and Application

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

Designation in relation to “batteries and accumulators” for the Secretary of State and any Northern Ireland department

- 7.1 The purpose of the Directive is to improve the environmental performance of batteries and accumulators and of the activities of all economic operators involved in the life cycle of batteries and accumulators, such as producers, distributors and operators involved in the treatment and recycling of waste batteries and accumulators.
- 7.2 In particular, the Directive establishes specific rules regarding the placing on the market of batteries and accumulators and restricts placing on the market batteries and accumulators containing certain hazardous substances.

7.3 The Directive also establishes specific rules for the collection, treatment, recycling and disposal of waste batteries and accumulators.

7.4 Once designated, the Secretary of State for Business, Environment and Regulatory Reform proposes to make regulations to transpose the requirements of the Directive using the powers in section 2(2).

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as it is an enabling instrument and in itself has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

9. Contact

Les Saunders at Cabinet Office European Secretariat, Tel: 020 7276 0190 or email (Les.Saunders@cabinet-office.x.gsi.gov.uk) can answer any queries regarding the instrument.

Cabinet Office
European Secretariat
19th December 2007