
STATUTORY INSTRUMENTS

2009 No. 890

The Waste Batteries and Accumulators Regulations 2009

PART 3

**OBLIGATIONS OF BATTERY COMPLIANCE SCHEMES AND
REGISTRATION OF PRODUCERS OF PORTABLE BATTERIES**

Financing: portable batteries

19.—(1) A scheme operator must finance—

- (a) the net costs for which each scheme member is responsible under regulation 7(2);
- (b) the net costs of the collection, treatment and recycling of any waste portable batteries collected by the battery compliance scheme in excess of those required to satisfy subparagraph (a);
- (c) the net costs of a scheme information campaign.

(2) In this regulation, “scheme information campaign” has the meaning given in paragraph 10 of Schedule 3.

Duty of the appropriate authority to determine and notify scheme operator’s aggregate share of costs

20.—(1) This regulation applies in respect of each battery compliance scheme.

(2) The appropriate authority must—

- (a) determine the aggregate share for which each scheme operator is responsible, being the sum of the shares of all scheme members calculated in accordance with regulation 8;
- (b) notify each scheme operator of that share on or before 31st March in the year following the relevant compliance period.

(3) In making its determination, the appropriate authority must—

- (a) take account of any information provided to it under regulation 23; and
- (b) make a reasonable estimate of—
 - (i) the quantity in tonnes of portable batteries placed on the market in the United Kingdom by scheme members during 2009 but before the coming into force of these Regulations; and
 - (ii) any information which should have been provided under that regulation but was not.

(4) A notification must include the following information—

- (a) the compliance period to which it relates;
- (b) the aggregate share determined by the authority;

- (c) details of how that share has been determined in accordance with the method set out in regulation 8 and paragraph (2)(a) of this regulation, including details of any information which was estimated;
 - (d) a statement that the scheme operator may make representations in writing to the appropriate authority in respect of the determination within 14 days of the notification.
- (5) The appropriate authority must—
- (a) consider any representation made under paragraph (4)(d);
 - (b) confirm or amend the aggregate share determined by it;
 - (c) notify its decision and the reasons for it in writing to the scheme operator within 14 days of receiving the representations.

Treatment and recycling

21. A scheme operator must ensure that all identifiable waste batteries collected by the battery compliance scheme 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

22.—(1) A scheme operator must keep records in writing of—

- (a) the total amount in tonnes; and
- (b) the amount in tonnes by reference to the chemistry type,

of waste portable batteries which that scheme has been responsible for 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 be kept for four years from the date it is made and must be made available to the appropriate authority on demand.

Reporting: batteries placed on the market by scheme members

23.—(1) A scheme operator must provide to the appropriate authority information on the total amount in tonnes of portable batteries that each scheme member 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 must—

- (a) be in writing and signed by the appropriate person;
- (b) specify the total amount in tonnes and the amount in tonnes by reference to the chemistry type; and
- (c) be submitted in the format published by the appropriate authority under regulation 79.

(3) The duty in paragraph (1)(a) does not require a scheme operator to provide information relating to portable batteries placed on the market for the first time in 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 January 2010.

(5) The information referred to in paragraph (1)(b) must be provided for each quarter period of a relevant compliance period on or before the last day of the month following the end of that quarter period.

Reporting: waste batteries

24.—(1) A scheme operator must provide to the appropriate authority information on the total amount in tonnes of waste portable batteries that the operator has been responsible for—

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

during a relevant compliance period.

(2) The information must—

- (a) be in writing and signed by the appropriate person;
- (b) specify the total amount in tonnes and the amount in tonnes by reference to the chemistry type; and
- (c) be submitted in the format published by the appropriate authority under regulation 79.

(3) The information must be provided for each quarter period of a relevant compliance period on or before the last day of the month following the end of that quarter period.

Declaration of compliance by battery compliance scheme

25.—(1) A scheme operator must provide—

- (a) a declaration of compliance; and
- (b) copies of all batteries evidence notes acquired by it

in respect of the relevant compliance period to the appropriate authority on or before 31st May of the next year.

(2) A declaration of compliance must—

- (a) include the information and the declaration set out in Part 2 of Schedule 1; and
- (b) be in writing and signed by the appropriate person.

Registration of producers of portable batteries

26.—(1) A scheme operator must ensure that each scheme member is registered with the appropriate authority.

(2) Paragraph (1) does not apply to a scheme member who is or was also a producer of industrial or automotive batteries and is registered with the Secretary of State under regulation 45.

(3) A scheme operator must make an application for registration of scheme members to the appropriate authority—

- (a) in respect of any producer who is a scheme member on 15th October 2009 on or before 31st October 2009; or
- (b) in respect of any producer who—
 - (i) becomes a scheme member after 15th October 2009; and
 - (ii) whose details do not appear on a register kept under regulation 76, within 28 days of the date when that producer becomes a scheme member.

(4) A small producer must make an application to register with the appropriate authority within 28 days of the date that producer first places portable batteries on the market for the first time in the United Kingdom after 15th October 2009.

(5) Paragraph (4) does not apply to a small producer who is or was also a producer of industrial or automotive batteries and is registered with the Secretary of State under regulation 45.

Form of an application to register scheme members or a small producer

27. A person making an application to register scheme members or a small producer under regulation 26 must ensure that it—

- (a) is in writing, is signed by the appropriate person and is in the format published by the appropriate authority under regulation 76;
- (b) contains in relation to each producer who is a subject of the application the information set out in Schedule 2;
- (c) in the case of an application to register scheme members, is accompanied by evidence that the battery compliance scheme has been approved under regulation 49.

Duties of the appropriate authority in relation to applications to register producers of portable batteries

28.—(1) The appropriate authority must grant an application for registration where—

- (a) the applicant has complied with regulation 27;
- (b) in the case of an application to register a scheme member, the scheme is approved under regulation 49; and
- (c) the producer who is the subject of the application does not appear on a register maintained under regulation 76.

(2) Otherwise the appropriate authority must refuse the application.

(3) Where an application for registration is granted the appropriate authority must, by the date mentioned in paragraph (5) confirm to the applicant in writing—

- (a) either (as the case may be)—
 - (i) that scheme members specified in the confirmation are registered with it; or
 - (ii) that the small producer is registered with it; and
- (b) subject to paragraph (4), the new battery producer registration number it has allocated to each of those scheme members or to the small producer (as the case may be).

(4) If a producer who is the subject of the confirmation 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 appropriate authority must, instead of allocating a new battery producer registration number, allocate that producer's most recently allocated battery producer registration number.

(5) The date referred to in paragraph (3) is—

- (a) in respect of an application made on or before 31st October 2009, on or before 30th November 2009;
- (b) otherwise, within 28 days of receipt of the application.

Notification of changes to registration details

29.—(1) If there is a change to the details entered in respect of a producer on a register maintained under regulation 76—

- (a) the operator of the battery compliance scheme of which the producer is a scheme member at the time of that change; or
- (b) the small producer,

as the case may be, must notify the appropriate authority of it within one month of the change of circumstance.

(2) If a scheme member or small producer ceases to be a producer—

- (a) the scheme operator at the time of that change of circumstance; or
- (b) the small producer,

as the case may be, must notify the appropriate authority of it 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 producer's name and battery producer registration number;
- (c) be submitted in the format published by the appropriate authority under regulation 76;
- (d) where the notification is made by a scheme operator, be accompanied by evidence that the battery compliance scheme has been approved under regulation 49.

Declaration of battery producer registration number

30. A producer who is registered with an appropriate authority under regulation 26 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.