
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations partially implement Directive [2006/66/EC](#) of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing Council Directive [91/157/EEC](#) (OJNo. L266, 26.9.2006, p.1) (“the Directive”). The following provisions of the Directive are transposed in these Regulations: Articles 4, 6(2), 11 and 21(1), (3), (4), (5) and (6).

These Regulations revoke and replace the Batteries and Accumulators (Containing Dangerous Substances) Regulations 1994 ([S.I. 1994/232](#)) (as amended by [S.I. 2000/3097](#) and [S.I. 2001/2551](#)) and the Batteries and Accumulators (Containing Dangerous Substances) Regulations (Northern Ireland) 1995 ([S.R. 1995/122](#)) (as amended by [S.R. 2002/300](#)) which implemented Council Directive [91/157/EEC](#) on batteries and accumulators containing certain dangerous substances (OJ No. L78, 26.3.1991, p.38) as amended by Commission Directive [98/101/EC](#) (OJ No. L1, 5.1.1999, p.1).

These Regulations apply to batteries and accumulators and to certain electrical and electronic equipment that are placed on the market on or after 26th September 2008.

These Regulations do not apply to batteries or accumulators used in certain equipment connected with the protection of the essential security interests of EEA states and equipment designed to be sent into space.

Part 2 sets out requirements relating to the placing on the market on or after 26th September 2008 of batteries and accumulators and certain electrical and electronic equipment. Regulation 4 provides that batteries and accumulators must not contain more than the permissible levels of mercury or cadmium. Regulation 5 provides that batteries, accumulators and battery packs must be marked with the crossed out wheeled bin symbol shown in Schedule 1. Regulation 6 provides that batteries and accumulators that contain more than the specified levels of mercury, cadmium or lead must be marked with the appropriate chemical symbol. Regulation 7 provides that certain electrical and electronic equipment into which a battery is or may be incorporated must be designed in such a way that a waste battery or accumulator can be readily removed from that appliance; and must be accompanied by instructions showing how the battery or accumulator can be removed safely and, where appropriate, informing the end-user of the type of the incorporated battery or accumulator. There is an exception where for safety, performance, medical or data integrity reasons continuity of power supply is necessary and requires a permanent connection between the equipment and the battery or accumulator.

The Secretary of State has the duty of enforcing these Regulations (regulation 8) and may appoint a person to act on the Secretary of State’s behalf. The Secretary of State has the power to make test purchases (regulation 9) and require production of documents and information (regulation 10). Regulations 13 and 14 provide the Secretary of State with the power to serve compliance and enforcement notices in cases where a battery, accumulator or appliance does not comply with the requirements of Part 2 and require the withdrawal from the market of non-compliant goods. Enforcement officers have powers to enter premises and carry out various information-gathering functions (regulations 11 and 12).

A person who contravenes or fails to comply with the requirements of Part 2 or an enforcement notice shall be guilty of an offence; there are also procedural offences of obstruction and providing false or misleading information (regulation 15). Penalties for such offences are set out in regulation 16. The current maximum fine under level 5 on the standard scale is £5,000. Where a requirement of Part 2 or of an enforcement notice has been contravened, the court may also order the defendant to take remedial action or, in the case of a contravention of regulation 4 or 6 or of an enforcement notice, pay

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the costs of the Secretary of State's investigation (regulations 17 and 18). Proceedings in relation to offences may be commenced within twelve months of the offence being committed (regulation 19). A defence of due diligence is provided in regulation 20 and the liability of persons other than the principal offender is set out in regulation 21. There is provision for service of documents under these Regulations in regulation 22.

Regulation 24 amends the list of subordinate legislation which is specified for the purposes of Part 9 of the Enterprise Act 2002 (disclosure of information). Information obtained by a public authority under these Regulations will be restricted and its use and disclosure subject to Part 9.

Schedule 2 provides for the revocation of the Batteries and Accumulators (Containing Dangerous Substances) Regulations 1994 (and amending instruments) and the Batteries and Accumulators (Containing Dangerous Substances) Regulations (Northern Ireland) 1995 (and amending instrument).

An Impact Assessment (IA) in respect of these Regulations is available and a copy can be obtained from the Business Group, Department for Business, Enterprise and Regulatory Reform (BERR), 1 Victoria Street, London SW1H 0ET and at <http://www.berr.gov.uk/sectors/sustainability>. As these Regulations partially transpose a Directive, a transposition note (TN) setting out how the Government has transposed the Directive in the United Kingdom has been prepared. Copies of the IA and TN are available from BERR as above. Copies of these documents have been placed in the libraries of both Houses of Parliament.