
STATUTORY INSTRUMENTS

2009 No. 890

The Waste Batteries and Accumulators Regulations 2009

PART 2

PRODUCER OBLIGATIONS: PORTABLE BATTERIES

Financing: portable batteries

7.—(1) This regulation applies to each producer of portable batteries in respect of each compliance period during which it places such batteries on the market in the United Kingdom.

(2) A producer of portable batteries, or a third party acting on its behalf, must finance the net costs arising from the collection, treatment and recycling of its share, calculated in accordance with regulation 8, of all waste portable batteries collected in the United Kingdom.

(3) A small producer is not under a duty to finance the costs referred to in paragraph (2).

Calculation of a producer's share

8.—(1) The producer's share referred to in regulation 7(2) is an amount in tonnes of waste batteries.

(2) The producer's share is equal to the specified percentage of the average annual quantity in tonnes of portable batteries placed on the market for the first time in the United Kingdom by the producer during the relevant period.

(3) In this regulation—

“the relevant period” means—

- (a) in relation to the first compliance period, the year 2009;
- (b) in relation to the compliance period 2011, the years 2009 and 2010;
- (c) in relation to each subsequent compliance period, the compliance period and the two preceding years; and

“the specified percentage” means, in respect of a compliance period, the percentage specified in the table.

(4) The table is—

<i>Compliance period</i>	<i>Specified percentage</i>
2010	10%
2011	18%
2012	25%
2013	30%
2014	35%

<i>Compliance period</i>	<i>Specified percentage</i>
2015	40%
2016	45%
Any year after 2016	45%

Duty to be a member of a battery compliance scheme

9.—(1) A person must be a member of a battery compliance scheme in respect of any compliance period during which that person is a producer of portable batteries.

(2) The duty in paragraph (1) does not apply to a small producer.

(3) A producer who is required by paragraph (1) to be a member of a battery compliance scheme must join a scheme—

- (a) on or before 15th October in the year before the relevant compliance period; or
- (b) if the producer does not place portable batteries on the market for the first time in the United Kingdom until after that date, within 28 days of the date of such placing on the market.

(4) A producer may not be a member of more than one battery compliance scheme in respect of a compliance period unless the producer was a member of a scheme whose approval was withdrawn under regulation 54 during that compliance period.

Effect of membership of a battery compliance scheme

10. A producer who is a member of a battery compliance scheme is exempt from complying with any obligation under regulation 7(2) or 18.

Information provided to operators of battery compliance schemes

11.—(1) A scheme member must provide to the scheme operator on request and in writing the information which that operator will need to rely on for the purposes of—

- (a) complying with a demand to produce records under regulation 22(2) (record keeping);
- (b) complying with the requirement to provide information under regulation 23 (reporting: batteries placed on the market by scheme members);
- (c) making an application to register a producer under regulation 26(3) (registration of scheme members);
- (d) making a notification under regulation 29 (notification of changes to registration details).

(2) After providing such information, a producer must inform the scheme operator in writing of any material change to it within 14 days of the change.

(3) A producer providing information under this regulation must ensure that it is signed by the appropriate person.

Record keeping

12.—(1) A producer of portable batteries 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 portable batteries which that producer has placed on the market for the first time in the United Kingdom during 2009 and during any 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.

(3) The duties in this regulation apply only to records that were in existence on the coming into force of these Regulations and to records made after that date.

Reporting: portable batteries placed on the market by a small producer

13.—(1) A small producer must provide to the appropriate authority information on the total amount in tonnes of portable batteries which that producer has placed on the market for the first time in the United Kingdom in—

- (a) 2009; and
- (b) each compliance period.

(2) The information referred to in paragraph (1) 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
- (d) be accompanied by—
 - (i) subject to regulation 14(1), where the appropriate authority is the Environment Agency or SEPA, the charge specified in regulation 14(2) or, if superseded by a charge specified for the purpose in a charging scheme made under section 41 of the Environment Act 1995(1), that charge;
 - (ii) where the appropriate authority is the Department of the Environment, the charge specified for the purpose in the Waste Batteries and Accumulators (Charges) Regulations (Northern Ireland) 2009(2).

(3) The duty in paragraph (1)(a) does not require a small producer 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 compliance period on or before 31st January of the next year.

Charges in relation to small producers

14.—(1) Notwithstanding the power to make a charging scheme under section 41 of the Environment Act 1995, the Environment Agency and SEPA may impose a charge in accordance with paragraph (2) until—

- (a) that charge is superseded by such a charging scheme; or
- (b) 1st April 2013,

whichever is the earlier.

(2) The charge referred to in paragraph (1) is, annually £30 in respect of any administrative costs incurred in the exercise of functions connected with—

(1) 1995 c. 25. Section 41 is amended by regulation 95 and Schedule 8 of these Regulations. There are other amendments which are not relevant to these Regulations.

(2) S.R. 2009/157.

- (a) registration of small producers (including amending the register maintained under regulation 76);
- (b) monitoring the compliance of small producers with their obligations under this Part;
- (c) monitoring the accuracy of information provided by small producers under regulation 13;
- (d) publishing information in relation to small producers under regulation 81.

Duty to join another scheme on withdrawal of approval

15.—(1) This regulation applies to a producer who is notified under regulation 54(4) that approval of the battery compliance scheme of which the producer is a member (“the old scheme”) has been withdrawn.

(2) The producer is no longer a member of the old scheme from the date when the withdrawal takes effect and must, within 42 days of that date—

- (a) become a member of another battery compliance scheme; or
- (b) notify the appropriate authority of its intention to become a member of a proposed scheme.

(3) If the producer notifies its intention to become a member of a proposed scheme, the producer must become a member of a battery compliance scheme within 28 days of the date of the notification given to that producer under regulation 51(4).

Treatment, recycling, record keeping and reporting after withdrawal of scheme approval

16.—(1) This regulation applies to a producer—

- (a) to whom regulation 15 applies; and
- (b) who has not yet become a member of another battery compliance scheme as required by regulation 15(2) or (3).

(2) The producer must ensure that all identifiable waste portable batteries collected by that producer 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.

(3) The producer 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 that the producer has collected and delivered to an approved battery treatment operator for treatment and recycling or to an approved exporter for treatment and recycling outside the United Kingdom.

(4) A record kept under paragraph (3) must be kept for four years from the date it is made and must be made available to the appropriate authority on demand.

(5) The producer must provide to the appropriate authority information on the total amount in tonnes of portable batteries which that producer has placed on the market for the first time in the United Kingdom in a compliance period.

(6) The producer must provide to the appropriate authority information on the total amount in tonnes of waste portable batteries that the producer has—

- (a) collected; and
- (b) delivered to an approved battery treatment operator for treatment and recycling or to an approved battery exporter for treatment and recycling outside the United Kingdom.

- (7) The information referred to in paragraphs (5) and (6) 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;
 - (c) be submitted in the format published by the appropriate authority under regulation 79 and
 - (d) 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.

Duty of the appropriate authority to determine and notify producer's share

- 17.—(1) This regulation applies in respect of a producer—
- (a) to whom regulation 15 applies; and
 - (b) who has not yet become a member of another battery compliance scheme as required by regulation 15(2) or (3).
- (2) The appropriate authority must—
- (a) determine the producer's share in accordance with the method set out in regulation 8; and
 - (b) notify the producer 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 for the first time in the United Kingdom by the producer 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 producer's share determined by the authority;
 - (c) details of how that share has been determined in accordance with the method set out in regulation 8, including details of any information which was estimated;
 - (d) a statement that the producer 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 share determined by it;
 - (c) notify its decision and the reasons for it in writing to the operator of the scheme within 14 days of receiving the representations.

Declaration of compliance by producer

- 18.—(1) This regulation applies to a producer—
- (a) to whom regulation 15 applies; and
 - (b) who has not yet become a member of another battery compliance scheme as required by regulation 15(2) or (3).

- (2) The producer must provide—
 - (a) a declaration of compliance; and
 - (b) copies of all batteries evidence notes acquired by the producer,in respect of the relevant compliance period to the appropriate authority on or before 31st May of the next year.
- (3) A declaration of compliance must—
 - (a) include the information and the declaration set out in Part 1 of Schedule 1; and
 - (b) be in writing and signed by the appropriate person.