

THE WASTE BATTERIES AND ACCUMULATORS REGULATIONS 2009

Government Guidance Notes

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Llywodraeth Cynulliad Cymru
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Government Guidance Notes

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1. This Guidance is intended to help those placing batteries and accumulators, or products that may contain or incorporate batteries and accumulators, on the UK market, to understand the application of the Waste Batteries and Accumulators Regulations 2009. The Guidance is also for those that supply portable batteries to end-users, and those collecting, treating, recycling or exporting waste batteries, as they also have obligations under the Regulations. The 2009 Regulations can be found on the [legislation.gov.uk](http://www.legislation.gov.uk) website at:

<http://www.legislation.gov.uk/ukSI/2009/890/contents/made>

2. The Guidance aims to explain the Regulations as interpreted by the Department for Business, Innovation and Skills (BIS), the Department for the Environment, Food and Rural Affairs (Defra) and the Devolved Administrations for Northern Ireland, Scotland and Wales. These Regulations affect the whole of the UK. However, there are also supplementary Regulations for both Northern Ireland and Scotland addressing specific issues and these are also covered by this Guidance on pages 57-58.
3. The Guidance is intended to be informative and provide explanation and examples to illustrate the requirements of the legislation. It cannot cover every situation and of course it may be necessary to consider the relevant legislation carefully to see how it applies in your circumstances. However, if you do follow the guidance it will help you to comply with the law and reduce the impact that waste batteries have on the environment.
4. The Regulations may be revised from time to time, so businesses that may be affected should take care to keep themselves informed of changes. Such changes will normally be publicised on BIS and Defra websites, but information may also be obtained from the relevant Departments themselves. Details of contacts for further information are given at the end of the document.

How to use this Guidance

5. This Guidance is restricted to the application of the Waste Batteries and Accumulators Regulations 2009 that transpose the waste battery provisions of the EU Directive on Batteries and Accumulators and Waste Batteries and Accumulators (2006/66/EC)¹. It deals with requirements related to the collection, treatment and recycling of waste industrial, automotive and portable batteries. It includes extended

¹ The Batteries Directive has been amended by EC Directives 2008/12/EC and 2008/103/EC

producer responsibility² requirements for those placing new batteries on the UK market and requirements for those supplying new portable batteries to end-users, or collecting, treating, recycling or exporting automotive, industrial or portable batteries when they become waste. There are substantial differences in obligations depending on whether the batteries in question are automotive, industrial or portable; affected parties will need to be clear which type or types they deal with in order to establish how the Regulations affect them.

6. In the interests of brevity, in most instances the Guidance uses the words “battery” or “batteries” to describe both single use (primary) batteries and rechargeable batteries (accumulators). (See ‘Definitions’ on page 7.)
7. The Government has a separate set of guidance notes relating to the Batteries and Accumulators (Placing on the Market) Regulations 2008 (SI 2008 No. 2164). The 2008 Regulations deal with technical requirements affecting the manufacture, marketing and labelling of new batteries, and the design of certain battery-powered equipment.

² Producer responsibility is aimed at ensuring that businesses who place products on the market take responsibility for those products once they have reached the end of their life.

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Batteries Regulations – the law in brief

8. The Waste Batteries and Accumulators Regulations 2009³ (“the Regulations”) implement in the UK the waste battery provisions of the EC Directive on Batteries and Accumulators and Waste Batteries and Accumulators 2006/66/EC (“the Directive”).
9. These Regulations set out requirements for waste battery collection, treatment, recycling and disposal for all battery types including arrangements by which the UK intends to meet waste portable battery separate collection targets of 25% by 2012 and 45% by 2016. Any persons that currently or intend to place on the market new primary (single use) batteries and accumulators (more commonly known as rechargeable batteries), and products that may contain batteries and accumulators, should familiarise themselves with these Regulations. The Regulations also affect battery distributors/retailers, and waste battery collectors, recyclers and exporters.
10. These Regulations complement the Batteries and Accumulators (Placing on the Market) Regulations 2008 (SI 2008 No, 2164), which introduced a range of product design requirements, including restrictions on the use of mercury and cadmium in new batteries, battery labelling requirements and requirements for appliances to be designed so that batteries can be easily removed. The 2008 Regulations can be found on the legislation.gov.uk website at:

<http://www.legislation.gov.uk/uksi/2008/2164/contents/made>
11. These Regulations do not affect the application of other existing legal requirements for batteries such as those regarding safety, the protection of health, existing transport requirements or provisions on hazardous waste. In other words, existing legislation that affects batteries and relevant hazardous substances must also be complied with.

Entry into force

12. The bulk of the Regulations came into force on 5 May 2009. Provisions relating to the disposal of waste industrial and automotive batteries and the requirement for those treating and recycling or exporting waste batteries to be approved came into force on 1 January 2010. Part 4 of the Regulations setting out the obligations and rights of distributors of portable batteries and others came into force on 1 February 2010.

³ SI 2009 No. 890

Key Requirements

13. The requirements covered by this Guidance are broken down into 6 broad areas as follows:
 - (i) Requirements for battery producers – including “extended producer responsibility” requirements which mean that battery producers will have to finance the separate collection, treatment and recycling of waste batteries.
 - (ii) Requirements for portable battery distributors.
 - (iii) Requirements for waste portable Battery Collection Scheme operators setting out the criteria that Battery Compliance Schemes will have to meet.
 - (iv) Requirements for waste battery treatment operators.
 - (v) Requirements for waste battery exporters.
 - (vi) Advice for consumers and businesses that buy and use batteries.
14. Differing requirements apply in many cases, depending on whether the batteries in question are industrial, automotive or portable.

Enforcement Authorities

15. Responsibility for the enforcement of the waste industrial and automotive battery provisions of the Regulations lies largely with BIS.
16. Responsibility for the enforcement of the waste portable battery provisions of the Regulations and the requirements placed on Approved Battery Treatment Operators and Approved Battery Exporters falls mostly to the environment agencies of the UK - the Environment Agency for England and Wales (EA), the Scottish Environment Protection Agency (SEPA) in respect of Scotland and the Department of the Environment for Northern Ireland. In practice the Northern Ireland Environment Agency (NIEA – an agency of the Department of the Environment) carries out this enforcement role. These bodies are called the environment agencies within this guidance.
17. The Vehicle Certification Agency (VCA) has been appointed as the enforcement body responsible for enforcing the obligations which fall on distributors with respect to the take-back of waste portable batteries.

Scope

18. The Regulations apply to all types of batteries and accumulators, regardless of their shape, volume, weight, material composition or use, and whether or not they are incorporated into appliances, although there are some exemptions.
19. The Regulations do not apply to either:
 - (i) batteries used in equipment connected with the protection of an European Economic Area (EEA) country's essential security interests, such as arms, munitions and war material, and intended for specifically military purposes; or
 - (ii) batteries used in equipment designed to be sent into space.
20. Unlike the definition of an "industrial" battery, which relates to the design of the battery type, these exemptions are related to the actual **use** of the particular batteries concerned, rather than their design though, in many cases the batteries may be designed specifically for specialist use.

Definitions

21. A detailed list of definitions can be found in the Regulations themselves. The following examples are particularly important when using this guidance:

What is a battery?

22. A battery or accumulator is considered to be any source of electrical energy generated by direct conversion of chemical energy and consisting of either
 - one or more primary battery cells (non-rechargeable or disposable batteries); or
 - one or more secondary battery cells (accumulators or rechargeable batteries).

This Guidance uses the words "battery and "batteries" to mean both primary and rechargeable varieties.

What different types of batteries are there?

23. The Regulations apply a number of common and a number of different obligations upon persons placing batteries on the market depending on whether these batteries are classified as industrial, automotive or portable batteries. These three different types of batteries are defined in the following way:

24. An **industrial battery** means a battery or battery pack of any size or weight which is:

- designed exclusively for industrial or professional uses;
- used as a source of power for propulsion in an electric vehicle or a “hybrid” vehicle (i.e. a vehicle with both an electric motor and an internal combustion engine);
- unsealed but is not an automotive battery; or
- sealed but is not classified as a portable battery.

25. What may be considered as an ‘industrial battery’ is dependent on one or more of the factors outlined above. The definition does set out that an industrial battery is a battery “...*used as a source of propulsion in an electric vehicle...*”. The perception of what may be considered as a ‘vehicle’ is generally understood however, it could be interpreted broadly. For the purposes of these Regulations, a vehicle is considered to be a self-propelled means of transport that is capable of carrying people or goods. For example an electric forklift would be considered a vehicle as it is designed to move goods around a warehouse or a building site. An electric golf buggy designed to move people and their golf clubs around a golf course would also be considered a vehicle. A battery powered golf trolley however, used to carry golf clubs around a course would not be considered a vehicle.

Examples of **industrial batteries** include:

- *Batteries designed exclusively to be used in offshore oil rigs and lighthouses.*
- *Batteries designed exclusively for handheld terminals used in shops and restaurants and barcode readers in shops.*
- *Batteries designed exclusively to be used in fixed electricity and gas meters found in a home or business premises.*
- *Batteries designed exclusively to be used in professional video equipment and professional studios.*
- *The battery designed exclusively to be used as a source of propulsion in a golf buggy.*
- *The battery designed to be used in a motor boat or motor yacht used for starting petrol or diesel fuelled engines or as a source of power for an electric engine.*
- *The battery used as a source of power and propulsion to drive the motor in an electric forklift.*

26. An **automotive battery** means a battery of any size or weight that is used for the starting or ignition of the engine of a road going vehicle or for providing power for any lighting used by such a vehicle. This includes such batteries used in vehicles that are of a road-going nature but not actually used on public roads, such as a racing car or tractor. Any other batteries used in vehicles, such as the battery in a key fob, are not automotive batteries. Batteries providing the power to drive electric vehicles are classified as industrial batteries, even where they also provide power for starting, ignition or lighting for the vehicle. A “hybrid” vehicle is therefore likely to have an industrial battery for propulsion and an automotive battery for ignition.

Examples of an **automotive battery** include:

- *A motorcycle battery – the battery used for starting, lighting or ignition.*
- *A car/van battery – the battery used for starting, lighting or ignition (the traditional 12-volt “car battery”).*
- *A truck, bus or coach battery – the battery used for starting, lighting or ignition in such vehicles.*

27. A **portable battery** means any battery or battery pack which is:

- sealed;
- can be hand-carried by an average person without difficulty; and
- is neither an automotive battery nor an industrial battery.

Examples of a **portable battery** include:

- *The AA or AAA batteries used to power a remote control that may accompany appliances such as televisions and DVD players.*
- *The battery used to power a portable MP3 player.*
- *The battery used to power a laptop or mobile phone.*
- *The button cell fixed to the motherboard of a personal computer or laptop, or used to power a wristwatch.*

28. When reaching a view on the type of battery you have placed on the market, one aspect of the definition of a portable battery is that it “*can be hand-carried by an average person without difficulty*”. This is not defined in the Directive. Therefore, a framework has been developed in conjunction with the enforcement authorities to aid interpretation of what it means:

- In the absence of any evidence to the contrary a battery weighing less than 4kg will be presumed to be capable of being hand carried without difficulty by the average natural person.
- In the absence of evidence to the contrary a battery weighing over 10kg will be presumed NOT to be capable of being hand carried without difficulty by the average natural person.
- For batteries that fall between these two weights there is no presumption and a judgment will have to be made based on all available information. That information may include but is not limited to the weight and shape of the battery, to any facility making hand carrying more likely such as handles or carrying straps for example.

29. Many batteries used in electrical and electronic equipment could at first glance seem to fit the requirements of both portable and industrial batteries based on the criteria set out in the definitions. The deciding

factor in such circumstances would be whether the battery has been designed exclusively for industrial or professional use. This will be determined by considering a number of factors including whether the product the battery is used in has a professional or industrial application; and whether the battery in question has been designed for exclusive use in that product. The fact that a battery is usually installed, maintained and removed from a piece of equipment by a professional person (such as a service engineer), does not immediately classify the battery as an industrial battery.

30. Our presumption is that if a battery is sealed, can be hand-carried and is capable of being used in a consumer household product, it should be considered to be a portable battery, unless there is evidence that the battery or battery pack in question has been exclusively designed for industrial or professional use.
31. For example, the battery in a laptop computer purchased by a company for use by its employees on a purely professional basis would be considered to be portable. Although the laptop in this case is being used professionally, the same type of product is also commonly used by consumers in the home. The laptop battery, therefore, has, not been exclusively designed for professional use.

What does “producer” mean?

32. Producers are defined in the Regulations as; “...*any person in the United Kingdom that, irrespective of the selling technique used [distance sellers included] places batteries, including those incorporated into appliances or vehicles, on the market for the first time in the United Kingdom on a professional basis*”. This definition applies to batteries in all products. The definition of producer refers to “appliances and vehicles” in order to make it clear that batteries included in electrical and electronic equipment and also in vehicles are also covered by these Regulations – even if those types of products are already covered by the Waste Electrical and Electronic Equipment (WEEE) Regulations 2006 and End of Life Vehicles (ELV) Regulations 2005.
33. A producer is “*any person in the UK*”. An overseas business supplying batteries to the UK will be “a person in the UK” if they have a sufficient presence here. Whether they qualify as a “person in the UK” will depend on the nature and extent of that presence. As a guiding principle, if the overseas business has a presence in the UK which it has or should have registered as a “UK establishment” at Companies House (as required by the Overseas Companies Regulations 2009 (SI 2009/1801)), the overseas company will qualify as a person in the UK.
34. A UK branch of an overseas company is a UK establishment but so is a place of business which falls short of being a full branch office. A

number of different factors may determine whether a place of business exists. Broadly speaking however, a place of business is either:

- premises where there is a physical or visible indication that the company may be contacted there (e.g. a representative office); or
 - a place from which the business of the company is habitually conducted even if there is no physical sign of the company's connection with it.
35. In the latter case, the business of the company would usually be considered as being conducted there if the person acting for the overseas business had the power to bind it to contracts without referring decisions back to the business overseas/headquarters. However, the existence or absence of such authority is not necessarily conclusive and particularly where the representative of the overseas company is an employee and not an agent, a lesser degree of authority may be enough to establish that the overseas company is conducting its business in the UK from a place of business. In borderline cases, it is a question of balancing a number of different factors and an overseas company should seek legal advice where in doubt. An occasional location such as a hotel where a director may conduct business during periodic visits to this country is not a place of business.
36. The Regulations also include a reference specifically to “distance sellers” and in doing so, make it clear that that such producers are to be treated in the same way as any other producer of batteries. If the distance seller is selling directly to end-users but has insufficient physical presence or representation in the UK to make them a “person in the UK”, they are not covered by the definition of producer in the Regulations. In this respect, the Regulations differ from the WEEE Regulations where producers do not have to have a UK presence.
37. Take for example a laptop placed on the UK market by a company that has no UK presence. The company would be a producer for the purposes of the WEEE Regulations and would need to include the weight of the laptop (minus the battery) in declaring the weight of products it has placed on the UK market. The company would not however be a battery producer and would not have producer responsibilities under the UK Waste Batteries and Accumulators Regulations.
38. The term “producer” does not necessarily refer to the manufacturer of the batteries. Instead, the emphasis is on whoever is placing them on the UK market for the first time, such as, for example, the importer.
39. A company that places ‘own-brand’ batteries on the UK market would usually be the producer of those batteries (e.g. supermarket brand name or other own-brand mark), if they have caused them to be manufactured or imported. Although the brand owner may not have

manufactured or have physically imported the batteries into the UK themselves, it is likely they will have taken receipt of a consignment of batteries from a supplier that has been contracted by them to manufacture, label and deliver a consignment of batteries to a brand owner's technical and branding specifications.

40. If a company supplies batteries directly to a battery pack manufacturer with the specific intention of those batteries being made into battery packs, those batteries are not considered to have been placed on the market at that stage. The supplying company does not have to count those batteries towards their producer responsibility obligations. The battery pack manufacturer will have taken on the role as the producer as they will have placed a new battery pack (i.e. a new product) on the market for the first time.
41. However, if a company makes batteries available for general distribution i.e. to battery pack assemblers and other customers indiscriminately, then those batteries will have been placed on the market and that company will be responsible as a producer. The company must report them as part of their producer responsibility obligations. If some of those batteries are then purchased or subsequently purchased by a pack assembler later in the supply chain, assembled into battery pack and placed on the UK market for the first time, that battery pack assembler will also be a producer as they have placed a new product on the UK market for the first time.

Examples of **producers** are:

- *A company with a UK presence that imports batteries into the UK and then sells them wholesale in the UK*
- *A company with a UK presence which imports laptop computers (which include the batteries) into the UK and then sells them wholesale in the UK*
- *UK manufacturers of batteries that sell to the general public and/or to retailers*

Examples of **non-producers** are:

- *A company that imports batteries into the UK and then sells them overseas without placing any on the UK market is not a producer*
- *A company that buys batteries wholesale from another company that has already placed the batteries on the UK market is not a producer*
- *A company that sells batteries from overseas directly to UK consumers via the internet and has no physical UK presence is not a producer*

*Who is a “**distance seller**”?*

42. A distance seller includes persons that provide batteries to end-users by means of distance communication, such as mail order, internet sales or other means by which an agreement to supply batteries (or equipment including batteries) is made without the simultaneous physical presence of the supplier and the end-user.

*What does “**Place on the Market in the UK**” mean?*

43. In these Regulations *place on the market/placing on the market in the UK* generally means supplying or making available to a third person on a professional basis in the UK for the first time. This is irrespective of whether a battery or appliance containing a battery has been made available in return for payment or free of charge. Supply or making available on a professional basis includes the provision of batteries by, for example, manufacturers, importers, retailers, public bodies, charities and other types of organisation or any person supplying on a professional basis.
44. A person importing batteries into the UK for personal use is not considered for the purposes of these Regulations to be placing the batteries on the UK market on a professional basis and is not therefore a “producer” and need not register or join a compliance scheme. However, this does not remove responsibility for ensuring that any

batteries imported in this way are compliant with the requirements of other legislation, including the Batteries and Accumulators (Placing on the Market) Regulations 2008.

*What does “**Battery distributor**” mean?*

45. Distributors are those that “provide batteries and accumulators on a professional basis to an end-user”. This term covers those who supply batteries to end users, whether members of the public, or businesses. Those who supply *only* equipment containing batteries, and do not also supply batteries separately are not a distributor under these Regulations. It is only the weight of batteries supplied separately that is counted towards calculation of a distributor’s obligation.

Examples of **distributors** are:

- *A retailer that buys packs of batteries from a UK supplier and then sells them to end users*
- *A wholesaler that buys batteries from a UK supplier and sells both to end users and retail outlets*
- *A company that supplies batteries free-of-charge as part of a promotion, even if they do not normally sell batteries.*

Examples of companies that are both **distributors and producers** are:

- *A business that imports and places batteries on the UK market and also sell them through their own retail outlet or network of outlets.*
- *A business that has purchased batteries wholesale from a UK supplier and then sells the batteries on to end-users would be a distributor; if that same business also imports calculators that include batteries into the UK and also sells these on to end-users, then the business would also be a producer of the batteries in the calculator.*

*What does “**Compliance Period**” mean?*

46. A Compliance Period is a calendar year in which a producer of batteries must be registered with the relevant registration body, and report sales data and recycling data.

Q&A on the Definitions used in the Regulations

It is still not clear what type of battery I am selling, is there any other means of working out what type of battery I am placing on the market?

- A flowchart has also been included at **Annex A** to help persons placing batteries on the market to decide which category their batteries fall into. We would also strongly recommend, if a unique or bespoke battery is being placed on the market, that independent legal advice is sought in reaching a conclusion. The decision made could be challenged by the Secretary of State or the enforcement body acting on their behalf at any time.

I place small, sealed, lightweight batteries onto the UK market with the intention of them being used in industrial equipment, but another company places the same type of battery on the UK market with the intention that they are used in “non-industrial” consumer equipment – are the batteries “industrial” or “portable”?

- The intention of use is not relevant. A battery will only be industrial if it is designed exclusively for industrial or professional use. In this case the batteries clearly have domestic uses as well as professional ones, so they cannot be said to be industrial.

I place electrical products on the UK market that contain a battery – the battery was purchased in the UK (i.e. another company has placed it onto the UK market) – am I (the company that placed the electrical product on the market) a producer?

- Not in this instance – the company that first places the battery itself on the market is the producer.

Are battery packs that are made up of AA batteries classified as portable or industrial batteries?

- It depends on the design of the battery pack. If the battery pack is designed for exclusively industrial or professional use it is considered to be “industrial”.
- An industrial battery pack could be made up of batteries that were originally placed on the market as portable batteries. However, the new battery pack would be viewed as a new product. This new battery pack could therefore be classified as industrial if it is designed exclusively for industrial or professional use. The persons who place the new battery pack on the UK market would be considered as the producer of those batteries for the purposes of these Regulations.

I am a “distance seller”, what are my obligations as a producer or distributor?

- Under the Directive, distance sellers that meet the definition of producer or distributor have the same obligations as other producers and distributors. For more information, please see the main “producers” and “distributors” sections of this guidance.

What other key terms are defined in the Regulations?

Other key terms defined in the Regulations include:

- *Battery pack* means any set of batteries that are connected together or encapsulated within an outer casing so as to form a complete unit that the end-user is not intended to split up or open.
- *Electric vehicle* means a vehicle which uses electricity as a source of automotive power and includes a vehicle which in addition uses, or is capable of using, other sources of power for this purpose.

The Regulations – In Detail

Producer Obligations

Portable Battery Producers

47. Definitions of “portable battery” and “producer” are explained in the “Definitions” section of this document which starts on page 7.
48. Producers of portable batteries that place more than 1 tonne of portable batteries on the UK market for the first time in a compliance period must join a Battery Compliance Scheme (BCS). BCSs will fulfil producers’ obligations under the Batteries Regulations, which include registration, reporting of sales data, publicity and collection, treatment and recycling of portable batteries.
49. Producers of portable batteries that place 1 tonne or less of portable batteries on the UK market in a year are defined as “small producers”. Small producers have no collection, treatment or recycling obligations, but must register directly with the relevant environment agency to report sales data.

Small Producers of Portable Batteries

50. Small producers must register with the relevant environment agency within 28 days of them first placing batteries on the UK market using the NPWD registration system.
51. Small producers must report their sales data to the relevant environment agency annually. They must do this within one month of the end of the year (i.e. by 31 January). This data is important as the UK must report to the European Commission the total tonnage of batteries that are placed on the UK market.
52. There is an annual charge to recover the costs that the environment agencies will incur in managing the data collection system. This charge is currently £30. This charge is payable at the time the data is submitted and details of how to submit the data and pay the charge are available on the environment agencies website.
53. In most cases it will be clear whether a producer is going to be above or below the 1 tonne a year threshold. However, some producers may not know until during the compliance year whether they are going to put more than 1 tonne on the market in that year. If a producer has registered as a small producer but subsequently places more than 1 tonne of portable batteries on the market in a compliance period, they must join a BCS within 28 days of exceeding the threshold and will

have collection, treatment and recycling obligations covering their sales over the whole of the compliance year.

54. Producers who expect to place more than 1 tonne on the market should join a scheme immediately. The amount that you placed on the market in the previous year will be an indicator of what you expect to do in the compliance period – although there may be reasons why you would expect your business to expand or contract in the compliance period.
55. If a producer leaves it until late in the compliance period to declare that they will be above the 1 tonne threshold, the BCS they join may find it difficult or expensive to get extra evidence of collection, treatment recycling. It may also result in enforcement action if the environment agencies form the view that it was a deliberate attempt to avoid obligations. It is therefore advisable that producers ensure that they stay aware of their potential obligations and take early action to comply with them.

Joining a Battery Compliance Scheme

56. Producers who intend to place more than one tonne of portable batteries on the market in a compliance year must join a BCS by 15 October preceding that compliance year. For example, producers placing batteries on the market in 2011 must join a BCS by 15 October 2010. A list of approved BCSs can be found on the Environment Agency's website at:

<http://www.environment-agency.gov.uk/business/regulation/107939.aspx>

57. A producer who has joined a BCS for any compliance period (i.e. a calendar year running from 1 January to 31 December) cannot during that compliance period become a member of another scheme in respect of the same compliance period. (The only exception to this is in the unlikely event of the scheme having its approval withdrawn.)
58. A producer who wishes to join a different compliance scheme for the following compliance period must do so before 15 October in the year preceding the compliance period. They should inform their existing compliance scheme of their plans by the same date.
59. New producers, i.e. producers who do not know by 15 October if they will be placing portable batteries on the market in the forthcoming compliance period have up to 28 days from the date on which they first place batteries on the market to join a scheme. This only applies to those producers who expect to be placing over one tonne on the market in the compliance period.
60. BCSs will differ in the services they provide, and in their fee structures. You are advised to discuss your requirements with more than one BCS

for comparison. You may join a BCS that has been approved by an agency in a different part of the UK to where you do business. For example a producer located in England may join a BCS which was approved by and reports to SEPA in Scotland.

61. Whichever BCS you join, they are likely to charge you a share of the environment agencies' scheme charges, a fee for the scheme's administrative services, and fees for publicity and for collection, treatment and recycling of batteries in line with your obligations.

Registration

62. Producers must provide their BCS with the information needed to register them with the appropriate environment agency. Producers will receive a unique registration number.
63. The EU has adopted harmonised registration requirements. The information required to register is set out in Annex B. Battery Compliance Schemes will register previously unregistered portable battery producers with the relevant agency by 31 October 2009 for the first compliance year and must do so within 28 days of the producer joining the scheme.
64. Producers have a responsibility to notify their schemes within 14 days if any of their registration details change. Schemes will pass this information on to the environment agencies.
65. Producers may at any time, through their BCS, tell the environment agencies that they no longer place batteries on the UK market. BCSs are under a duty to notify the environment agencies of any such changes amongst their producer members. The producer will be removed from the register at the end of the compliance year in which they stop placing any types batteries on the UK market. NB if a producer stops placing portable batteries on the market but continues to be a producer of industrial and/or automotive batteries, they will need to remain on the public register but they are not required to continue to be a member of a BCS.
66. If a producer, who has withdrawn his registration, subsequently decides to start placing batteries on the UK market again, they will need to join a BCS or register directly with the appropriate environment agency, within 28 days if they start placing batteries on the market in the current year or by 15 October of the year preceding the one in which they will start placing batteries on the UK market again.

Reporting sales data

67. The amount of waste batteries a BCS will need to collect, treat and recycle will depend on the amount of new batteries their members

place on the UK market⁴. BCSs and the environment agencies, therefore, need to know the weight of portable batteries that producers are placing on the market.

68. Producers will need to report sales data quarterly to their BCS by weight and these reports must be broken down into (1) lead-acid (2) nickel cadmium and (3) other portable batteries.
69. Batteries which are manufactured in the UK and then exported without having been placed on the UK market or which are imported and re-exported without having been placed on the UK market should not be included in sales' figures.
70. Portable batteries which are placed on the UK market, and are subsequently exported should be included in the sales data. However, schemes are invited to additionally record the tonnage of batteries which are placed on the market, and then exported before reaching an end-user *within the same compliance year* if known in order to assist the Government in assessing the extent of this practice.

Producer responsibilities when schemes have their approval withdrawn

71. Normally producers will fulfil their obligations through membership of a BCS. However, it is possible that a BCS may have its approval withdrawn (see section on Portable Battery Compliance Schemes). In this unusual situation the responsibilities to collect, treat and recycle batteries and to submit a Declaration of Compliance that these activities have happened, will revert to its individual members until they have joined another BCS.
72. The relevant environment agency will notify all members of a scheme if its approval is withdrawn and the date from which this is effective. They will let the producers know the reasons for the decision and the requirement on producers to join a new scheme, including information on how this can be done.
73. We would not normally expect a producer to have to collect batteries for themselves in order to meet their obligations. This may, however, become necessary if for example, their BCS were to fail without having collected sufficient evidence for them and there is a time lag in the new BCS they want to join getting approved.
74. In such cases, producers may need to arrange for the separate collection, treatment and recycling of waste batteries themselves and obtain evidence of those actions or obtain such evidence from others who have extra evidence notes they want to sell.

⁴ Data from small producers will not be included in this calculation.

75. The environment agencies will issue more guidance on how to comply with this requirement in the unlikely event of this situation arising.

Q&A on Joining a Battery Compliance Scheme

How do I join a Battery Compliance Scheme (BCS)?

- The environment agencies publish lists of approved BCSs and their contact details. Each scheme will provide you with details of its terms and conditions and you should consider these carefully before choosing the one that suits you best. It is your responsibility to join an approved BCS.

What happens if my scheme has its approval withdrawn and I cannot find a new scheme to join?

- We think that this is unlikely and we see no reason why schemes should not accept new members. However, if this does occur the producers affected would be able to set up their own BCS and seek approval from the environment agencies for that scheme.

If my scheme fails will I need to set up collection, treatment and recycling arrangements until I join a new scheme?

- We would not foresee a need for producers to set up their own arrangements for the short period between the withdrawal of one scheme, and joining another. However, if joining a new scheme that has not yet been approved, there could be a gap in battery collections. It is possible that, to meet your obligations, you will need to collect batteries in the interim (or buy evidence) or that the new scheme will need to collect enough waste batteries to meet your obligation in the rest of the year.

Portable Battery Compliance Schemes

Approval of Portable Battery Compliance Schemes

76. Anyone who wants to run a BCS must get approval from one of the environment agencies (the Environment Agency in England and Wales, the Scottish Environment Protection Agency or the Northern Ireland Environment Agency). Prospective compliance schemes must apply to the agency in the part of the UK where they have their registered office or, if not a UK registered company, their principal place of business. Approval by one of the environment agencies allows a BCS to operate in any part of the UK.

77. Applicants only need to apply once. An approval will continue unless the relevant environment agency decides that the scheme no longer meets the conditions of its approval, for example, by not providing updated operational plans.
78. The environment agencies will provide potential applicants with the relevant application form. Applications must be accompanied by the one-off application fee which will not be refunded.
79. You will need to include with your application the information required under Schedule 3 to the Regulations. This includes the name of the proposed scheme, details of the scheme operator, name of partners if a partnership will run the scheme, address for notices from the environment agencies and details of certain convictions under these Regulations, the Waste Electrical and Electronic Equipment or the Producer Responsibility Obligations (Packaging Waste) Regulations.
80. Applicants will need to show they have procedures for handling disputes and for passing important information to their members. The scheme must also provide for how evidence will be distributed between its members.
81. To gain approval, schemes will need to have viable plans to collect a quantity of waste portable batteries which is neither significantly higher nor significantly lower than the quantity required to satisfy the scheme operator's obligations for the year in question. The intention of the system is that schemes largely meet their members' obligations through their own efforts (rather than relying on trading with other schemes). The Government accepts that it will be difficult for schemes to match precisely their collection networks and their obligations, especially in the first couple of years when it will be important that schemes build up their collecting capacity in order to meet the more challenging later targets. However, we would normally expect that a scheme should not over or under collect against their obligations by more than 10%. Schemes will be expected to demonstrate in detailed plans how they will meet these obligations.
82. Once evidence of collection, treatment and recycling has been registered with the environment agencies by the ABTOs/ABEs in the name of an approved BCS, that BCS will be able to trade that evidence with other schemes should they choose. However, the principal purpose of the collection targets in 2010 and 2011 is to help schemes and producers improve their understanding of the best methods for collecting batteries and not to rely on trading evidence as a means of meeting the targets.
83. Key dates in the application process are shown in the table below. These dates precede the actual Compliance Period e.g. for the 2012

Compliance Period, the deadline for applications from a BCS would be 15 April to 15 May 2011:

Table 1: Applications to run a Battery Compliance Scheme – some key dates

ACTION	Year Preceding Compliance Period *
Window for applications	Between 15 April and 15 May
EA's request extra information (if necessary)	15 June
Deadline for schemes to submit additional information	3 August
EA's issue decision to approve/reject applications	30 September
BCSs register members with the relevant environment agency (first year) or confirm their membership (subsequent years)	31 October

** Dates are in the year preceding the compliance year*

Operational Plan

84. An Operational Plan must cover three compliance periods, starting with the year following the application. The information that it must contain for each of these years includes:

- Financial resources and technical expertise sufficient to deliver its plans over a three year period;
- Details of its membership, the quantities of batteries that its members place on the market;
- Detailed proposals for collecting, treating and recycling the tonnage of waste portable batteries necessary to discharge the members' obligations in each of the three compliance periods;
- Details of arrangements for meeting its obligations in relation to publicity;
- The systems it will have in place to comply with the conditions of approval and the requirement to make a declaration of compliance;

- Details of what reasonable arrangements it will make for accepting batteries from economic operators and waste collection authorities;
 - Arrangements for free uplift from distributors; and
 - An explanation of how the obligations of its prospective members relate to the arrangements put in place.
85. We recognise that, when an applicant sends in their application, they are unlikely to have all of these details finalised (e.g. of who their membership will be). Applicants should continue to develop their plans during the period in which their application is considered. The environment agencies will let the applicant know by 15 June what other information the environment agency needs to reach a final decision. If an applicant has not heard from the agency by these dates they should contact the agency to check the status of their application.
86. Applicants will need to submit any additional information requested by 31 August. More informally, the environment agencies and the applicant will need to maintain a dialogue during this period about the development of an applicant's plans. Even at this stage, schemes may not have contractual arrangements with all its prospective members. Producers may wait for final approval of a scheme before signing contracts. In such cases, schemes should provide as much information as possible on the basis for their proposed membership (e.g. letters of intent or other evidence that producers intend to join their scheme). The relevant environment agency will assess whether the information provided by the applicant meets all the requirements for scheme approval under the Regulations.
87. The environment agencies will assess applications against the criteria for approval set out in Schedule 3 to the Regulations. These are, in brief, that:-
- The systems, which the prospective scheme plans to establish, are sufficient to deliver the operational plan and to make the required declaration of compliance;
 - The scheme has the resources and technical expertise to deliver its obligations under the Regulations;
 - The scheme has viable plans to collect quantities in line with its collection obligations;
 - The scheme is likely to be able to meet its expected treatment and recycling obligations over the course of the three compliance periods covered by the plan;

- The scheme will co-operate with other schemes in collecting batteries from distributors;
- The scheme will provide reasonably situated and accessible facilities for economic operators and waste collection authorities who have collected waste batteries and wish to get them treated and recycled; and
- The scheme is likely to assist in meeting the UK's obligations to maximise the collection of waste portable batteries.

Approvals and Appeals

88. The environment agency to whom the potential scheme has applied will let the scheme know whether the approval has been granted or refused. The agency will let the applicant know its decision by 30th September and inform the applicant of their right of appeal if the decision is a refusal. Appeals should be made to:

- The Secretary of State or Welsh Ministers - depending on where the business appealing has its registered office or principal place of business - if the decision was made by the Environment Agency;
- Scottish Ministers - decisions by SEPA;
- Planning Appeals Commission - decisions by the Northern Ireland Environment Agency.

Approval of new schemes when an existing scheme's approval has been withdrawn

89. As noted in Table 1, potential schemes will need to apply between 15^t April and 15 May in the year preceding the one in which they wish to operate. The only exception to this is when a scheme has its approval withdrawn. In these cases, the relevant environment agency will tell the members of a scheme that their scheme's approval has been withdrawn. One option for producers is to join another existing scheme within 42 days. However, the Regulations also allow – in these circumstances - for a new scheme to apply for approval. This application should be made within 28 days of the notification by the environment agency to producers that the old scheme's approval has been withdrawn.

90. All new schemes created will also need to go through the approval process set out above. The relevant environment agency will notify the applicant within 28 days of receiving an application of any further information that the agency needs in order to assess whether the proposed scheme meets the conditions for approval. The applicant will have 42 days from the date asked for further information to supply it.

The relevant environment agency will then issue its decision within 4 months of the application. Should the application be refused the environment agencies will notify the applicant of their rights of appeal.

Registration of producer members

91. If a new (i.e. currently unregistered) producer joins a BCS, the scheme must apply to the relevant environment agency to register that member within 28 days of them joining. The agencies then have 28 days from receipt of the BCS application to write to the BCS to confirm that the producer has been registered. If the producer has never been registered before or it is more than five years since the producer was registered, successful registration will result in the producer being allocated a Battery Producer Registration Number (BPRN) and this registration number will be notified to the producer via the scheme. This BPRN remains allocated to the producer, even if they have de-registered, for a period of up to five years after de-registration. A producer that re-registers as a producer of batteries after more than 5 years will be allocated a new number. The details of producers who de-register remain on the public register of producers until the end of the year in which de-registration takes place.
92. If the new producer has been registered at any time in the previous five years, they must tell their BCS what their previous BPRN was. This number must be passed on to the relevant environment agency which will then re-allocate it to the producer.
93. Each year between 15 and 31 October, BCSs must provide the relevant environment agency with a list of their membership for the following compliance period (NB As explained earlier, a producer cannot change schemes during a compliance period unless their existing scheme has had its approval withdrawn or has failed). This list must include the registration number of those members.

Scheme targets for collection, treatment and recycling

94. The Regulations set a series of collection targets. These reflect the Directive targets in which Member States must ensure the collection of waste portable batteries equivalent to at least 25%, and 45% in 2016 of the amount placed on the market as an average of the previous 3 years.

Table 2: Targets (as percentage of weight of batteries placed on the market)

Year	Directive targets	BCS targets
2010		10%
2011		18%
2012	25%	25%
2013		30%
2014		35%
2015		40%
2016 onwards	45%	45%

95. BCSs will do this by financing the net costs of the collection, treatment and recycling of waste portable batteries. By net costs we mean the costs excluding any profit made from the sale of materials collected. It is a condition of approval that schemes meet these targets in relation to their members and it is an offence for them not to do so.
96. The market share that BCSs are responsible for on behalf of their members is calculated by taking the percentage set out in Regulation 8 (see Table 2) and applying it to an annual average of the weight of batteries placed on the market for the first time in the UK by the members. The result is an amount in tonnes whose collection treatment and recycling must be financed by the BCS.
97. The annual average is usually calculated across three years, but in the first two compliance periods, is calculated across a shorter period. The periods are as follows:
- For 2010 - sales in 2009 (NB If sales data is not provided for the whole of 2009, then the Environment Agencies will use the data that is provided to estimate the full year amount.
 - For 2011 - average of sales in 2009 and 2010.
 - From 2012 onwards - average of three years' sales including the current year. (For example, the target for 2012 is that schemes collect 25% of average sales in 2010, 2011 and 2012.)
98. To enable the environment agencies, schemes and producers to assess progress towards the Directive's targets - schemes will need to meet interim targets. It will also be a condition of approval that schemes meet these interim targets.
99. The approval of schemes that fail to meet the interim targets will be reviewed by the environment agencies. Schemes that are failing badly to meet these targets could have their approval removed if, after scrutiny from the environment agencies, the agencies consider that a scheme is unlikely to be able to meet its future obligations.
100. The Directive and scheme targets are shown in Table 2. The environment agencies will confirm to a BCS the amount of batteries that they are responsible for collecting, treating and recycling for a given compliance year. From 2012 onwards, the calculation of a scheme's obligations will include the compliance year you are in. This means that schemes will not know their final obligations until after the compliance year. Schemes may wish to consider how to build in a margin so that they don't miss the target by underestimating its final size (i.e. the final tonnage obligation of all its producers). At the end of a compliance year, a BCS will need to send a declaration of compliance to the appropriate authority reporting on whether it has met

its members' obligations. This will show the quantity of batteries that have been collected, treated and recycled in the scheme's name.

101. As described in the BCS approval section (page 26), BCSs who significantly over-collect or under-collect, measured against their obligations, could have their approval withdrawn.
102. The BCS must ensure that all collected batteries are handled by Approved Battery Treatment Operators (ABTOs) and/or Approved Battery Exporters (ABE). Evidence notes will be recorded by ABTOs and ABEs on the NPWD system in the name of the BCS who delivered the batteries. Once recorded on the relevant agency's systems, schemes may sell the evidence to other schemes if they do not need the evidence to meet their own obligations.

Collecting portable batteries

103. Schemes have – subject to two exceptions – flexibility about how they acquire waste batteries to meet their targets. The two exceptions come from the Directive which requires that (a) distributors take back waste portable batteries and (b) economic operators and waste collection authorities that collect waste batteries can get access to the collection, treatment and recycling financed by producers. These exceptions are discussed in this guidance at paragraphs 111 – 114.
104. Other than these two cases, schemes can decide what collection methods best meet their needs. Some schemes will want to make arrangements with distributors. Producers who are also distributors could use the waste batteries returned to them to help their schemes meet their collection targets. Other options include working with Local Authorities to arrange kerbside collection, collection at Civic Amenity sites and community drop offs (in libraries, schools etc).
105. The Government funded the Waste Resources and Action Programme (WRAP) to carry out trials of different methods of collecting waste batteries. The trials were designed to help inform Government of the costs and effectiveness of various routes for collection of waste portable batteries. The full report on the outcome of the trials is available at:

http://www.wrap.org.uk/local_authorities/batteries/index.html

106. The environment agencies will consider the collection systems proposed by schemes and, as part of the approval process, assess whether they are likely to meet the scheme's obligations. Schemes will be expected to provide evidence to support any assumptions they make in estimating the weight of waste batteries that will be collected and may wish to refer to the WRAP trials or to experience of other batteries collections when doing this.

Public Information and Publicity

107. BCSs have publicity obligations under the Regulations. They must provide information to end-users on the reasons why batteries should not be disposed of with ordinary waste, the collection and recycling facilities available to end-users and their role in contributing to the recycling of waste portable batteries, the meaning of the crossed out wheeled bin symbol and the chemical symbols for mercury, cadmium and lead.
108. Within this requirement, schemes have the flexibility to design their publicity in ways which complement the collection methods that they are using. One option for schemes which are struggling to meet their obligations might be to increase spending on publicity. Other schemes may need to spend less. Schemes may also wish to co-operate on publicity to ensure a consistent and coherent message to consumers, and to consider working with, for example, local authorities to promote local recycling opportunities.
109. The Government carried out some publicity in the run up to the start of the first compliance period and as part of its general publicity on recycling.

BCS responsibilities in relation to distributors, other economic operators and competent public authorities

110. BCSs have a duty to respond to requests from distributors and pick up any waste portable batteries left with those distributors by end users. The Regulations require that a BCS that has been contacted by a distributor must, within 21 days, make arrangements with the distributor for collection. This does not mean that the BCS must collect waste batteries from that distributor within 21 days of the call.
111. There is a requirement that BCSs take into account the environmental impact of the transport of batteries. Schemes should consider this when making arrangements to collect from distributors. It is considered reasonable that a distributor should not be required to wait more than 12 months between collections of waste batteries.
112. There is also a requirement that schemes co-operate with each other to ensure effective collection of waste portable batteries from distributors. Schemes should co-operate in ways which help minimise the environmental impact of picking up waste batteries from distributors.
113. Schemes will also have an obligation to accept waste batteries from economic operators and from waste collection authorities. Economic operators are broadly defined as “any producer, distributor, collector, recycler or other treatment operator”. This duty does not mean that a BCS has to collect batteries from economic operators or competent

public authorities. A BCS could, for example, ask the collector to deliver waste batteries to a consolidation point or ABTO. The BCS will need to accept such batteries free of charge. A condition of scheme approval will be that schemes make reasonable provision for accepting these batteries. It should not set such conditions as would effectively rule out the return of such batteries.

Reporting

114. BCSs will need to report the sales of their members on a quarterly basis to the environment agency which issued the BCS's approval. Notification of sales data must be in writing (on the electronic forms supplied environment agencies) and specify the chemistries (lead-acid, nickel-cadmium and other).
115. BCSs must report quarterly the weight in tonnes of the batteries (and their chemistries) collected and delivered to approved ABTOs/ABEs. These reports need to be submitted within a month of the end of the quarter in question.

Declaration of compliance

116. BCSs must make an annual **declaration of compliance** by 31 May in the year following the year to which the declaration relates. This must include the information in **Part 2 of Schedule 1** to the Regulations, namely:
 - the name and address of the BCS;
 - name and job title of the person making the declaration;
 - date;
 - compliance period which the declaration covers;
 - statement as to whether the BCS has met its collection, treatment and recycling obligations; and
 - the amount of batteries in tonnes that a BCS has been responsible for collecting, treating and recycling during the compliance period.
117. The declaration must be backed up by electronically delivered evidence notes related to the given compliance year.

Record keeping

118. Written records on sales data, waste batteries delivered to ABTOs and ABEs and treatment and recycling data must be kept for at least 4 years from the date on which the documents were first created.

119. BCSs are encouraged to keep data for rates of collection from distributors to help Government assess whether the current level of de-minimis exemption for small distributors is adequate or will require reviewing.

Charges

120. The environment agencies will incur costs in regulating BCSs. These will include compliance monitoring of producers and schemes, registration, receipt and processing of data, development of procedures and guidance. The agencies will also need to set up the systems required to implement the new Regulations, including developing an IT system to support the registration of producers and the management of data across the United Kingdom. The Government has provided funding to the agencies for some of the set up and enforcement costs but most of the costs will be recovered through charges on BCSs.
121. Experience of other producer responsibility systems (especially the waste electrical and electronic equipment system) is that the costs of regulating one scheme are much the same as another, regardless of the number of members of each scheme. Under the Batteries Regulations, these costs will be recovered through an annual standing charge for each scheme. The costs covered by the standing charge include: maintenance of producer data; scrutiny of the operational plan and monitoring of performance against it; receipt and processing of data; publication of reports; and assessment of compliance.
122. The Regulations include initial charges and the annual subsistence charge for a battery compliance scheme currently is a flat fee of £118,000 plus an additional charge of £680 per member. This variable element is included to reflect the costs of monitoring producers and, in particular, dealing with data and compliance visits.
123. However, although these charges are initially imposed directly by the Regulations in England, Wales and Scotland, the environment agencies will have to develop their own charging schemes by 2013. These schemes will be subject to public consultation before they can be imposed. In Northern Ireland the charges will be imposed by the Waste Batteries and Accumulators (Charges) Regulations (Northern Ireland) 2009.

Table 3: Key dates for Battery Compliance Schemes in a normal compliance year

Action	Last date
Submit portable battery sales data for fourth quarter	31 January
Submit portable battery sales data for 1 st quarter	30 April
ABTOs and ABEs to issue evidence notes to BCSs	30 April

BCS to submit Declaration of Compliance for previous year	31 May
Submit portable battery sales data for 2 nd quarter	31 July
BCSs to recruit new producer members	15 October
Submit portable battery sales data for 3 rd quarter	31 October
Submit a list of members for the following compliance year to the relevant Environment Agency.	31 October

Q&A on Portable Battery Compliance Schemes

Do schemes have to operate nationwide?

- Schemes must be prepared to respond to requests from distributors to pick up waste batteries that the public have left in the store and these requests may come from anywhere in the UK. In dealing with these requests, schemes must cooperate with each other and take account of the environmental impact of transport. However, apart from that, they have flexibility to set up whatever collections they need to meet their targets. There is no need for these routine collections to offer nationwide coverage but, as part of the approval process, schemes will have to demonstrate how these collection arrangements will meet their obligations.

If as a scheme we collect more waste batteries than we need, can we sell the excess (i.e. trade in evidence)?

- Yes. However, as part of the approval process, schemes must show how

I am applying for approval but producers have not yet confirmed they're joining my scheme. What should I say in my application?

- Your application should make clear that your proposed membership has yet to be confirmed and what the basis for your assessment of your likely membership is.

How can I show the environment agencies that my collection systems are satisfactory?

- There will inevitably be some element of trial and error in setting up collection systems. However, a scheme operator may be able to supply evidence from their involvement (or the involvement of their members) in previous battery collection schemes. In addition, the WRAP trials provide some information that schemes can draw on when they develop their operational plans.

Distributors of Portable Batteries

- 124. The Regulations place obligations on distributors – those supplying portable batteries on a professional basis to end-users.
- 125. If, as well as supplying batteries to end users, you also place batteries on the UK market for the first time, you will also be a producer. If you are in any doubt you should look at the information on the definition of producers. If you are a producer and distributor you will need to fulfil both producer and distributor obligations. You should therefore read both relevant sections of this guidance.

Take back

- 126. The Regulations require that distributors who supply 32 kilograms or more of portable batteries a year to end-users must accept back waste portable batteries from end-users without charge. This is regardless of the method of supply – distance sellers (those that supply batteries by phone, internet and mail order) have the same obligations under the Regulations. These obligations apply to each premises from which batteries are supplied i.e. each individual shop unit, store/warehouse.
- 127. Distributors must accept all types of waste portable battery not just the kind they supply. They do not have to accept waste industrial or automotive batteries.
- 128. Distributors who supply equipment containing batteries do not have to take back waste portable batteries from end-users, unless they also supply 32 kg or more of portable batteries separately.

Information

- 129. Distributors must provide information to end-users at their sales points about their arrangements for taking back waste batteries. A distributor must not show the cost of collecting, treating and recycling waste portable batteries when selling new batteries to end-users.
- 130. Defra has developed a series of posters and identifiers which distributors can use to meet their obligation to provide information about their take-back. These are available on the Defra website at:

www.defra.gov.uk/environment/waste/producer/batteries/batteries-logo-poster.htm

Distance sellers

- 131. Distance sellers (those that supply batteries by phone, internet and mail order), who supply 32 kilograms or more of portable batteries a year to end-users also need to accept waste portable batteries from

end-users free of charge. This could be done through their local stores (where these exist) or by providing a take-back facility at the premises from which they dispatch the batteries, e.g. their warehouse /warehouses, and/or the office/offices from which they take the orders of batteries.

132. Distance sellers might like to consider how they can offer a more accessible take-back point to their customers and other end-users, in addition to the minimum take-back requirements and some ideas are given in the Frequently Asked Questions document for distributors, available on the Defra website:

www.defra.gov.uk/waste/producer/batteries/affected.htm

133. A distance seller will also need to provide information to end-users about their take back e.g. through their mail-order adverts, on-screen during online sales, and/or through leaflets included with purchases.

Small distributors' exemption

134. The Regulations exempt distributors who supply less than 32 kilograms per year to end-users. This is because they are likely to only collect a small number of waste batteries and the environmental costs of transporting few batteries from such distributors could outweigh the benefits of recycling. Small distributors do not have to accept waste portable batteries from end-users.
135. This exemption applies regardless of whether a shop is part of a chain so large retail chains who supply portable batteries are therefore likely to have some shops which have to accept back waste portable batteries and some which do not. Distributors who supply batteries from a number of retail outlets or other forms of distribution e.g. via the internet or mail order, should therefore assess each specific shop/retail outlet or other form of distribution against the 32kg threshold.
136. Distributors who supply less than 32kg of portable batteries to end users at individual premises can choose to accept back waste portable batteries. In this case, they would then be considered to be an 'economic operator' and would not be entitled to free collection from a BCS. Further details can be found below.
137. The table below shows the average weight of some common sizes of battery and how many packs of 4 new batteries (all of the same type) a distributor would need to supply before they would go above the 32 kilogramme threshold. In practice, batteries are of course available in different size packs and a distributor is unlikely to supply only one type of battery, so distributors should bear this in mind when considering of they meet the 32 kilogramme threshold.

138. An online calculator has been developed which can be used to help distributors determine if they meet the 32 kilogram threshold. This is available on the Defra website at:

www.defra.gov.uk/environment/waste/producer/batteries/calculator.htm

Table 4: Average weight of batteries and small distributor exemption

Type	Weight per battery (grams)	Weight of pack of 4 (grams)	How many packs of 4 = 32 kg
AA	23	92	348
AAA	12	48	666
C	66	264	120
D	148	592	54
9-Volt Square	47	188	170

139. The Regulations give distributors the right to call any BCS and request collection of the waste portable batteries they have collected (unless they are a distributor who supplies less than 32 kilograms of batteries per year). This collection must be free of charge to distributors. Equally, where a distributor has requested a pick up from a BCS, the Regulations do not allow distributors to charge for the batteries that BCSs collect from them. BCSs will need to contact distributors within 21 days to arrange collection from the distributor. This does not mean that a BCS must collect within 21 days, only that they should have been in touch with the distributor within that time to make collection arrangements.
140. Collection should only take place when there is a reasonable amount of waste batteries available from the distributor for collection since the environmental benefits of the collection of such batteries for recycling could be outweighed by the environmental impact of the emissions in coming to collect a very small number of batteries.
141. In making collection arrangements, schemes are under a responsibility to take into account the environmental impact of transport. Schemes are also required to work together on such collections. It is possible that a different BCS to the one a distributor originally contacted will eventually pick up the batteries. However, in the event of any dispute the responsibility for arranging the pick up rests with the first BCS contacted by a distributor.

Enforcement Body

142. Defra has appointed the Vehicle Certification Agency (VCA) to enforce the distributor aspects of the Regulations. Information about the VCA's enforcement approach and helpful advice for distributors is available on the VCA website:

Q&A on Enforcement

Do I need an Environmental Permit to collect waste batteries in my shop?

- No. Distributors who collect waste portable batteries from end-users do not require an environmental permit (in England and Wales) or a Waste Management Licence (in Scotland). Once batteries are moved, they become subject to rules which apply to the carriage of waste (including hazardous waste) and dangerous goods:

www.defra.gov.uk/environment/waste/producer/batteries/documents/0907-advisory-note.pdf

Is it safe for me to collect waste batteries in my shop?

- We are not aware of any specific issues that would make the collection of waste batteries from end-users unsafe. There are many such collections already.

Is there any other legislation I should be aware of when collecting, storing or transporting waste portable batteries?

- Once batteries are moved, they become subject to rules which apply to the carriage of waste (including hazardous) and dangerous goods. All obligated distributors – as well as anyone else involved in the storage or transport of waste portable batteries – should read Defra's Advisory Note on these issues.

www.defra.gov.uk/environment/waste/producer/batteries/affected.htm

Do I (the distributor) have to pay for containers and information?

- The Regulations make distributors responsible for taking back waste portable batteries and for providing information to consumers. However, Batteries Compliance Schemes that want to work with distributors may wish to provide containers and publicity materials to them even though they do not have to do so.

I sell computers that incorporate batteries. Will I need to accept back waste portable batteries?

- No – not unless you also sell batteries separately.

I sell electrical equipment that has spare batteries in the same pack. Will I need to accept back waste portable batteries?

- No – provided you do not sell batteries on their own.

How often should Battery Compliance Schemes (BCS) collect from distributors?

- That is a matter for the two parties concerned. However, schemes must take into account the environmental impact of collection. It would be considered reasonable for a distributor to have access to a collection at least once per year.

I sell less than 32 kg of batteries a year but still want to collect batteries. Can I still do so?

- Yes. There is nothing in the Regulations which will stop you doing so. However, Battery Compliance Schemes will not be under an obligation to pick up any waste batteries that you have collected. They may do so if they need batteries to meet their collection targets, or if you have an agreement with them. Schemes will have to accept your waste batteries but can do so on reasonable terms e.g. they could ask you to take the waste batteries to one of their sites (which would involve you having to comply with legislation on the movement of hazardous waste and of dangerous goods:

www.defra.gov.uk/environment/waste/producer/batteries/documents/0907-advisory-note.pdf

- If you do plan to collect batteries in shops that sell less than 32kg you may want to talk to a BCS before you do so.

Further information is available in the 'Frequently Asked Questions' document on the Defra website at

www.defra.gov.uk/environment/waste/producer/batteries/affected.htm

Local Authorities

143. Local authorities do not have specific obligations under the Batteries Regulations. Nor do BCSs have to work with local authorities. Despite this, we believe that there are potential benefits for BCSs and local authorities if they co-operate on portable batteries collection.
144. Local authorities could be key partners for schemes because of their collection infrastructure, expertise in waste collection and potential access to batteries in household waste. The WRAP trials show that, in the right circumstances, kerbside collection can be a cost-effective means of battery collection. A funding mechanism and contract would need to be established to ensure local authorities are fully reimbursed by the scheme for all relevant additional expenditure.
145. Schemes would need to design their collections to fit with the collection system used by the Local Authorities they work with. For example, the types of bag collection tried out by WRAP may not work well with various forms of co-mingled collection used by different local authorities.
146. Even if a local authority and BCS decide not to offer kerbside collection, they may be able to work together on batteries collection at

Civic Amenity sites, in public buildings like libraries and council buildings or on publicity for local residents.

147. If a local authority works with a BCS to collect waste portable batteries, this should not affect any other waste battery collection arrangements they already have for other battery types e.g. car batteries.
148. Local authorities are free to work with a different scheme than they do under the WEEE Regulations. The choice will depend on what is right for each local authority, subject to their current contractual arrangements.

Industrial Battery Producers

149. Definitions of “Industrial battery” and “producer” are explained in the “Definitions” section of this document which starts on page 7.

Producer registration

150. [Regulation 42](#) requires producers of industrial batteries to register their company details with BIS. If they are also a producer of portable batteries, the requirement to register is through the relevant environment agency. The registration format is the same as for portable batteries.
151. Producers register their details on the NPWD database – this is the UK’s ‘producer responsibility’ registration database covering a number of pieces of legislation including the Waste Battery and Waste Packaging Regulations – which is hosted by the Environment Agency and can be found using the following link:

<http://www.npwd.environment-agency.gov.uk>

This registration format is harmonised across the EU, so all Member States should be using the same or very similar formats.

152. Producers of batteries are only required to register on the system once, no matter the number of battery categories handled. Where BIS is not the registration authority, BIS will be informed of registration details by the relevant environment agency. This transfer of information applies whether the producer, as a large producer of portable batteries, is required to join a Battery Compliance Scheme (which is explained later in the document under the section “[Portable Battery Producers](#)”), or as a small producer of portable batteries registers directly with the environment agencies, should those producers also place industrial batteries on the UK market.
153. Any new producer (i.e. one not already registered in respect of another category of batteries) who intends to place industrial batteries on the

UK market during a compliance period is required to register with BIS within 28 days of the first date on which they place batteries on the market for the first time in the UK. Successful registration will result in the producer being allocated a Battery Producer Registration Number (BPRN). This BPRN remains allocated to the producer, even if they have de-registered, for a period of up to five years after de-registration. A producer that re-registers on the NPWD system as a producer of industrial batteries after 5 years will be allocated a new number. The details of producers who de-register remain on the public register of producers until the end of the year in which de-registration takes place.

154. [Regulation 44](#) requires producers to notify BIS within one month of any changes to their registration details (by amending their details on the NPWD database), or if they cease to be a producer. [Regulation 45](#) sets down BIS's obligations in respect of responding to applications for registration.

Take back and collection of waste batteries as of 1 January 2010

155. There are three main elements to the producer take back obligations, which are set down in [Regulation 35](#). The Government's approach to these obligations is to require producers of industrial batteries, or third parties acting on their behalf, to finance the costs of the physical collection, treatment and recycling of waste industrial batteries that arise as waste in the UK.
156. It is intended that these three elements form a hierarchy of entitlements for those end-users who wish to dispose of their waste industrial batteries through producers (they may of course contract with non-producer waste battery collectors).
- [Entitlement 1](#): A producer is obliged to provide for the take back and collection of waste industrial batteries free of charge from an end user, on request, if he supplies new industrial batteries to that end user during a "compliance period" – the calendar year in which the supply takes place.
 - [Entitlement 2](#): A producer is obliged to provide for the take back and collection of waste industrial batteries free of charge from an end user, on request, when that end user is not able to return waste industrial batteries to his supplier (for example, when not purchasing new batteries). However, this obligation, not forming part of the normal customer/supplier relationship – only applies to waste industrial batteries that are of the same chemistry as the new industrial batteries that the producer places on the market in the calendar year in question, or has placed on the market in any of the preceding 3 calendar years. We expect end-users, in these circumstances, to approach first the original supplier of the batteries which have now become waste, if he is registered as a producer.

- **Entitlement 3:** In circumstances when an end-user is unable to dispose of waste industrial batteries by either of the options above – for example, when an end user is not purchasing new batteries, and a chemistry has not been placed on the market for a number of years, so that an appropriate producer cannot be located, then (and only then) the end user's entitlement is to be able to contact any producer to request take back and collection free of charge.
157. **Regulation 37** allows producers to make alternative commercial arrangements with end-users for meeting the cost of collecting, treating and recycling waste industrial batteries. However, these alternative arrangements do not alter the legal obligations set down in the Regulations.

Publishing details of take back

158. **Regulation 35** also requires that each producer must publish, on or before 1 December each year, beginning in 2009, details of how an end user of industrial batteries may request the take back and collection of waste industrial batteries by that producer. **Regulation 46** requires producers to declare their registration number when supplying to a customer.

Ensuring waste batteries are responsibly treated

159. **Regulation 38** specifies that industrial battery producers must ensure that waste industrial batteries for which they have taken responsibility are delivered to and accepted by an Approved Battery Treatment Operator (ABTO) or an Approved Battery Exporter (ABE) for treatment and recycling.
160. **Regulation 56** prohibits the disposal of whole and untreated waste industrial batteries by land-fill or incineration⁵, and **Regulation 57** stipulates that waste industrial batteries may only be treated or recycled by or on behalf of an ABTO and that only ABEs may export waste industrial batteries for treatment or recycling outside the UK.

Reporting sales data

161. **Regulation 40** requires producers to report to BIS annually the total tonnage and chemistries of industrial batteries that they placed on the UK market in each compliance period, beginning with 2009, and in the format set down in **Regulation 74 (the format for reporting is as set out on the NPWD database)**. This information must be provided on or before 31 March each year for the preceding year's data. BIS also invites producers, at the same time, to volunteer estimates of the tonnage of their batteries which they believe will leave the UK market before use and are therefore unlikely to end arise as waste in the UK.

⁵ In Scotland the disposal of whole untreated waste industrial batteries is prohibited through the Waste Batteries (Scotland) Regulations 2009.

Reporting on batteries collected

162. [Regulation 41](#) requires chemistry and tonnage information to be provided in respect of the waste industrial batteries that a producer has
- (i) collected (or has had collected on his behalf) and
 - (ii) delivered to an approved treatment operator or approved exporter for treatment and recycling during each compliance period.

There will probably not be a precise correlation between new battery sales and waste battery arisings, given the long lifespan of many industrial batteries. However, when viewed alongside information received from ABTOs and ABEs, this data will provide a useful indicator to help the Government assess, and report to the European Commission, whether the UK is meeting its obligation to achieve recycling of all waste industrial batteries. There is, however, no specific target for each producer to meet.

163. [Regulation 39](#) sets out a producer's record keeping duties in respect of the total tonnage and chemistries of industrial batteries that a producer placed on the UK market during a relevant compliance period, and in respect of the chemistry and tonnage of waste industrial batteries that he sent to ABTOs and ABEs. This regulation also states that the records must be kept for a minimum period of 4 years after the date on which the record was made and must be made available to the Secretary of State for BIS on demand.

Q&A on the Industrial Battery Producer Obligations

Can I use another company to help me meet my producer responsibility obligations?

- Yes – the producer obligations aren't meant to suggest that a producer literally has to take-back and collect batteries if for some reason this is not practical or appropriate. Whilst the legal obligation remains with the producer, the producer could use another company, such as a waste management company to do this on their behalf.

Do I have to collect waste industrial batteries from end-users that are based outside the UK, or their industrial batteries have arisen as waste outside the UK?

- No. The UK Regulations do not obligate a producer to collect waste industrial batteries from an end-user when it has arisen as waste outside the UK.
- If an end-user has purchased industrial batteries from a UK supplier and then shipped them to another EU country, if the batteries arise as waste in that EU country, the requirements for the separate collection, treatment and recycling would fall under that EU country's waste battery legislation.

Does my producer obligation “switch off” once I have taken back and collected the amount of batteries that I place on the market in a compliance period?

- No – there is no particular limit.

Automotive Battery Producers

164. Definitions of “automotive battery” and “producer” are explained in the “Definitions” section of this document which starts on page 7.

Producer registration

165. **Regulation 42** requires producers of automotive batteries to register their company details with BIS. If they are also a producer of portable batteries the requirement to register is through the relevant environment agency. The registration format is the same as for portable batteries.
166. Producers register their details on the NPWD database – this is the UK's ‘producer responsibility’ registration database covering a number of pieces of legislation including the Waste Battery and also Waste Packaging Regulations – which is hosted by the Environment Agency and can be found using the following link:

<http://www.npwd.environment-agency.gov.uk>

This registration format is harmonised across the EU, so all Member States should be using the same or very similar formats.

167. Producers of batteries are only required to register on the system once, no matter the number of battery categories handled. Where BIS is not the registration authority, BIS will be informed of registration details by the relevant environment agency. This transfer of information applies whether the producer, as a large producer of portable batteries, is

required to join a Battery Compliance Scheme (which is explained later in the document under the section “[Portable Battery Producers](#)”), or as a small producer of portable batteries registers directly with the environment agencies, should those producers also place automotive batteries on the UK market.

168. Any new producer (i.e. one not already registered in respect of another category of batteries) who intends to place automotive batteries on the UK market during a compliance period is required to register with BIS within 28 days of the first date on which they place batteries on the market for the first time in the UK. Successful registration will result in the producer being allocated a Battery Producer Registration Number. This BPRN remains allocated to the producer, even if they have de-registered, for a period of up to five years after de-registration. A producer that re-registers on the NPWD system as a producer of automotive batteries after 5 years will be allocated a new number. The details of producers who de-register remain on the register until the end of the year in which de-registration takes place.
169. [Regulation 44](#) requires producers to notify BIS within one month of any changes to their registration details (by amending their details on the NPWD database), or if they cease to be a producer. [Regulation 45](#) sets down BIS’s obligations in respect of responding to applications for registration.

Collection of waste batteries as of 1 January 2010

170. [Regulation 36](#) requires that automotive battery producers collect waste automotive batteries free of charge, on request, from final holders, such as garages, scrap-yards, end-of-life vehicle Authorised Treatment Facilities or Civic Amenity Sites during any “compliance period”, i.e. any calendar year in which the producer places new automotive batteries on the UK market. Producers do not have to collect batteries from individual consumers (who will continue to be able to deposit waste automotive batteries at a Civic Amenity Site where available as at present).
171. Generally speaking, final holders would expect to receive payment for waste automotive batteries from commercial collectors due to the value of lead they contain. However, the “free collection” entitlement will ensure that collection and recycling by producers takes place when waste battery material values fall short of collection, treatment and recycling costs.
172. [Regulation 37](#) allows producers to make alternative arrangements with end users for meeting the cost of collecting, treating and recycling waste automotive batteries, but these alternative arrangements do not alter the legal obligations set down in the Regulations.

Publishing details of collection

173. [Regulation 36](#) also requires that each producer must publish, on or before 1 December each year details of how a final holder of waste automotive batteries may request the collection of those batteries by that producer. [Regulation 46](#) requires producers to declare their registration number when supplying to a customer.

Ensuring waste batteries are responsibly treated

174. [Regulation 38](#) specifies that automotive battery producers must ensure that waste automotive batteries for which they have taken responsibility are delivered to and accepted by an Approved Battery Treatment Operator (ABTO) or an Approved Battery Exporter (ABE) for treatment and recycling.
175. [Regulation 56](#) prohibits the disposal of whole and untreated waste automotive batteries by land-fill or incineration⁶, and [Regulation 57](#) stipulates that waste automotive batteries may only be treated or recycled by or on behalf of an ABTO, and that only ABEs may export waste automotive batteries for treatment or recycling outside the UK.

Reporting sales data

176. [Regulation 40](#) requires producers to report to BIS annually the total tonnage and chemistry (normally lead-acid) of automotive batteries that they placed on the UK market in each compliance period, beginning with 2009, and in the format set down in [Regulation 74 \(the format for reporting is as set out on the NPWD database\)](#). This information must be provided on or before 31 March each year. BIS also invites producers, at the same time, to volunteer estimates of the tonnage of their batteries which they believe will leave the UK market before use and will therefore be unlikely to end up as waste here.

Reporting on batteries collected

177. [Regulation 41](#) requires chemistry and tonnage information to be provided in respect of the waste automotive batteries that a producer has a) collected (or has had collected on his behalf) and b) delivered to an ABTO or ABE for treatment and recycling during each compliance period. Although there will probably not be a precise correlation between new battery sales and waste battery arisings, given the long lifespan of automotive batteries, when viewed alongside information received from approved treatment operators and exporters, this data will provide a useful indicator to help the Government assess, and be able to report to the European Commission, whether the UK is meeting

⁶ In Scotland the disposal of whole untreated waste industrial batteries is prohibited through the Waste Batteries (Scotland) Regulations 2009.

its obligation to achieve recycling of all waste automotive batteries. There is, however, no specific target for each producer to meet.

178. [Regulation 39](#) sets out a producer's record keeping duties in respect of the total tonnage and chemistry (usually lead-acid) of automotive batteries that a producer placed on the UK market during a relevant compliance period, and in respect of the chemistry and tonnage of waste automotive batteries that he sent to ABTOs and ABEs. This regulation also states that the records must be kept for a minimum period of 4 years after the date on which the record was made and must be made available to the Secretary of State for BIS on demand.

Business or Other Premises Where Automotive Batteries Arise

179. Operators of businesses where waste automotive batteries arise in significant numbers as part of the day to day business (such as garages, scrap-yards, end-of-life vehicle Authorised Treatment Facilities or Civic Amenity Sites) are entitled to have their automotive batteries collected free of charge. Producers do not have to collect batteries from individual consumers. Generally speaking, final holders may expect to receive payment for waste automotive batteries from commercial collectors, but the "free collection" entitlement will ensure that collection and recycling by producers takes place when waste battery material value falls short of collection, treatment and recycling costs.

Q&A on the Automotive Battery Producer Obligations

Can I use another company to help me meet my producer obligations?

- Yes – the producer obligations aren't meant to suggest that a producer literally has to collect batteries if for some reason this is not practical or appropriate. Whilst the legal obligation remains with the producer, the producer could use another company, such as a waste management company to do this on their behalf.

Does my producer obligation "switch off" once I have collected the amount of batteries that I place on the market in a compliance period?

- No – there is no particular limit.

Where should I send producer registration applications, and reports on battery sales, collection, treatment and export?

- These should be sent to BIS. More information and address details can be found on BIS's website.

Can individual owners of private vehicles request that automotive battery producers collect their waste automotive batteries?

- No – the free collection entitlement is only for places such as garages, scrap-yards, end-of-life vehicle Authorised Treatment Facilities or Civic Amenity Sites. Consumers will be able to take their waste automotive batteries back to civic amenity sites where available as at present.

Treatment and Recycling of Waste Batteries

Disposal

180. In England, Wales and Northern Ireland, the Regulations make it illegal to landfill waste industrial or automotive batteries or to incinerate them after 1 January 2010.
181. However, this does not apply to the residues left after the batteries have been properly treated and recycled. The Scottish and Northern Irish Governments have also introduced their own legislation to ban sending waste automotive and industrial batteries to landfill or disposal by means of incineration.

Role of Approved Batteries Treatment Operator (ABTOs) and Approved Battery Exporters (ABEs)

182. Waste industrial and automotive batteries and all identifiable waste portable batteries that have been collected by a producer or compliance scheme will need to be:
- treated and recycled by an ABTO;
 - delivered to an ABTO and then treated and recycled by another facility on behalf of the ABTO; or
 - exported for treatment and/or recycling by an ABE.
183. The requirement for the export of batteries to be undertaken by an Approved Battery Exporter only applies to whole batteries. Products that emerge as a consequence of initial treatment that are no longer identifiable as batteries (e.g. lead plates) do not have to be exported by an ABE although other legal requirements, such as the Waste Shipments regulations, must still be complied with.

184. Only those ABTOs and ABE's that have been approved for waste portable batteries can issue evidence as required by Battery Compliance Schemes (BCSs) to demonstrate compliance with their obligations for the treatment and recycling of portable batteries.

Approved Battery Treatment Operator Obligations

Approval procedure for ABTOs

185. The approval procedure for ABTOs is set out in Part 7 of the Regulations and in Schedule 4. Applicants may apply for approval as an ABTO at any time and the approval is for one year only. It will last until the end of the calendar year to which the application relates. The appropriate environment agency will let you have the application form and supporting information to enable you to apply. They will let you know their decision within 12 weeks. If your application is rejected, the authority will let you know your rights of appeal against their decision.
186. Applicants will apply to the relevant environment agency in respect of sites in that agency's area of responsibility. For example, an applicant will apply to SEPA in respect of all sites in Scotland. Applicants will need to specify the sites covered by the application.
187. If applicants operate within more than one part of the UK, they will need to make more than one application. Applications should be submitted to the Environment Agency in respect of sites in England and Wales, SEPA in respect of sites in Scotland and NIEA in respect of sites in Northern Ireland.
188. The relevant agency will approve or reject each application. If all sites meet the conditions of approval they will all be included within the agency's approval. If only some meet the conditions, those sites will be included within the approval and the other sites within the application will not.
189. Applicants must include a non-refundable application fee with their form. The fees that will apply to the Environment Agency and SEPA are set out in these Regulations; the fees in Northern Ireland are in separate legislation.
190. Current application charges are based on the total amount of waste batteries that the applicant intends to accept for treatment and recycling (industrial and automotive batteries) and the amount of evidence that the applicant intends to issue (portable batteries) during a compliance period. If (a) the total amount of industrial or automotive batteries accepted for treatment and recycling in a year is no more than 150 tonnes and (b) the applicant intends to issue evidence in respect of no more than 15 tonnes of waste portable batteries each year, then the

application charge is currently £500/site.. If these amounts are exceeded, then the application charge is £2590/site.

191. If an applicant expects to stay below the above thresholds, and therefore initially pays the lower charges, but subsequently finds that they are going to exceed the thresholds, then they must immediately pay the difference between the two charges (currently £2090/site) to the environment agency that issued their approval.
192. The above charges apply until they are superseded by charges set out in a charging scheme published by either the Environment Agency or SEPA or until 1 April 2013, whichever is the sooner.

General conditions of approval

193. Applications for approval as an ABTO must include details of each site to which they wish the approval to relate. Applicants must make clear whether they intend to issue evidence to BCSs for treatment and recycling of portable batteries accepted at the sites included in the application.
194. Treatment and recycling of waste batteries accepted at approved sites must use best available techniques in terms of protection of health and the environment and comply as a minimum with Community legislation, especially on health and safety and waste management.
195. Anyone applying for approval as an ABTO must be the holder of a relevant Environmental Permit, Waste Management Licence or exemption for each site included within their application. The Regulations require ABTOs to ensure the Directive requirements for the treatment and recycling of waste batteries are met. The Environmental Permitting (England and Wales) Regulations 2010 include requirements to ensure that all those carrying out treatment of waste batteries in England and Wales meet the Directive's treatment requirements. Separate legislation will ensure that those carrying out treatment in Scotland or Northern Ireland meet the Directive's requirements.
196. Treatment will need to meet the specific requirements of the Directive, that
 - All fluids and acids are removed.
 - Treatment and any storage, including temporary storage, at treatment facilities takes place in sites with waterproof surfaces and suitable weatherproof covering or in suitable containers.
197. The requirement to remove fluids and acids is only relevant where this is practicable, while the requirements for weatherproof covering or containment are intended to ensure that the waste batteries do not

deteriorate in a way that causes environmental harm or inhibits recycling. The audit trail that ABTOs must maintain should confirm that batteries have been treated and stored at sites or in containers which meet these requirements.

198. ABTOs will also need to achieve the recycling efficiency requirements of the Batteries Directive i.e. that batteries recycling processes achieve (by 26 September 2011):
 - (i) recycling of 65% by average weight of lead-acid batteries and accumulators, including recycling of the lead content to the highest degree that is technically feasible while avoiding excessive costs;
 - (ii) recycling of 75% by average weight of nickel-cadmium batteries and accumulators, including recycling of the cadmium content to the highest degree that is technically feasible while avoiding excessive costs; and
 - (iii) recycling of 50% by average weight of other waste batteries and accumulators i.e. the vast majority of portable batteries.
199. The European Commission is yet to finalise proposals on how recycling efficiencies are to be calculated. Once this has been agreed and the Commission has issued a Decision, the Government will issue further guidance to stakeholders.
200. ABTOs will need to maintain an audit trail to show that the recycling of all batteries for which they are responsible is achieving the required recycling efficiencies.
201. ABTOs and ABEs should normally issue evidence to a BCS. The only exception to this rule is when a BCS has had its approval withdrawn. You may then issue evidence to a producer who had been a member of that BCS.
202. Evidence should only be issued if it relates to waste portable batteries received by you at a site specified in your approval as an ABTO in the period to which the evidence relates. The evidence will need to specify the site in question. The batteries must also have arisen as waste in the UK and must not include any batteries that have been previously received by another ABTO.
203. The environment agencies will specify the format of the evidence that ABTOs will issue. You will need to keep a copy of any evidence you issue and provide the copy to the environment agencies on request.
204. An ABTO has until 30 April of the year following a compliance year to issue evidence relating to the waste batteries it received in that compliance year. For example, evidence for batteries received in 2012

can be issued up to 30 April 2013. To issue the evidence, the ABTO must be confident that the batteries will be recycled by the end of the year following the compliance year (in the example cited the batteries would have to be recycled by the end of 2013).

205. If ABTOs arrange for whole, untreated batteries to be exported as part of the treatment/recycling chain, they can only do so through an Approved Battery Exporter.

Waste Battery Exporter Obligations

Approval Procedures for Approved Batteries Exporters (ABEs)

206. Exporters must go through similar approval procedure to ABTOs if they wish to export batteries for treatment and recycling. As part of this approval, there are specific rules that apply to ABEs that deal with waste portable batteries. All exports must be fully compliant with other relevant regulations such as the Trans Frontier Shipment of Waste Regulations.
207. The approval procedure for ABEs is set out in Part 7 of the Regulations and in Schedule 4. Applicants may apply for approval as an ABE at any time and the approval is for one year only. It will last until the end of the calendar year to which the application relates. The appropriate environment agency will let you have the application form and supporting information to enable you to apply. They will let you know their decision within 12 weeks. If your application is rejected, the authority will let you know your rights of appeal against their decision.
208. The application must specify sites at which treatment and recycling will take place and confirm that these meet the storage, treatment and recycling requirements of the Regulations. All treatment and recycling must take place at a site which was named in the approval issued by the environment agencies. The same recycling efficiency requirements set out in paragraphs 198-200 must be met. Likewise, there is the same obligation to maintain an audit trail confirming that waste batteries have been treated and stored to the necessary requirements.
209. For an applicant that intends to export less than 150 tonnes of industrial or automotive batteries for treatment and recycling and to issue evidence notes for less than 15 tonnes of waste portable batteries a year, the fee is £500. Otherwise the fee will be £2,590. If an exporter initially expects to export less than 150 tonnes of industrial or automotive batteries for treatment and recycling or to issue evidence notes for less than 15 tonnes of waste portable batteries a year but then finds that they are going to exceed this amount, they must notify the relevant environment agency and they will be liable for the full charge (i.e. £2,590).

210. If an ABE subsequently wishes to use an overseas site that was not listed on their initial application, they must apply to the relevant environment agency in writing, provide the necessary information as specified in paragraph 8 of Schedule 4 to the Regulations and pay a fee of £110 per site.
211. As with ABTOs, ABEs should only issue evidence to a BCS or to a producer who had been a member of BCS which has had its approval withdrawn (and has yet to join a new BCS).
212. Evidence should only be issued if it relates to batteries received by you in the period to which the evidence relates. Evidence should only be issued if the exports are in line with UK and EU waste shipments Regulations. The batteries must also have arisen as waste in the UK and must not include any batteries that have been previously partially treated or recycled in the UK.
213. The environment agencies will specify the format of the evidence that ABE's will issue. You will need to keep a copy of any evidence you issue and provide the copy to the environment agencies on request.
214. As with ABTOs, ABEs have until 30th April of the year following a compliance year to issue evidence relating to the batteries it received in that compliance year. For example, evidence for batteries received in 2012 can be issued up to 30th April 2013.
215. If untreated batteries are received by an ABTO and then exported for recycling, the evidence is issued by the ABTO who received the batteries.

Reporting and record keeping for ABTOs and ABEs

216. ABTOs and ABEs must report to the environment agency that approved them the quantities of batteries that they have dealt with. ABTOs and ABES will need to report the quantities of waste portable batteries delivered by each BCS. ABTOs will need to report the amount of batteries that each approved site has dealt with and the amounts sent to an ABE for export (and details of the ABE concerned).
217. The information that operators and exporters report must be broken down by each approved site, the type of battery (industrial, automotive and portable) and the chemistry (lead-acid, nickel-cadmium and other). These reports will need to be provided on a quarterly basis, by the end of the month following the end of the quarter (e.g. by end of April Q1 January to March) in the case of portable batteries, and annually by the end of January in the year following the year that you are reporting on, in the case of industrial or automotive batteries.
218. ABTOs and ABEs must provide, to the environment agency that approved them, an annual report from an independent auditor. This

report must be submitted by 31st May of the year following that covered in the report. The report will need to show that the treatment and recycling of batteries was carried out in line with the relevant treatment requirements and that the required recycling efficiencies have been met (from 2011 onwards). The report will also need to show that the batteries evidence notes issued by an ABTO or ABE are consistent with the amount of batteries that an ABTO or ABE has received from BCSs.

Guidance for Battery Consumers

Industrial Batteries

219. A fundamental element of the Regulations is the entitlement for end-users of industrial batteries to have them treated and recycled at no cost to the end-user. End-users should therefore make themselves familiar with the 3 entitlements for take back listed in paragraph 38 above. The intention is that end-users should take advantage of Entitlement 1 whenever possible, only moving down the hierarchy to Entitlements 2 or 3 (in turn) if they are not purchasing new batteries.
220. As with any waste, holders must comply with the Duty of Care for Waste. Persons must ensure that the waste is managed properly, recovered or disposed of safely, does not cause harm to human health or pollution of the environment and is only transferred to someone who is authorised to receive it. The duty applies to any person who produces, imports, carries, keeps, treats or disposes of controlled waste or as a broker has control of such waste. Full details of how to discharge this responsibility can be found in:

<http://www.defra.gov.uk/environment/waste/legislation/pdf/waste-man-duty-code.pdf>

Automotive Batteries

221. End-users of automotive batteries are not entitled to free collection of their waste batteries from battery producers. However, householders (but not businesses) are allowed to deposit waste automotive batteries at Civic Amenity Sites without charge where such facilities are available. Other businesses such as, car service centres/garages, breakdown companies and ELV treatment facilities are not obligated to, but may wish to accept waste automotive batteries from end-users free of charge as they do have an entitlement to free collection from automotive battery producers.

Portable Batteries

222. End-users of portable batteries, whether they are members of the public or businesses will find that these Regulations provide new ways for them to return waste batteries for recycling. Distributors that supply portable batteries will – in most cases – have to take waste portable batteries back. The only exception is distributors who sell very few batteries. In addition, most consumers will find other collections in their area – e.g. at Civic Amenity sites, possibly collection from households or in libraries, schools etc.
223. For businesses, it might be convenient for you to collect waste portable batteries at your place of work, and to contact your supplier, or a BCS

to discuss collection arrangements. You could offer this as a service to your staff to encourage them to recycle their batteries.

Northern Ireland

The Waste Batteries and Accumulators (Charges) Regulations (Northern Ireland) 2009

224. This Statutory Rule prescribes the charges paid to the Department of the Environment under the Waste Batteries and Accumulators Regulations 2009. These charges are identical to those for the rest of the UK. The various charges are outlined below. It should be noted that a small producer is one that places 1 tonne or less of portable batteries on the UK market in a year.

- For small producers of batteries, an administration charge of £30 annually.
- For battery compliance schemes:
 - a one-off application charge of £17,000 to be paid by each battery compliance scheme,
 - an annual subsistence charge of £118,000 to be paid by each battery compliance scheme, and £680 to be paid for each scheme member.
- For Battery Treatment Operators and Exporters:
 - an annual application charge of £500 to be paid by each small battery treatment operator per site or by each small exporter and £2,590 by each large battery treatment operator per site or by each large exporter,
 - a charge of £110 to be paid by each approved exporter who wishes to extend an approval to additional site to which that exporter wants to export waste batteries.

The Waste Batteries and Accumulators (Treatment and Disposal) Regulations (Northern Ireland) 2009

225. The Statutory Rule transposes the treatment and disposal requirements of the Directive by amending various pieces of existing Northern Ireland legislation.

226. The Rule:

- ensures that collection points where end-users discard waste portable batteries are excluded from waste registration and permit requirements,

- provides for specific waste management licence conditions for treatment of waste batteries,
- provides an exemption from waste management licensing for storage of waste batteries under prescribed conditions,
- prohibits the disposal of waste industrial and automotive batteries in landfill or by incineration.

Scotland

227. The Waste Batteries and Accumulators Regulations 2009 apply to Scotland with the exception of Regulation 56 (prohibition on disposing of waste automotive and industrial batteries in landfill or by incineration).
228. The Waste Batteries (Scotland) Regulations 2009 implement the bans on landfill and incineration in Scotland. These Regulations also apply the storage and minimum treatment provisions of Part A of Annex III of the Directive to all waste operators and make transitional arrangements for waste operators who currently handle waste batteries. The Regulations also make technical changes to the existing law on SEPA charging schemes and implement the Directive's provisions relating to the disapplication of existing permitting requirements to waste batteries collection points.
229. The effect of the Regulations on operators is that an operator who stores waste batteries in Scotland (irrespective of whether he is an ABTO) may now only do so if all fluids and acids have been removed and the batteries stored on an impermeable surface protected from the elements.
230. The Regulations prohibit the disposal of industrial and automotive batteries to landfill or by incineration from 1 January 2010. They do so by adding such waste to the list of wastes in the Landfill (Scotland) Regulations 2003 which must not be accepted at landfills and by amending the Waste Management Licensing Regulations 1994 to the effect that SEPA must include a condition prohibiting incineration in new or varied waste management licences.
231. Operators holding an existing waste management licence or PPC permit do not need to take any action; the Regulations make a blanket amendment of these licences and permits so as to incorporate the new restrictions.

Compliance

232. Any persons placing batteries or accumulators on the market or appliances that may contain batteries or accumulators must comply with these Regulations.

Contact points for further information

For Industrial and Automotive Batteries:

Department for Business, Innovation and Skills

1 Victoria Street
London
SW1H 0ET

Website:

<http://www.bis.gov.uk/policies/business-sectors/environmental-and-technical-regulations/batteries-accumulators>

Contact numbers:

Tel: +44 (0)20 7215 5861
BIS Helpdesk Tel: +44 (0)20 725 5000
Email: batteries@bis.gsi.gov.uk

For Portable Batteries and Battery Compliance Schemes:

If you are a producer of portable batteries or a BCS and require further information or have a question on waste battery collection/treatment, you should contact the relevant environment agency for your area:

Contacts:

- For England and Wales

The Environment Agency
Tel: 08708 506 506
Email: batteries@environment-agency.gov.uk
Website: www.environment-agency.gov.uk

- For Northern Ireland

Northern Ireland Environment Agency
Tel: 0845 302 0008
Website: <http://www.doeni.gov.uk/niea/index.htm>

- For Scotland

Scottish Environment Protection Agency
Tel: 01786 457700
Website: <http://www.sepa.org.uk/default.aspx>

Distributors of Portable Batteries

If you are a distributor of portable batteries and require further information or have a question, you should contact the Vehicle Certification Agency (VCA) who is the enforcement body for distributors:

Contact:

- VCA
Tel: 0844 8000819
Email: **batteries@vca.gov.uk**
Website: **www.vca.gov.uk**

Advice on Environmental Legislation

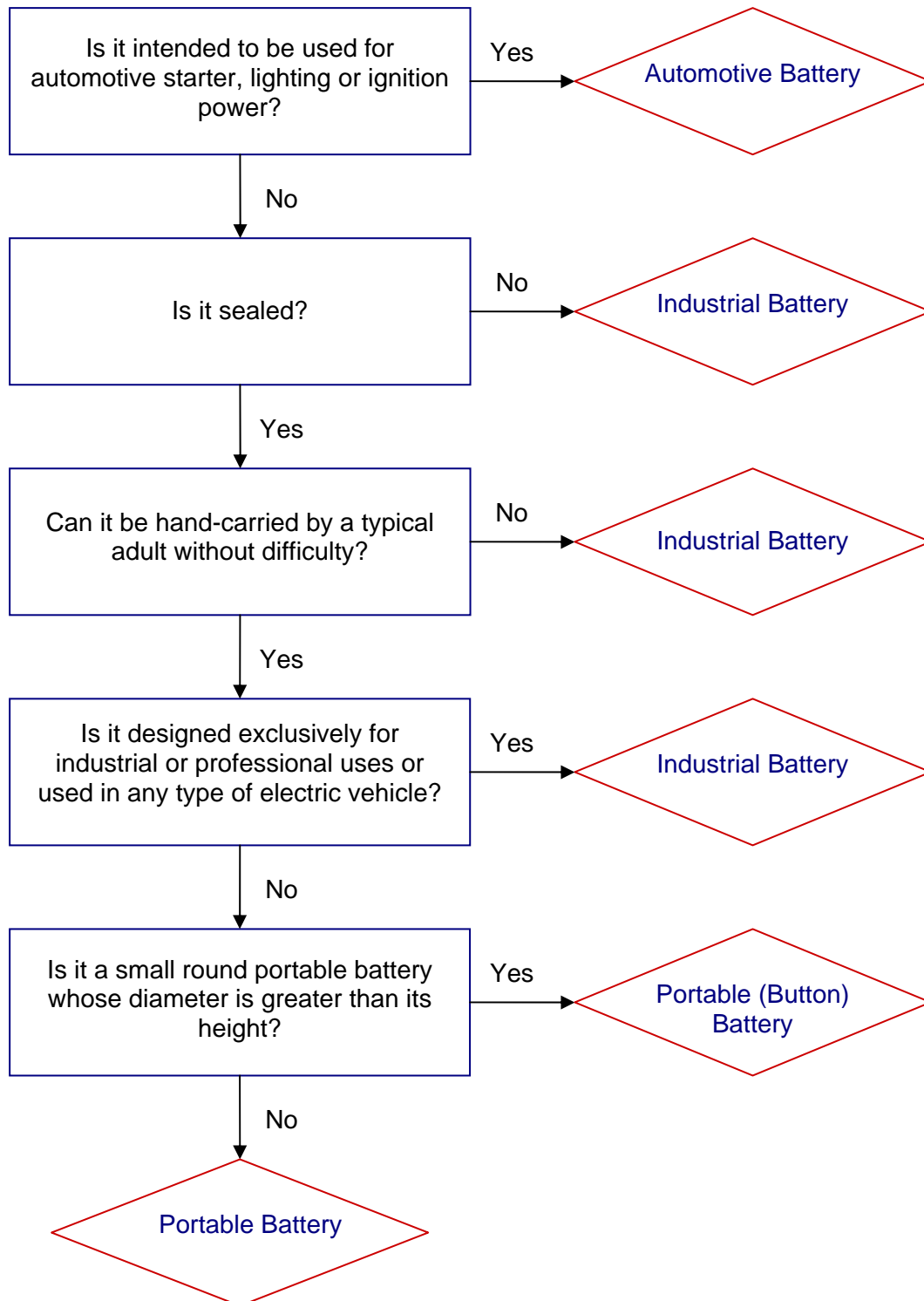
Envirowise Telephone Helpline: 0800 585 794 (UK calls only)

Website: **www.envirowise.gov.uk**

This Helpline is a telephone enquiry service, funded by the Government, providing a comprehensive information and signposting service for firms seeking advice on a wide range of environmental issues that may affect their business.

Annex A

Flow Diagram to Assist with Determining Battery Type



Annex B

Information to be included in an application for registration of producers

1. The date of the application for registration.
2. The name of the producer and any brand name under which the producer operates or intends to operate in the United Kingdom.
3. The following contact details for the producer—
 - (a) the full postal address (including post code) and telephone number of—
 - (i) the producer's registered office; or
 - (ii) if the producer is not a company registered in the United Kingdom, the producer's principal place of business in the United Kingdom;
 - (b) a website address; and
 - (c) where available, a fax number and e-mail address.
4. An address for service of notices on the producer if different from the addresses mentioned in paragraph 3.
5. The name and telephone number of a contact person for the producer, and, where available, a fax number and e-mail address, for that person.
6. An indication of which categories of battery the producer is placing or intends to place on the market in the United Kingdom.
7. Information as to—
 - (a) whether the producer is meeting or intends to meet its responsibilities under these Regulations individually or collectively; and
 - (b) if collectively—
 - (i) the name of the battery compliance scheme of which the producer is a member;
 - (ii) the name of the scheme operator; and
 - (iii) the address and telephone number of the registered office of the scheme operator or, if not a company registered in the United Kingdom, the principal place of business and telephone number of the scheme operator in the United Kingdom.
8. If the producer has been registered under these Regulations within the last 5 compliance periods the producer's battery producer registration number.
9. A signed declaration of the truth of the information provided and the name and title of the signatory of the declaration.

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