

# THE WASTE BATTERIES AND ACCUMULATORS REGULATIONS 2009

## Government Guidance Notes

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Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

## Government Guidance Notes

### S.I. 2009 No. 890

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<sup>1</sup>, to understand the application of the Waste Batteries and Accumulators Regulations 2009. The Guidance is also for those that sell portable batteries to consumers, and those collecting, treating, recycling or exporting waste batteries, as they also have obligations under the Regulations.
2. The Guidance aims to explain the Regulations as interpreted by the Department for Business, Enterprise and Regulatory Reform (BERR), 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 52-53.
3. 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 6.)
4. The Regulations themselves should always be read and understood, as they constitute the law. This Guidance is intended to be informative, but has no legal authority. You should refer to the Regulations themselves for a full statement of the legal requirements and, in the case of doubt, take independent advice, including your own legal advice. 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 BERR 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 EC Directive on Batteries and Accumulators and Waste Batteries and Accumulators (2006/66/EC). It deals with

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<sup>1</sup> Guidance on when a product is deemed to have been placed on the market may be found in section 2.3.1, ‘Placing on the market’, of the European Commission’s *“Guide to the implementation of directives based on the New Approach and the Global Approach. N.B. the Guide (or “Blue Book Guide”) is a guide to the principles to be applied to placing on the Community market but may also be useful as regards placing on the UK market for the first time.*

requirements related to the collection, treatment and recycling of waste automotive, industrial and portable batteries. It includes producer responsibility requirements for those placing new batteries on the UK market and requirements for those selling new portable batteries, 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. The Government has a separate set of guidance notes relating to the Batteries and Accumulators (Placing on the Market) Regulations 2008 (SI 2008/2164). Those Regulations deal with technical requirements affecting the manufacture, marketing and labelling of new batteries, and the design of certain battery-powered equipment.

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## Batteries Regulations – the law in brief

7. The Waste Batteries and Accumulators Regulations 2009<sup>2</sup> (hereafter referred to as “the Regulations”) implement in the UK the waste battery provisions of the EU Directive on Batteries and Accumulators and Waste Batteries and Accumulators 2006/66/EC (hereafter “the Directive”).
8. 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 wishing 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.
9. These Regulations supplement the Batteries and Accumulators (Placing on the Market) Regulations 2008, which introduced a range of product design requirements, including restrictions on the use of mercury and cadmium in new batteries, new battery labelling requirements and requirements for new appliances to be designed so that batteries can be easily removed.
10. 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

11. The Regulations came into force on 5 May 2009 (with the exception of some provisions listed in Regulation 1(2) which come into force later).

### Key Requirements

12. The requirements, covered by this Guidance, are broken down into 6 broad areas as follows:
  - (i) Requirements for new battery producers – including “producer responsibility” requirements which mean that battery producers will have to fund the collection, treatment and recycling of waste batteries.

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<sup>2</sup> S.I. 2009 No. 890

- (ii) Requirements for new battery distributors – including requirements for portable battery distributors to have waste battery collection facilities.
  - (iii) Requirements for portable waste battery collection scheme operators setting out the criteria that battery producer 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.
13. Differing requirements apply in many cases, depending on whether the batteries in question are automotive, industrial or portable.

### **Enforcement Authority**

14. Responsibility for the enforcement of these Regulations falls mostly to the Environment Agency in England and Wales, the Scottish Environment Protection Agency in respect of Scotland and the Department of the Environment for Northern Ireland. In practice the Northern Ireland Environment Agency (an agency of the Department of the Environment) carries out this enforcement role. These bodies are called the Environment Agencies within this guidance.
15. In addition, Defra will appoint an enforcement body for the obligations which fall on distributors and BERR will itself be the enforcement authority for many of the obligations relating to waste automotive and industrial batteries.

### **Scope**

16. 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.

### **Definitions**

17. 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?*

18. 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?*

19. 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:
20. 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 accumulator; or
  - sealed but is not classified as a portable battery.

Examples of **industrial batteries** include:

- *Batteries used in offshore oil rigs and lighthouses.*
- *Batteries designed exclusively for handheld terminals used in shops and restaurants and barcode readers in shops.*
- *Batteries used in professional video equipment and professional studios.*
- *The battery used as a source of propulsion in a golf cart or buggy.*
- *The battery found 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.*

21. 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.*

22. A **portable battery** means any battery or battery pack which is:
- sealed;
  - can be hand-carried by an individual person without difficulty; and
  - is neither an automotive battery or accumulator nor an industrial battery.
23. Many batteries used in electrical and electronic equipment could at first glance seem to fit the requirements of both portable and industrial batteries. The deciding factors in such circumstances would be the design of the product and the purpose of its use. 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. Evidence distinguishing the battery or battery pack from a portable battery may be shown in, for example, its shape, composition or performance.
24. For example, laptop computers used by businesses may be being used on an exclusively professional basis. However, although the laptop is being used professionally, the same type of product is also commonly



used by non-professionals, and thus the laptop, and its battery have not been exclusively designed for professional use. Therefore, the battery is a portable battery, not an industrial one.

Examples of a **portable battery** include:

- *The AA or AAA batteries used to power a portable CD player or minidisk player, or 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.*

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

25. 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 mentions “appliances and vehicles” in order to make it clear that products already covered by Waste Electrical and Electronic Equipment (WEEE) Regulations 2006 and End of Life Vehicles (ELV) Regulations 2005 are also covered by the new batteries regulations.
26. The term “Producer” does not therefore necessarily refer to the manufacturer of the batteries. Instead, the emphasis is on whoever is placing them on the UK market first. The Regulations include a reference specifically to “distance sellers” and in doing so, make it clear that that such producers shall be treated in the same way as any other producer of batteries.
27. However, as noted above the Regulations apply to “any person in the UK”. So if the distance seller has no physical UK presence such as a Post Office Box, UK trading arm or office in the UK they are not covered by the definition of producer in the batteries regulations when selling directly to end-users. In this respect, the Regulations differ from WEEE Regulations where producers do not have to have a UK presence.
28. 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 puts 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.

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.*
- *UK manufacturers of mobile phones (which include 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 inside the UK is not a producer*
- *A company that imports mobile phones into the UK without batteries and then buys the batteries for the phones from another UK company is not a producer.*
- *A company that sells batteries from overseas directly to UK consumers via the internet and has absolutely no physical UK presence is not a producer.*

### ***What does “Place on the Market” mean?***

29. *Place on the market/placing on the market 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.*
30. *Further guidance on when a battery or appliance is deemed to have been placed on the market may be found in the European Commission’s “*Guide to the implementation of directives based on the**

*New Approach and the Global Approach*<sup>3</sup> (commonly referred to as the “Blue Book” or “Blue Guide”). The Guide deals with placing on the Community market but paragraph 2.3.1 “Placing on the market” (page 18) may also be helpful as a guide to the principles applying to placing on the UK market for the first time.

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

31. Distributors are those that “provide batteries and accumulators on a professional basis to an end-user”. This term covers retailers of batteries as well as those supplying batteries to businesses.

Examples of **distributors** are:

- *A shop that buys batteries from a UK supplier and then sells them to end users.*
- *An online retailer that buys audio equipment (with batteries included) from a UK supplier and then sells them over the internet to end users*
- *A wholesaler that buys batteries from a UK supplier and sells both to end users and retail outlets*

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

- *A shop that both sells and places on the UK market own brand batteries, and batteries that it imports into the UK.*
- *A shop that only sells batteries purchased from UK suppliers (distributor) but also sells calculators that include batteries that it imports into the UK (producer).*

#### **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 his behalf at any time.

<sup>3</sup> The *Guide to the implementation of directives based on the New Approach and the Global Approach* can be downloaded from <http://ec.europa.eu/enterprise/newapproach/legislation/guide/index.htm>

*I place 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 other “non-industrial” equipment – are the batteries “industrial” or “portable”?*

The intention of use is of no relevance. Unless you can demonstrate that the design of the batteries you produce make them exclusively for industrial or professional use, the battery will be considered portable.

*If a company places an electrical product on the UK market containing a battery – the battery being purchased in the UK (i.e. another company has placed it onto the UK market) – is the company that places 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?*

- If the battery pack is designed for exclusively industrial or professional use it is considered to be “industrial”.

*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:

- *Appliance* means any electrical or electronic equipment, as defined by the WEEE Regulations, which is fully or partly powered by batteries or is capable of being so.
- *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.

## **Exemptions**

32. The Regulations will 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.

33. 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.

# The Regulations – In Detail

## Producer Obligations

### Industrial Battery Producers

34. Definitions of “Industrial battery” and “producer” are explained in the “Definitions” section of this document which starts on page 6.

#### Producer registration

35. Regulation 42 requires that producers of industrial batteries register their company details with BERR using the same format for registration as for portable batteries. This registration format is harmonised within Europe, so all EU member states should be using the same or very similar formats. Where a producer of industrial batteries is also a producer of portable batteries, then membership of a portable battery compliance scheme is compulsory and registration should be made via that route, the single registration being sufficient for all types of battery that producer places on the UK market. In these instances, BERR will be informed of registration details by the relevant Environment Agency. The same transfer of information will apply to small producers of portable batteries, when registering directly with the Agencies, should those producers also place industrial batteries on the UK market.
36. The producer registration requirements take effect on 16<sup>th</sup> October 2009. Any producer who is required to register must make an application for registration to BERR within 28 days of the first date on which he places batteries on the market for the first time in the UK after 16<sup>th</sup> October 2009. Successful applications for registration will result in the applicant being allocated a registration number. This number remains allocated to the producer even when they de-register, although any producer that de-registers and does not re-register within 5 years will, upon re-registration, 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.
37. Regulation 44 requires producers to notify BERR within one month of any changes to their registration details or if they cease to be a producer, and Regulation 45 sets down BERR’s obligations in respect of responding to applications for registration.

#### Take back of waste batteries from 1 January 2010

38. There are three main elements to the producer take back obligations, which are set down in Regulation 35. 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 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:** Producers are obliged to take back 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.
39. **Regulation 37** allows producers to make arrangements with end-users for meeting the cost of collecting, treating and recycling waste industrial batteries, but these alternative arrangements do not alter the legal obligations set down in the Regulations.

#### Publishing details of take back

40. **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 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

41. **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 or an approved battery exporter for treatment and recycling.

42. [Regulation 56](#) prohibits the disposal of whole and untreated waste industrial batteries by land-filling or incineration, and [Regulation 57](#) stipulates that waste industrial batteries may only be treated or recycled by or on behalf of an approved battery treatment operator and that only approved battery exporters may export waste industrial batteries for treatment or recycling outside the UK.

#### Reporting sales data

43. [Regulation 40](#) requires producers to report to BERR 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](#). This information must be provided on or before 31 March each year, starting with 31 March 2010, in respect of 2009 data. BERR 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

44. [Regulation 41](#) requires the same chemistry and tonnage information to be provided in respect of the waste industrial batteries that a producer has a) collected (or has had collected on his behalf) and b) delivered to an approved treatment operator or approved exporter 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 many industrial 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 its obligation to achieve recycling of all waste industrial batteries. There is, however, no specific target for each producer to meet.
45. [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 approved treatment operators and exporters. 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 BERR on demand.

### Q&A on the Industrial 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 take-back batteries if for some reason if this is not practical or appropriate. A 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 taken back 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 BERR. More information and address details can be found on BERR's website.

## Automotive Battery Producers

46. Definitions of “automotive battery” and “producer” are explained in the “Definitions” section of this document which starts on page 6.

### Producer registration

47. [Regulation 42](#) requires that producers of automotive batteries register their company details with BERR using the same format for registration as for portable batteries. This registration format is harmonised within Europe, so all EU member states should be using the same or very similar formats. Where a producer of automotive batteries is also a producer of portable batteries, then membership of a portable battery compliance scheme is compulsory and registration should be made via that route, the single registration being sufficient for all types of battery that producer places on the UK market. In these instances, BERR will be informed of registration details by the relevant Environment Agency. The same transfer of information will apply to small producers of portable batteries, when registering directly with the Agencies, should those producers also place automotive batteries on the UK market.
48. The producer registration requirements take effect on 16<sup>th</sup> October 2009. Any producer who is required to register must make an application for registration to BERR within 28 days of the first date on which he places batteries on the market for the first time in the UK after 16<sup>th</sup> October 2009. Successful applications for registration will result in the applicant being allocated a registration number. This number remains allocated to the producer even if they de-register, although any producer that de-registers and does not re-register within 5 years will, upon re-registration, 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.
49. [Regulation 44](#) requires producers to notify BERR within one month of any changes to their registration details or if they cease to be a producer, and [Regulation 45](#) sets down BERR’s obligations in respect of responding to applications for registration.

### Collection of waste batteries from 1 January 2010

50. [Regulation 36](#) requires that automotive battery producers collect on request, 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 as at present). Generally speaking, final holders would 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 values fall short of collection, treatment and recycling costs.

51. [Regulation 37](#) allows producers to make 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

52. [Regulation 36](#) also requires that each producer must publish, on or before 1 December each year, beginning in 2009, details of how a final holder of waste automotive batteries may request the take back 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

53. [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 or an approved battery exporter for treatment and recycling.
54. [Regulation 56](#) prohibits the disposal of whole and untreated waste automotive batteries by land-filling or incineration, and [Regulation 57](#) stipulates that waste automotive batteries may only be treated or recycled by or on behalf of an approved battery treatment operator, and that only approved battery exporters may export waste automotive batteries for treatment or recycling outside the UK.

## Reporting sales data

55. [Regulation 40](#) requires producers to report to BERR 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](#). This information must be provided on or before 31 March each year, starting with 31 March 2010, in respect of 2009 data. BERR 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

56. [Regulation 41](#) requires the same 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 approved treatment operator or approved exporter 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 its obligation to achieve recycling of all waste automotive batteries. There is, however, no specific target for each producer to meet.
57. [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 approved treatment operators and exporters. 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 BERR on demand.

## 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 take-back batteries if for some reason if this is not practical or appropriate. A 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 taken back 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 BERR. More information and address details can be found on BERR’s website.

*Can individual owners of private vehicles request that automotive battery producers take back their waste automotive batteries?*

- No – the free take-back entitlement is only for places such as garages, scrap-yards, end-of-life vehicle Authorised Treatment Facilities or Civic Amenity Sites.

## Portable Battery Producers

### Joining a Battery Compliance Scheme

58. Portable battery producers who place for the first time more than 1 tonne of portable batteries on the UK market 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.
59. Producers who intend to place 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 2010 must join a BCS by 15<sup>th</sup> October 2009.
60. A producer who has joined a BCS for any compliance period (i.e. a calendar year running from 1 January to 31 December) must stay a member of that scheme for the whole of that compliance period. (The only exception to this is in the unlikely event of the scheme having its approval withdrawn.)
61. 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 let their existing compliance scheme know what they have done by the same date.
62. 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.
63. BCSs will differ in the services they provide, and in their fee structures. You are advised to discuss your requirements with more than 1 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.
64. 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

65. BCSs will register their members with the relevant environment agency and will keep the agencies notified of all changes of membership and

of registration details. The agencies will maintain a public register of all UK registered battery producers.

66. The EU has adopted harmonised registration requirements. The information required to register is set out in Annex B. Battery Compliance Schemes will register portable battery producers with the relevant Agency by 31 October 2009 for the first compliance year and within 28 days of the producer joining the scheme in the following compliance years, before they first place batteries on the UK market (more details are given in the Chapter on schemes).
67. Producers should provide their BCS with the information needed to register them with the appropriate environment agency. Producers will receive a unique registration number. Producers have a responsibility to notify their schemes within 14 days if any of their registration details change or if they no longer place batteries on the UK market. Schemes will pass this information on to the environment agencies.
68. Producers may at any time tell the environment agencies that they no longer place batteries on the UK market. BCSs are under the 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 batteries on the UK market.
69. 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 once more. They will need to join 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.

#### Small Producers of Portable Batteries

70. Small producers are defined as those producers that place 1 tonne or less of portable batteries on the UK market in a year. Small producers will need to register with the relevant environment agency within 28 days of the first day after 15<sup>th</sup> October 2009 that they place batteries on the UK market.
71. Each year small producers must report their sales data to the relevant environment agency. They must do this within one month (i.e. by 31 January) of the end of the year. Small producers have no collection, treatment or recycling obligations.
72. There will be an annual charge of £30 to recover the costs that the environment agencies will incur in dealing with small producers. The environment agencies will tell you how and when this must be paid.

73. 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.
74. 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.
75. If a producer leaves it until late in the compliance period to declare that they will be above the 1 tonne threshold, their BCS 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 keep aware of their potential obligations and take early action to comply with them.

### Reporting sales data

76. 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 market<sup>4</sup> (see paragraphs 29/30 for definition of “place on the market”). BCSs and the environment agencies, therefore, need to know the weight of portable batteries that producers are placing on the market.
77. 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.
78. The first formal report of sales data will consist of the tonnage that each scheme member places on the market during 2009. Schemes must report data on batteries placed on the market from the date the Regulations came into force (5 May 2009). If available, schemes may wish to provide data for all of 2009 but this is not a requirement of the regulations. Where schemes have provided data from 5 May 2009 onwards, the environment agencies will make a best estimate of the amount put on the market by the scheme members in the whole of 2009, to account for the period between 1 January 2009 and 4 May 2009 (before the Regulations came into force).

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<sup>4</sup> Data from small producers will not be included in this calculation.



79. You may find that schemes ask you for sales data earlier than these statutory deadlines because, in considering applications from schemes, the environment agencies may ask for information to check that schemes' plans for collecting batteries are in line with their obligations.
80. 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.

#### Producer responsibilities when schemes have their approval withdrawn

81. Normally producers will fulfil their obligations through membership of a BCS. However, if a scheme has its approval withdrawn, the responsibilities to collect, treat and recycle batteries (and to submit a Declaration of Compliance if one is due) will revert to its members individually.
82. The section of this guidance on Scheme obligations explains how and why a scheme might have its approval withdrawn.
83. The relevant EA 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.
84. In the event of a scheme failure, the most important responsibility for producers is to join a different scheme within 42 days<sup>5</sup> of the withdrawal of approval taking effect. Alternatively, a producer can let the agencies know that they intend to join a new BCS which is seeking approval to operate. However, if you do this, you need to understand that the regulations contain a number of provisions which will apply directly to you while the application from the new scheme is being considered.
85. We would not normally expect a producer to have to collect batteries for themselves (individual compliance). This may, however, become necessary in the case of the failure of their BCS. In such cases, the Regulations require the producer to deliver the batteries they collect to an Approved Batteries Treatment Operator (ABTO) or Approved Batteries Exporter (ABE). The producer will need to keep records of the weight of lead-acid, nickel-cadmium and other batteries they collect and deliver to each specified site operated by an ABTO or to an ABE. They will need to report data quarterly to the relevant environment agency in the format that the agencies specify.

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<sup>5</sup> 42 days apply from the date when the withdrawal of approval take effect. A producer has 42 days to 1) become a member of another scheme OR 2) notify the environment agency of competence of the intention to join a proposed scheme. Once notified the producer then has a further 28 days to join that scheme.

86. If a producer in these circumstances does deliver batteries to an ABTO or ABE, evidence of collection, treatment and recycling may be issued directly to the producer.
87. BCS's must make a declaration by 31 May on whether they have met their collection, treatment and recycling obligations for the previous year. The information required is discussed in more detail in the section on scheme obligations. Should a producer not be a member of a BCS on 31 May that producer would need to make their own Declaration of Compliance. This case would apply to producers which were members of a scheme that has had its approval withdrawn. This requirement would not apply to a producer who has newly joined the market.
88. The Declaration will need to be supported by batteries evidence notes. This will come from three potential sources:
- (i) the scheme that has had its approval withdrawn should notify each former member how much evidence was collected by the scheme on behalf of that member before the withdrawal took effect and allocate the evidence back to its members proportionately;
  - (ii) evidence issued to the producer by ABTOs and ABEs as set out above; and
  - (iii) evidence that a producer has bought from another BCS or producer.
89. 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 will 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, 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?*

- If joining an existing scheme within 28 days (see footnote 5, page 24) we would not foresee a need for producers to set up their own arrangements for the short period. However, if joining a new scheme that has not yet been approved, there could be a gap in battery collections as the approval for a new scheme will take about 4 months. 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**

90. 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 principal place of business. The approval by one of the environment agencies allows a BCS to operate in any part of the UK.
91. 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.
92. The environment agencies will provide potential applicants with the relevant application form.
93. You will need to include with your application the information required under Schedule 3 of 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 Packaging Regulations.
94. Applicants will need to show they have procedures for handling disputes and for passing important information to their members. Applications must be accompanied by the one-off application fee (£17,000) which will not be refunded.
95. To get approved, 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. However, we expect that a scheme should not over or under collect against their obligations by more than 10%.

96. Once evidence has been registered with the environment agencies in the name of an approved BCS, that BCS will be able to trade that evidence with other schemes should they choose. However, schemes will wish to bear in mind that 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.
97. The scheme's plans to fulfil their members' obligations will need to be set out in an operational plan which must accompany the application for approval. This will be key to the environment agencies' assessment of the application. As well as collection, treatment and recycling, the operational plan will need to cover how the scheme will fulfil its publicity obligations. The requirements for operational plans are discussed in more detail below.
98. Every year, schemes will need to submit an updated operational plan which will cover the following three compliance years.
99. Key dates in the application process are shown in the table below:

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

<b>ACTION</b>	<b>First Compliance Year (i.e. 2010)</b>	<b>Second Compliance year onwards</b>
<b>Deadline for applications</b>	31 <sup>st</sup> May 2009	Between 15 <sup>th</sup> April and 15 <sup>th</sup> May
<b>EA's request extra information (if necessary)</b>	30 <sup>th</sup> June 2009	15 <sup>th</sup> June
<b>Deadline for schemes to submit additional information</b>	31 <sup>st</sup> August 2009	31 <sup>st</sup> August
<b>EA's issue decision to approve/reject applications</b>	30 <sup>th</sup> September 2009	30 <sup>th</sup> September

<b>BCSs register members with the relevant environment agency (first year) or confirm their membership (subsequent years)</b>	31 <sup>st</sup> October 2009	31 <sup>st</sup> October
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\* *Dates are in the year preceding the compliance year*

## Operational Plan

100. A BCS Operational Plan must provide information on:

- Financial resources and technical expertise sufficient to deliver its plans over a three year period;
- Details of its membership and obligation and the proposed arrangements for collecting, treating and recycling batteries to discharge this obligation;
- 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.

101. We recognise that, when an applicant sends in their application, they are likely to not have all of these details finalised (e.g. of who their membership will be). Applicants will continue to develop their plans during the period in which their application is considered. The EAs will let the applicant know by 30<sup>th</sup> June (in 2009, 15<sup>th</sup> June in other years) what other information the 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.

102. Schemes will need to submit any additional information requested by 31<sup>st</sup> 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 competent EA will assess whether the information provided by the applicant meets all the requirements for scheme approval under the regulations.

103. The environment agencies will assess applications against the criteria for approval set out in Schedule 3 of 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 (years) 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

104. 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 30<sup>th</sup> 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 Environment Agency for Northern Ireland).

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

105. As noted in Table 1, potential schemes will need to apply by 31<sup>st</sup> May in 2009 or between 15<sup>th</sup> April and 15<sup>th</sup> May in other years. 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 28 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.
106. 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 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 to supply the information. 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

107. BCSs must register their producer members with the appropriate authority (the environment agencies) by 31 October 2009. The application must be in writing, contain evidence that the BCS was approved by the EAs and must include the completed registration forms for producer members. The environment agencies must notify BCS in writing by 30 November 2009 who is registered with them and must issue a producer number for each registered producer.
108. If a new (i.e. previously unregistered) producer joins a BCS after the 15 October 2009, 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, confirm that the producer has been registered and provide the registration number. If an already registered producer joins a BCS after 15 October 2009, the BCS must notify the environment agencies and include the registration number of that producer. (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).

109. BCSs must notify the relevant environment agency within a month of any changes in registration details or if a producer member ceases to be a producer. The environment agencies will keep registration details for a period of time – if a company restarts placing batteries on the market they will be allocated their previous registration number if they were registered during any of the previous 5 compliance periods.
110. All notifications to the environment agencies (registration, new members, sales data) must be made on forms provided by the agencies.

#### Scheme targets for collection, treatment and recycling

111. The Directive sets collection targets that must be met by 26 September 2012 and 26 September 2016. BCSs must collect waste portable batteries equivalent to at least 25% of their members' market share in 2012 and subsequent years. From 2016 onwards, schemes will need to collect at least 45%. They 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.
112. It is a condition of approval that schemes meet these targets in relation to their members and an offence for them not to do so.
113. The market share of scheme members, in respect of which BCSs are responsible for financing is calculated by taking the percentage set out in regulation 8 and applying it to an annual average of the weight of batteries placed on the market by the members. The result is an amount in tonnes whose collection treatment and recycling must be financed by the BCS.
114. 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.)
115. 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.



116. 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. However, the main purpose of the interim targets is to allow producers, schemes and the agencies to assess progress and identify action that needs to be taken to help meet the Directive targets.
117. 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. 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.
118. As described in the BCS approval section (page 25), BCSs who significantly over-collect or under-collect, measured against their obligations, could have their approval withdrawn.
119. The BCS must ensure that all collected batteries are handled by Approved Batteries Treatment Operators (ABTOs) and/or Approved Batteries Exporters (ABE). Evidence notes will be recorded by ABTOs and ABEs on the relevant environment agency's batteries IT 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.

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

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

## Collecting portable batteries

120. Schemes will 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 who collect waste batteries can get access to the collection, treatment and recycling financed by producers. These exceptions are discussed elsewhere in this guidance.
121. 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, community drop offs (in libraries, schools etc) and postal returns.
122. 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](http://www.wrap.org.uk/local_authorities/batteries/index.html)
123. 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

124. 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, the meaning of the crossed out wheeled bin symbol and the chemical symbols for mercury, cadmium and lead.
125. 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 spend 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.
126. Government also intends to carry 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

127. As explained in the section on the distributors' obligations, we expect BCSs and distributors to work together. BCSs will collect waste portable batteries from distributors with whom they have a contractual arrangement and ensure that the batteries are treated and recycled.
128. BCSs will also have a duty to respond to requests from distributors (requests are likely to come from those which have not being contracted by a BCS) and pick up any waste 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.
129. There is a requirement that a BCS take into account the environmental impact of the transport of batteries. Schemes should take this into account in making arrangements to collect from distributors.
130. 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.

131. 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 on collection

132. As noted in the section on producer obligations, 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 (i.e. lead-acid, nickel-cadmium and other).
133. BCS’s will also need to report quarterly the weight in tonnes of the batteries (and their chemistries) collected and delivered to approved ABTOs/ABEs. These reports need be submitted within a month of the end of the quarter in question.

### Declaration of compliance

134. Schemes 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](#) of the Regulations
- 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 scheme has met its collection, treatment and recycling obligations; and
  - the amount of batteries in tonnes that a scheme has been responsible for collecting, treating and recycling.
135. The Declaration must be backed up by the evidence notes delivered electronically related to the given compliance year.

## Record keeping

136. 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.
137. BCSs are encouraged to keep data for rates of collection from distributors to help Government assess whether the current level of de-minimis exemption of small distributors is adequate or will require reviewing.

## Charges

138. 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. Also the agencies will 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.
139. Experience of other producer responsibility systems (especially the Waste Electrical and Electronic Equipment system) is that the costs of regulating one scheme is 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.
140. **The annual subsistence charge for a portable batteries scheme is £118,000. In addition, to reflect the costs of monitoring producers in particular in dealing with data and compliance visits, schemes will be charged an additional £680 per member.**
141. Although the charges will initially be 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.

## Key dates for Battery Compliance Schemes in a normal compliance year

Action	Last date
Submit sales data for fourth quarter	31 January
Submit sales data for 1 <sup>st</sup> 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 sales data for 2 <sup>nd</sup> quarter	31 July
BCSs to recruit new producer members	15 October
Submit sales data for 3 <sup>rd</sup> 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 will have flexibility to set up whatever collections they need to meet their targets. There is no need to provide nationwide coverage but, as part of the approval process, schemes will have to demonstrate how these collection arrangements will meet their obligations. They will also need to be able 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.

#### *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 they intend to meet their obligations through their own collection systems. This process should ensure that schemes' need for trading is limited.

*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 provides some information that schemes can draw on when they develop their operational plans.

## **Distributors of Portable Batteries**

142. The Regulations require persons selling portable batteries to end users professionally (Distributors) to take back waste portable batteries free of charge from end-users. From 1 February 2010, Distributors who sell more than 32 kilograms a year of batteries will need to accept waste portable batteries without charge. This is regardless of the method of sale used. For example, the regulations apply to both shops selling batteries and to all distance sellers within the UK that sell batteries to UK end-users. Distributors must also provide information at their sales points to end-users about their take-back arrangements.
143. Distributors who sell equipment containing batteries do not have to take back batteries from end-users, unless they also sell portable batteries separately. Distributors of such equipment also do not have to provide information to end-users about take back of waste portable batteries unless they also sell portable batteries separately.
144. If, as well as selling batteries to end users, you also put batteries on to 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**

145. Distributors will have to accept all types of portable battery (not just the kind they sell). They will not have to accept industrial or automotive

batteries. The definitions section of this guidance provides advice on how to distinguish automotive, industrial and portable batteries.

### Information

146. 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.

### Distance sellers

147. The Regulations apply to distance sellers (e.g. an internet retailer, a mail order retailer or a telesales retailer) who sell batteries to end users in the UK. Distance sellers also need to accept waste portable batteries from end-users free of charge. This could be through their local stores (where these exist); by postal return or by providing the customer with an alternative local route for free take—back (perhaps by working with a BCS).
148. A distance seller will need to tell his customers how they take back waste portable batteries e.g. through their mail-order adverts, on-screen during online sales, and/or through leaflets included with purchases. In taking back batteries, distance sellers should bear in mind that battery collections should take into account the environmental impact of transport.

### Small distributors' exemption

149. The regulations exempt distributors that are likely to only collect a small number of waste batteries. The exemption has been introduced because of the need to avoid the environmental costs of transporting a few batteries from a distributor as this could outweigh the benefits of recycling. This exemption applies to shops that sell less than 32 kilograms (about 1400 AA batteries) a year. These shops will not have to accept waste portable batteries from consumers. This exemption applies regardless of whether a shop is part of a chain. Large retail chains who sell batteries are, therefore, likely to have some shops which have to accept back waste portable batteries and some which do not. A shop could choose to accept batteries from end-users even if they are below the threshold, but they would then be treated as an economic operator and not be entitled to free collection from BCSs in the same way.
150. 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 sell before they would go above the 16 kilogramme threshold.



**Table 3:** 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

151. In practice, batteries are, of course, sold in different size packs. Also a distributor is unlikely to sell only one type of battery. This will make the calculation for a distributor more complex than the table above suggests.

### Right of collection by a Battery Compliance Scheme

152. Waste portable batteries returned by end-users must be collected from distributors by BCSs and then treated and recycled. The responsibility for collecting, treating and recycling rests with BCSs acting on behalf of producers. We expect that BCSs will want to work with distributors because they will need the batteries returned by end-users to meet their collection targets.

153. However, the regulations also give distributors the right to call any BCS and request collection unless they sell less than 32 kg of batteries per year. This collection should 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 BCS's 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.

154. 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.

155. 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.

156. Distributors that sell less than 32 kilograms of batteries per year are not required to collect waste batteries. Should such a shop choose to

collect waste batteries anyway they would not have the right to request collection from a BCS described above.

## Enforcement Body

157. Defra will appoint a body to enforce the requirements on distributors to take back waste portable batteries.

### Q&A on Enforcement

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

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

#### *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.

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

- The regulations make distributors responsible for taking back batteries and for providing information to consumers. However, batteries compliance schemes that want to work with a shop may wish to provide containers and publicity materials to shops 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.

*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. Schemes will have to accept your waste batteries but can do so on reasonable terms e.g. they could ask you to take the 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). 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.

## **Local Authorities**

158. Local authorities do not have 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.
159. 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 very effective means of batteries collection. It was also, in the trials, the cheapest method though this conclusion needs to be treated with caution. For example, the report recognises that there will be economies of scale which were not available to the trials.
160. 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.
161. 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.
162. If a local authority works with a BCS to collect waste portable batteries, this should not affect any other battery collection arrangements they already have - to collect car batteries for example.

163. 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.

## **Treatment and Recycling of Waste Batteries**

### **Disposal**

164. In England, Wales and Northern Ireland, the regulations make it illegal to landfill industrial or automotive batteries or to incinerate them after 1 January 2010. 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 automotive and industrial batteries to landfill and the incineration of such batteries.

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

165. Portable, industrial and automotive batteries will need to be:
- treated and recycled by an ABTO; or
  - delivered to an ABTO and then treated and recycled by another facility on behalf of the ABTO;
  - exported for treatment and/or recycling by an ABE.
166. For waste portable batteries, Battery Compliance Schemes (BCSs) will meet their obligations by obtaining evidence of treatment and recycling or of export for treatment and recycling. An ABTO or an ABE will issue this evidence.

## **APPROVED BATTERY TREATMENT OPERATORS**

### **Approval procedure for ABTOs**

167. 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 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.
168. Applicants will apply to the relevant environment agency in respect of sites in that agency's area of responsibility. For example, an applicant

will make one application to SEPA in respect of all sites in Scotland. You will need to specify the sites covered by the application.

169. If you operate within more than one part of the UK, you will need to make more than 1 application. You should apply 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.
170. The relevant agency will approve or reject your application. If all your 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.
171. 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.
172. For an applicant that intends to treat and recycle less than 150 tonnes of industrial or automotive batteries a year, or to issue evidence notes for less than 15 tonnes of waste portable batteries a year, the fee is £500 per site. Otherwise the fee will be £2,590 per site. If a treatment operator facility or exporter initially expects to treat and recycle less than 150 tonnes of waste industrial or automotive batteries 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 per site).

#### General conditions of approval

173. 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.
174. 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.
175. Each site included within an approval for an ABTO will need to have the relevant Environmental Permit, Waste Management Licence or exemption. The Regulations require ABTOs to ensure the Directive requirements for the treatment and recycling of waste batteries are met. The Regulations also amend the Environmental Permitting (England and Wales) Regulations 2007 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.

176. Treatment will also 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 shall take place in sites with waterproof surfaces and suitable weatherproof covering or in suitable containers.
177. Most portable batteries do not contain fluids and acids so only point b) is likely to be relevant for these batteries. The rules related to storage are intended to ensure that the batteries do not deteriorate in a way that causes environmental harm or inhibits recycling. The audit trail that ABTOs maintain should confirm that batteries have been treated and stored at sites or containers which meet these requirements.
178. 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)
179. The European Commission is carrying out a study into how recycling efficiencies are to be calculated. Once this has been completed and the Commission has issued a Decision, the Government will issue further guidance to stakeholders.
180. You will need to maintain an audit trail to show that the recycling of all batteries for which you are responsible is achieving the required recycling efficiencies.

## Conditions which apply to operators treating and recycling portable batteries

181. You 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.
182. Evidence should only be issued if it relates to waste 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.
183. 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.
184. An ABTO has until 30<sup>th</sup> 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<sup>th</sup> 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).
185. If ABTOs arrange for 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)

186. 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.
187. 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 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.
188. 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 178-180 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.

189. For an applicant that intends 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, 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).
190. 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.
191. 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).
192. 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.
193. 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.
194. As with ABTOs, ABEs have until 30<sup>th</sup> April of the year following a compliance year to issue evidence relating to the batteries it received in that compliance year. To issue the evidence, the exporter must be confident that the waste batteries can be recycled by the end of the year following the compliance year. For example, evidence for batteries received in 2012 can be issued up to 30<sup>th</sup> April 2013. To issue the evidence, the ABE 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).



195. 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

196. 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).
197. 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 quarterly by the end of the month following the one that you're reporting on, 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.
198. ABTOs and ABEs will also need to provide, to the environment agency that approved them, an annual report from an independent auditor. This report must be submitted by 30 April 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.

## Business or Other Premises Where Automotive Batteries Arise

199. Operators of businesses where waste automotive batteries arise in significant volumes 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 removed 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.

## Guidance for Battery Consumers

### Industrial Batteries

200. 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 therefore should 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.
201. As with any waste, final holders must comply with the Duty of Care for Waste. This means that they should satisfy themselves that anyone to whom they pass their waste batteries is an “authorised person”. 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>] but as a minimum they should ensure that the person is a registered carrier of waste.

### Automotive Batteries

202. 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. Businesses such as, garages, breakdown companies and ELV treatment facilities are not obliged to take waste batteries from consumers free of charge but may do so since they are entitled to free collection from battery producers.

### Portable Batteries

203. Consumers 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. The distributor who supplies you with a battery will – in most cases – have to take waste 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. There will be publicity funded by batteries producers to let consumers know exactly what these arrangements are.

## Northern Ireland

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

204. 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

205. The Statutory Rule transposes the treatment and disposal requirements of the Directive by amending various pieces of existing Northern Ireland legislation.
206. 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

207. The UK Waste Batteries and Accumulators (Waste Battery Collection and Recycling Provisions) Regulations 2009 apply to Scotland with the exception of Regulation 57 (prohibition of industrial and automotive batteries to landfill or by incineration).
208. 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 provisions to waste batteries collection points.
209. 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.
210. 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 licenses.
211. Operators holding an existing waste management license or PPC permit do not need to take any action; the Regulations make a blanket amendment of these licenses and permits so as to incorporate the new restrictions.

## Compliance

212. Any persons placing on the market batteries or accumulators 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, Enterprise and Regulatory Reform

1 Victoria Street  
London SW1H 0ET

Contacts:

Peter Cottrell

Tel: +44 (0)20 7215 1330

Email: [peter.cottrell@berr.gsi.gov.uk](mailto:peter.cottrell@berr.gsi.gov.uk)

Marc Jay

Tel: +44 (0)20 7215 6539

Email: [marc.jay@berr.gsi.gov.uk](mailto:marc.jay@berr.gsi.gov.uk)

### For Portable batteries:

#### Department for Environment, Food and Rural Affairs

Ergon House  
Horseferry Road  
London SW1P 2AL

Contact:

Ali Scoleri

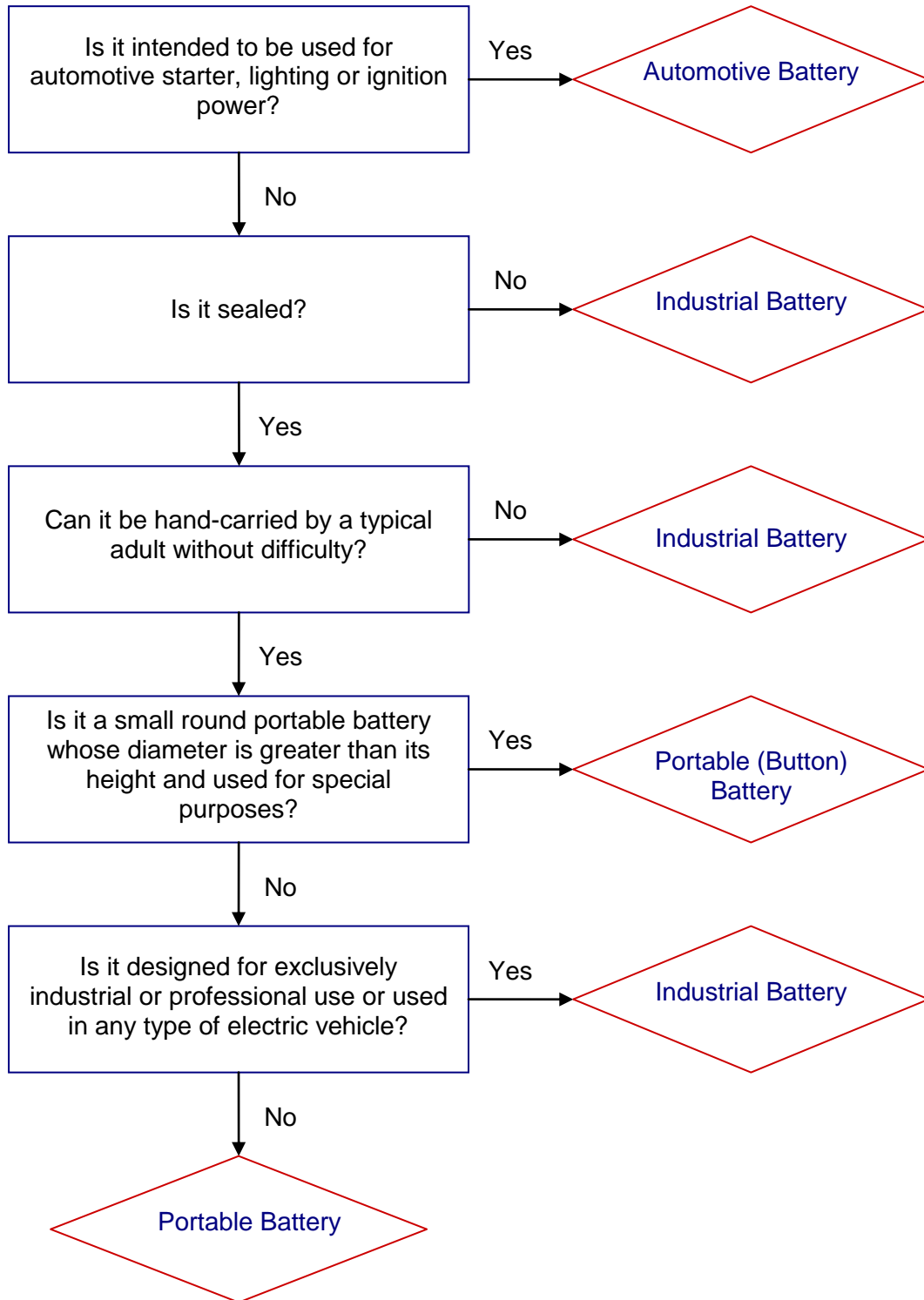
Email: [portable.batteries@defra.gsi.gov.uk](mailto:portable.batteries@defra.gsi.gov.uk)

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

Website: [www.envirowise.gov.uk](http://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.

Flow Diagram to Assist with Determining Battery Type



### 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.