

2015 No.

ENVIRONMENTAL PROTECTION

**The Waste Batteries and Accumulators (Amendment)
Regulations 2015**

Made

Laid before Parliament

Coming into force

1st October 2015

The Secretary of State makes these Regulations under the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Secretary of State is designated(b) for the purposes of that Act in respect of matters relating to batteries and accumulators.

Citation, commencement and interpretation

1.—(1) These Regulations—

- (a) may be cited as the Waste Batteries and Accumulators (Amendment) Regulations 2015;
- (b) come into force on 1st October 2015.

(2) In these Regulations, “the 2009 Regulations” means the Waste Batteries and Accumulators Regulations 2009(c).

Amendment of the 2009 Regulations

2. The 2009 Regulations are amended in accordance with regulations 3 to 13.

Amendment of regulation 2 (interpretation)

3. In regulation 2, at the appropriate place, insert—

““delegate” means a person to whom the functions of an appropriate person are delegated in accordance with an approval granted under regulation 5A(2);”.

Amendment of regulation 5 (signature of documents: meaning of appropriate person)

4.—(1) Regulation 5 is renumbered as paragraph (1) of that regulation.

(2) After that paragraph, insert—

(a) 1972 c. 68.
(b) S.I. 2007/3471.
(c) S.I. 2009/890.

“(2) Subject to regulation 34A, the appropriate authority may approve the delegation by an appropriate person of the appropriate person’s functions to any other person.

(3) For the purposes of these Regulations—

- (a) an act of a delegate performing the functions of an appropriate person on the appropriate person’s behalf shall be treated as an act of the appropriate person;
- (b) an appropriate person may continue to perform the appropriate person’s functions (notwithstanding that a delegate may also perform those functions on the appropriate person’s behalf).

(4) In this regulation, and in regulation 5A, “functions” means the functions referred to in paragraph (1), excluding the function of signing a document in accordance with regulation 5A.”.

Insertion of regulation 5A

5. After regulation 5, insert—

“Delegation of appropriate persons’ functions: procedure

5A.—(1) An appropriate person who proposes the delegation of the appropriate person’s functions to another person under regulation 5(2) must apply for approval to the appropriate authority in writing on a form supplied for that purpose by the appropriate authority and signed by the appropriate person.

(2) An application for approval under paragraph (1) shall within 28 days of receipt of the application—

- (a) be granted where the appropriate authority is satisfied that the proposed delegate will, taking into account the factors specified in paragraph (3), reasonably be capable of carrying out the functions of the appropriate person on the appropriate person’s behalf; and
- (b) otherwise be refused.

(3) The factors mentioned in paragraph (2)(a) are—

- (a) if the proposed delegate is an employee of the producer or the operator of the scheme (as the case may be), the proposed delegate’s level of seniority;
- (b) if the proposed delegate is not an employee of the producer or the operator of the scheme (as the case may be), the nature of the proposed delegate’s relationship with the appropriate person;
- (c) the degree of the proposed delegate’s knowledge of, or access to, information necessary for the purposes of the carrying out the functions of the appropriate person on the appropriate person’s behalf; and
- (d) any other factor which the appropriate authority reasonably thinks relevant.

(4) An approval granted in accordance with paragraph (2)(a) may be for such period, or subject to such other conditions, as the appropriate authority may specify.

(5) Where an application for approval is granted in accordance with paragraph (2)(a), the appropriate authority shall, within 28 days of its decision, notify the appropriate person in writing of its decision and of any conditions it has imposed pursuant to paragraph (4).

(6) The appropriate authority may decide to withdraw an approval granted under paragraph (2)(a) and, if such a decision is taken, shall serve written notice on the appropriate person of—

- (a) the decision to withdraw approval;
- (b) the reasons for the decision; and
- (c) the date when the withdrawal will take effect, not being earlier than 28 days from the date of the notice.

(7) If an appropriate person proposes to revoke a delegation approved under paragraph (2)(a), the appropriate person shall serve written notice on the appropriate authority of—

- (a) the decision to revoke the delegation;
- (b) the date when the revocation will take effect, not being earlier than 28 days from the date of the notice.”.

Amendment of regulation 19 (financing: portable batteries)

6. In regulation 19—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (a), after “;”, insert “and”;
 - (ii) in sub-paragraph (b), for “;”, substitute “.”;
 - (iii) omit sub-paragraph (c);
- (b) omit paragraph (2).

Amendment of regulation 47 (application for approval of a proposed battery compliance scheme)

7. For regulation 47(5)(b), substitute—

“(b) include the information set out in Part 1 of Schedule 3, which must be submitted in the format published by the appropriate authority under regulation 79; and”.

Amendment of regulation 49 (approval of proposed schemes)

8. In regulation 49(1)(c), for “the information and operational plan provided in accordance with regulation 47 demonstrate”, substitute “the information provided in accordance with regulation 47 demonstrates”.

Amendment of regulation 52 (conditions of approval)

9. Omit regulation 52(2)(b), (e)(ii)(bb) and (g).

Omission of regulation 53 (annual confirmation of approval of a battery compliance scheme)

10. Omit regulation 53.

Amendment of regulation 66 (reporting)

11. Omit regulation 66(4) and (5).

Amendment of regulation 67 (record keeping)

12. In regulation 67(1), omit “and (4)”.

Amendment of Schedule 3 (approval of proposed schemes)

13. In Schedule 3—

- (a) omit Part 2;
- (b) omit paragraph 12(a);
- (c) in paragraph 13, for “the three compliance periods covered by the operational plan.”, substitute “the first three compliance periods to which the application relates.”.

Date

Name
Parliamentary Under Secretary of State
Department

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations amend the Waste Batteries and Accumulators Regulations 2009 (“the 2009 Regulations”). The 2009 Regulations partially implement Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJ No L 266, 26.9.2006, p 1).

Any reference in this note to an amendment or insertion is a reference to an amendment of, or insertion in, the 2009 Regulations.

Regulation 3 inserts a new definition in regulation 2.

Regulation 4 amends regulation 5. Regulation 5 inserts regulation 5A. These changes make possible the delegation by an appropriate person of the appropriate person’s functions to another person.

Regulation 7 amends regulation 47 to remove the requirement that an application for approval of a proposed battery compliance scheme include an operational plan.

Regulation 11 omits regulation 66(4) and (5) to remove the requirement that an approved battery treatment operator or approved battery exporter provide an independent auditor’s report the appropriate authority on or before 31st May in the year following the relevant approval period.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available at www.gov.uk/defra and is annexed to the Explanatory Memorandum which is available alongside the instrument at www.legislation.gov.uk.