

The Waste Batteries and Accumulators Regulations 2009

Updated Fact Sheet

Date: April 2009

The likely obligations on retailers are twofold;

1. **Producer Obligation (if they import products with batteries inside them or if they import batteries that they then sell separately)**
2. **Distributor Obligation (sell direct to end-users (e.g. consumers) on a professional basis)**

Producer Obligation (portable batteries)

- A retailer will be obligated as a producer (i.e. importers, manufacturers and own brand owners of batteries) if they are registered as a business in the UK and if they put portable batteries on to market for the first time in the UK i.e. battery packs or batteries within electrical products
- All obligated producers have to register (compulsory) with a Batteries Compliance Scheme (BCS) by 15th October 2009 latest
- All obligated producers have to provide regular data on the amount of batteries they have put on the UK market (in tonnes and by chemistry type i.e. Nickel cadmium, Lead-acid or other battery types)
- However, a small producer threshold has been set at the level of 1 tonne of portable batteries placed on the UK market per calendar year. Small producers who fall below this threshold still have to register with the appropriate agency (EA, SEP or EHS) and pay a £30 administration fee and confirm their tonnage
- An obligated producer of portable batteries has 28 days to join a BCS from first placing portable batteries on the UK market
- All producers must keep records in writing for a minimum of 4 years of the amount in tonnes and the chemistry type of all portable batteries it has put on the UK market for the first time in 2008, 2009 and during any given compliance period
- Each registered producer of portable batteries will be allocated a battery producer registration number which it must declare when selling portable batteries
- Each producer will pay proportionally (via its BCS) their market share of the collection and recycling costs of waste portable batteries in line with the UK set targets for each compliance period
- Along with the crossed out wheelee bin symbol, any batteries with more than certain amounts of mercury (0.0005% in a button cell), cadmium (0.002%) and lead (0.004%) need to be marked with the appropriate symbol
- A company cannot place on the market an appliance into which a battery is or may be incorporated unless that appliance is:
 - (a) designed in such a way that a waste battery can be readily removed from that appliance;
 - and
 - (b) accompanied by instructions showing how the battery can be removed safely and, where appropriate, informing the end-user of the type of the incorporated battery (however this does not apply where for safety, performance, medical or data integrity reasons continuity of power supply is necessary and requires a permanent connection between the appliance and the battery

Distributor Obligation (portable batteries)

- From 1st Feb 2010, obligations of distributors (i.e. retailers) are that they must at any place they supply portable batteries take back waste portable batteries at no charge and inform end-users of such take back at the point of sale (distributors who are deemed to be “Small premises” are exempt from such take back requirements)
- Must inform end-users (i.e. customers) about the possibility of such take back at the distributor’s sales points
- “Small premises” is defined as from which less than 32kg (approx. 1400 AA batteries) or portable batteries are supplied to end-users in a year
- Each obligated distributor has a right to contact a BCS and request a collection of any portable batteries it has collected from its take-back activities and the BCS contacted has up to 21 days to make such a collection from a distributor’s premises and cannot make any charges against the distributor or refuse such a collection
- A distributor may not oblige end-users to buy a new battery when they are depositing waste batteries
- The regulations apply to both shops selling batteries and to all distance sellers (e.g. an internet retailer, a mail order retailer or a telesales retailer) within the UK that sell batteries to UK end-users
- 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)
- 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
- 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

Key Further General Points in Regulations (relating to portable batteries)

- Comply Direct anticipate the number of obligated producers to in the UK to be between 700 to 1,000 in total
- Upon registration, an approved Batteries Compliance Scheme (BCS) will take over the legal obligation of its members to finance the net cost of collecting, treating and recycling portable batteries in lines with target percentages of its members
- Each BCS must also finance the cost of an information / publicity campaign
- The BCS must provide to the EA the amount in tonnes that each of its producer members has put on the market for the first time of portable batteries from 2008 onwards as well as the chemistry type being indicated (i.e. Nickel cadmium, Lead-acid or other battery types)
- The fees involved for a potential BCS are very high (£17k for initial EA registration; £118k set fee per annum to EA; £680 per producer over 1 tonne threshold) and will undoubtedly result in a lot fewer schemes than have been approved for other producer legislation such as the UK WEEE or Packaging Waste Regulations
- Interim collection targets been put in place be put in place by the UK government for years 2010 (10%) and 2011 (18%) leading up to the first defined collection target as per the European directive of 25% by 2012. Basically, each BCS has to ensure that in 2012 it collects 25% of its members tonnage of portable batteries placed on the market. At this stage, there are no penalties proposed for failure to meet the interim targets up to 2012
- The UK government expect successfully approved Schemes to have arrangements in place to collect sufficient portable batteries to meet their own tonnage targets through collection networks that would include retailers (in-store collections from the public if they sell more than 32kgs per year of portable batteries per year), WEEE treatment facilities, offices and Local Authorities via their curb side collections or civic amenity sites
- All collected portable batteries will need to be sent to EA approved battery treatment and recycling facilities although the concern is that there are not too many such sites operating in the UK and as a result there will be a reliance on export for treatment and recycling abroad
- All of this has to be set up by 1 January 2010 when full producer responsibility for financing starts

For Automotive and Industrial batteries

- Firstly, it is all much simpler than on the portable batteries side
- Producers have to register direct with BERR and not via a Batteries Compliance Scheme (BCS)
- Producers have to offer free take back from end-users
- In reality, the value of waste automotive and industrial batteries will ensure that they are collected anyway
- A producer of industrial or automotive batteries must declare its batteries producer registration number to its customers when making a sale
- An obligated industrial or portable batteries producer must ensure all collected batteries are delivered to an approved batteries treatment facility or an approved exporter
- No person may dispose of waste industrial or automotive batteries in a landfill or by incineration. Treatment must, as a minimum, include removal of all fluids and acids
- Recycling processes must achieve 50% by average weight minimum recycling efficiencies

FREQUENTLY ASKED QUESTIONS by Distributors / Retailers regarding portable batteries

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

A: 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.”

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

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

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

A: 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.

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

A: No – not unless you also sell batteries separately.

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

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

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

A: That is a matter for the two parties concerned. However, schemes must take into account the environmental impact of collection.

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

A: 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.

