



Department
for Business
Innovation & Skills

IMPLEMENTATION OF THE
AMENDED BATTERIES DIRECTIVE
2013/56/EU

Consultation

AUGUST 2014



Department of the
Environment
www.doeni.gov.uk



**The Scottish
Government**



**Llywodraeth Cymru
Welsh Government**

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Introduction

Implementation of Batteries Directive 2013/56/EU amending Batteries Directive 2006/66/EC

This consultation seeks views on the implementation policy, draft Regulations and draft Impact Assessment. This will inform the transposition process taking the Directive into UK law.

Issued: 6 August 2014

Respond by: 5 November 2014

Enquiries to: Grahame Dovey, Department of Business, Innovation and Skills, 1 Victoria Street, London, SW1H 0ET, email: grahame.dovey@bis.gsi.gov.uk

1. This consultation is relevant to: producers of batteries and products that contain batteries, distributors (retailers) of batteries, facilities that treat and/or export waste batteries, including products that contain waste batteries.
2. When responding, please state whether you are doing so as a business, an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.
3. Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
4. In view of this, please explain to us why you consider the information you have provided is confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be considered binding on the Department.

1. Executive Summary

Overview

5. The Batteries and Accumulators and Waste Batteries and Accumulators Directive (2006/66/EC) (the Directive) was introduced to improve the environmental performance of batteries and accumulators and to minimise the impact that waste batteries and accumulators have on the environment.
6. The Directive places requirements on the design of all new batteries and requires the separate collection, treatment and recycling of waste batteries and accumulators in order to reduce the disposal of batteries and accumulators in the municipal waste stream.

The key requirements of the Directive were:

- to restrict the use of cadmium and mercury in the design and manufacture of new batteries with the exception of:
 - (i) batteries intended for use in cordless power tools (CPTs) and
 - (ii) button cells with a mercury content of less than 2% by weight;
 - labelling requirements – all new batteries to be marked with a crossed out wheeled bin symbol and the appropriate chemical symbol where applicable and selected types of battery are also required to have a capacity label;
 - registration of all ‘producers’ e.g. manufacturers or importers of batteries;
 - collection targets for waste portable batteries of 25% of average annual sales in the UK by 2012, rising to 45% in 2016;
 - a ban on the disposal of untreated automotive and industrial batteries; and
 - a requirement for producers or third parties acting on their behalf to arrange for the collection and recycling of waste industrial and automotive batteries.
7. The Directive was implemented through The Batteries and Accumulators (Placing on the Market) Regulations 2008 which came into force on 26 September 2008 (the 2008 Regulations) which deals with the placing on the market requirements and The Waste Batteries and Accumulators Regulations 2009 covering producer responsibility requirements which came into force on 5 May 2009, except for certain provisions which came in on 1 January 2010 and 1 February 2010.
 8. It was a requirement of the Directive that the European Commission reviews the exemption allowing cadmium to be used in batteries for CPTs. As a result of this review, the Commission published in March 2012 its proposal for a directive that would remove the exemption for cadmium in batteries intended for use in CPTs. Negotiations resulted in a further amendment being added that removes the exemption for button cells with a mercury content of less than 2% by weight.
 9. Directive 2013/56/EU (the 2013 Directive), which amends the Directive, was published on 10 December 2013 coming into force on 30 December 2013.

10. The Government intends to use the “copy out” principle to transpose the 2013 Directive. This means that the UK will adopt implementing legislation that uses the same wording as that of the EU legislation, without elaborating on that wording, and will not go further than implementing the minimum requirements of the 2013 Directive. The amendments introduced by the 2013 Directive concern single market provisions of the original Batteries Directive. The UK is obliged to introduce transposing legislation to ensure the single market operates in this area. If the UK fails to do that then it will be in breach of its EU law obligations and could be infringed by the European Commission. The 2013 Directive does not provide for a non-regulatory approach. In addition, if we did not implement by way of transposing legislation, we would risk putting UK business at a competitive disadvantage. We therefore proposed to amend the 2008 Regulations through new amending Regulations (the 2015 Regulations).
11. In this consultation we ask questions relating to the impact and the cost of the amendments to the current Batteries Regulations.
12. We also seek views on the implementation policy, draft regulations and Impact Assessment.

Main issues

13. The 2013 Directive extends the ban on the placing on the market of portable batteries and accumulators containing cadmium to portable batteries and accumulators intended for use in CPTs. These batteries previously benefitted from an exemption. This exemption is removed by the 2013 Directive. In order to enable the recycling industry and consumers to adapt to the relevant substitute technologies, this ban will apply from 1 January 2017.
14. The 2013 Directive also prohibits the marketing of button cells with a mercury content of less than 2% by weight. Again, these button cells previously benefitted from an exemption that has been removed by the 2013 Directive. This ban will apply from 1 October 2015 and the Commission will report to the European Parliament and to the Council on the availability of alternatives to button cells for hearing aids.
15. Batteries and accumulators lawfully placed on the market for the first time prior to the respective bans can still be marketed until stocks run out.

Next steps

16. After the consultation has closed, we aim to publish a government response within 3 months. The final version of the Regulations will be made and laid before Parliament to come into force from 1 July 2015.

2. How to respond

17. When responding, please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and, where applicable, how the views of members were assembled.

18. You can reply to this consultation online at <https://www.surveymonkey.com/s/7J5XCB2>

19. A consultation response form is also available electronically on the consultation page: <https://www.gov.uk/government/consultations/batteries-directive-implementation-and-draft-regulations> (until the consultation closes on 5 November 2014). The form can be submitted online/by email or by letter or fax to:

Grahame Dovey
Environmental Regulation Team
Department of Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 6187
Fax: 020 7215 8242
Email: grahame.dovey@bis.gsi.gov.uk

Respondents in Scotland should also send their response to:

Tim Chant
Zero Waste Delivery
Area 1-H North
Victoria Quay
Edinburgh
EH6 6QQ
Email: timothy.chant@scotland.gsi.gov.uk

Respondents in Wales should also send their response to:

Alex Hamilton
Waste and Resource Efficiency Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ
Email: alex.hamilton@Wales.gsi.gov.uk

Respondents in Northern Ireland should also send their response to:

Gerry Arkins
Landfill and Producer Responsibility
Environmental Policy Division
Department of the Environment

6th Floor, Goodwood House
44-58 May Street
Town Parks
Belfast
BT1 4NN
Email: wslpr@doeni.gov.uk

20. You may make printed copies of this document without seeking permission. BIS consultations are digital by default but if required printed copies of the consultation document can be obtained from:

Grahame Dovey
Environmental Regulation Team
Department of Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 6187
Fax: 020 7215 8242
Email: grahame.dovey@bis.gsi.gov.uk

21. You may make printed copies of this document without seeking permission.

22. Other versions of the document in Braille, other languages or audio-cassette are available on request.

23. A list of those organisations and individuals consulted is in Annex 2. We would welcome suggestions of others who may wish to be involved in this consultation process.

3. Confidentiality & Data Protection

24. Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

25. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

4. Help with queries

26. Questions about the policy issues raised in the document can be addressed to:

Grahame Dovey
Environmental Regulation Team
Department of Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 6187
Fax: 020 7215 8242
Email: grahame.dovey@bis.gsi.gov.uk

27. The consultation principles are in Annex 1.

5. The proposals

28. Please note that this consultation relates only to the method of implementation of Directive 2013/56/EU, not to the text where this has been drawn directly from the Directive.

29. The 2015 Regulations implement the 2013 Directive, which amends the Directive by removing certain exemptions to the prohibitions in the Directive on the placing on the market of batteries containing mercury or cadmium and by amending the provisions relating to the removability of a waste battery from an appliance by an independent qualified professional.

30. The 2015 Regulations do not go beyond what is necessary to implement the 2013 Directive.

6. Consultation questions

Question 1: Do you agree that the Draft 2015 Regulations accurately copy out the 2013 Directive?

Question 2: Do you agree that the 2015 Regulations will result in a negligible cost to consumers and businesses?

31. The Government understands that there are no manufacturers of nickel cadmium or mercury batteries in the UK, therefore there is no value lost in production. However the removal of the exemptions could affect consumers who purchase goods with nickel cadmium or mercury batteries, since they will now have to purchase substitutes. The substitutes are shown to be more expensive for the consumer goods affected; however the value of sales for those products is shown to be very small with a trended decline even in the absence of the 2015 Regulations amendments.

Question 3: Do you agree that it would take 2 hours for a retail or wholesale manager's time to familiarise themselves with the 2015 Regulations? What is the expected cost to a retailer or wholesaler of this familiarisation?

32. The Government estimates that there are 5,000 managers within business that will need to familiarise themselves with the 2015 Regulations.

33. This estimate is based on the Annual Business Survey 2011 which reported there were an estimated 13 power tool manufacturers in the UK representing a £140m turnover. Other non-specialist retailers are also expected to be affected since they will also sell power tools. However, many of the 5,200 retailers may not sell power tools. Franchises are also likely to do this once for a number of sites rather than at each individual site.

Question 4: Do you agree with the economic assessment in the impact assessment? If there are any additional costs and benefits not covered could you please give us any evidence for their inclusion, including quantification where possible.

7. What happens next?

34. After the consultation closes we will aim to publish a Government response within 8 weeks. We will then lay the final version of the 2015 Regulations before Parliament to come into force from 1 July 2015.

Annex 1: Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Angela Rabess
BIS Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telephone John on 020 7215 6402
or e-mail to: angela.rabess@bis.gsi.gov.uk

However if you wish to comment on the specific policy proposals you should contact Grahame Dovey via email grahame.dovey@bis.gsi.gov.uk or Tel: 0207215 6187.

Annex 2: List of Individuals/Organisations consulted

European Power Tool Association (EPTA)

RECHARGE The European Association for Advanced Rechargeable Batteries

G & P Batteries Limited

Valpack

National Measurement Office (NMO)

Environment Agency

Intellect UK

Panasonic

Veolia Environmental Services

Black and Decker

Repic

Budget Pack

European Recycling Platform UK

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