



Environment briefing note | February 2017

#10ThingsSH you need to know about the regulation of batteries

If your business places batteries on the UK or EU market, it will need to comply with the rules and regulations set out in the EU Batteries Directive 2006. These regulations concentrate on where the batteries are sold, and therefore the regulations will apply to products even if they are manufactured outside the UK or the EU, for instance in the US.

This article, the fifth in our product stewardship series, addresses the regulations applying to batteries, both within the UK and the EU. Despite the Brexit uncertainty these rules will continue to apply in the UK as the underlying EU Directives have now been fully transposed into domestic legislation.

In this note we set out the ten things businesses should know about the regulation of batteries.

Experienced Producers and Distributors will know that there are a series of rules regarding the design and contents of batteries.

1. Batteries placed on the UK and EU market must conform to the following restrictions on the content of hazardous substances: 0.0005% of mercury by weight; 0.002% of cadmium by weight; and 0.004% of lead by weight.
2. Batteries must also be labelled with the symbol of a crossed-out wheelie bin, and show the chemical symbols of hazardous substances contained in the battery.

The majority of the product stewardship and environmental rules governing batteries relate to the collection and disposal of used batteries or battery waste. The rules bind (a) "Producers" – businesses that place batteries on the market; and (b) "Distributors" – businesses that provide consumers with batteries on a professional basis.

3. Producers of batteries are required to finance the collection, treatment and recycling of its products.
4. Distributors must take back waste portable batteries free of charge, whether or not purchased from them, unless they are classified as a 'small distributor' (supplying less than 32 kg of portable batteries to end users in a single year).

Special controls apply depending on the type of battery being produced or distributed.

5. Producers of portable batteries must register with the appropriate statutory environmental regulator (the Environment Agency in England).
6. If a business places more than one tonne of portable batteries on the market in one year, it must subscribe to a battery compliance scheme, which will arrange for the collection, treatment and recycling of the waste batteries.
7. Special controls will also apply to Producers of vehicular and industrial batteries:
 - businesses must register with the Department for Business Innovation and Skills within 28 days of first placing a battery on the market.

- businesses must provide details on the number of automotive batteries placed on the market, and the number collected for treatment and recycling;
- a duty to collect vehicle and other automotive waste batteries, free of charge and within a reasonable timescale, when requested; and
- waste vehicular batteries must then be transferred to a special operator or exporter for disposal.

Could your business be in breach of the battery rules, and if so, what are the consequences?

8. The legislation is enforced in UK by the National Measurement and Regulation Office (NMRO). The NMRO may visit premises at any reasonable time, inspect batteries, examine procedures, and request records. The NMRO may also seize batteries or records. Non-compliance may lead to the service of an enforcement notice and persistent and / or serious breaches can lead to prosecution.
9. Failure to comply with the collection and recycling requirements may result in prosecution and a potentially unlimited fine. Further, it is illegal to send vehicular or industrial batteries for incineration or to landfill.
10. Producers and Distributors should take steps to ensure that the rules relating to batteries are being complied with. Some businesses have adopted an internal review process to ensure that these important product stewardship rules are being complied with. Other businesses have preferred to appoint external, independent advisors. Speak to Stephenson Harwood's Environment Group in order to find out what is the best option for your business.

How can Stephenson Harwood help?

More than ever, environmental and climate change issues are at the heart of law and policy, impacting every business sector. Stephenson Harwood's environment group has experience advising domestic and international product manufacturers on the full range of EU-led, product-based regulations.

To keep track of our full Product Stewardship Series keep an eye on **Stephenson Harwood's news and insights page**, or follow us on Twitter **@SH_EnviroPlan** and look out for our hashtag **#10thingsSH**.

For further information please contact us.



Ben Stansfield

Partner

T: +44 20 7809 2500
M: +44 7584 515 251
E: ben.stansfield@shlegal.com



Anita Kasseean

Senior associate

T: +44 20 7809 2509
M: +44 7827 353 106
E: anita.kasseean@shlegal.com



Lorrae Hendry

Associate

T: +44 20 7809 2602
M: +44 7711 347 439
E: lorrae.hendry@shlegal.com



Patrick Senior

Associate

T: +44 20 7809 2614
M: +44 7825 981 926
E: patrick.senior@shlegal.com

Follow us on twitter **@SH_EnviroPlan**

To keep track of further news and insights into environmental and planning law issues, keep watch for our "Top Ten" series **#10ThingsSH**