

## Questions asked at the II Battery Regulation Webinar on 21 May 2024

This document is a collection of the answers to the audience questions presented at the II Battery Regulation Webinar (Manufacturer and importer obligations) that was held on 21 May 2024.

The answers have been prepared in collaboration with the Ministry of the Environment; the Centre for Economic Development, Transport and the Environment of Pirkanmaa (Pirely); and the Finnish Safety and Chemicals Agency (Tukes) and producer safety organisations.

The answers were prepared at the start of June 2024, and they reflect the situation at the time of writing. The answers are not legally binding as they are. The approach may still change when more specific legislation (such as delegated decrees) is issued. The Court of Justice of the European Union has exclusive jurisdiction to render a binding interpretation of Union law.

- **Does the QR information of a battery need to be marked on a manufactured product separately or can they be provided through the product's QR code? In the case of a battery inside the device, which the customer cannot replace.**

*According to the Battery Regulation, the QR code must be printed or engraved on the battery.*

- *Article 13, Section 7: The labels and the QR code shall be printed or engraved visibly, legibly and indelibly on the battery. Where this is not possible or not warranted on account of the nature and size of the battery, the labels and the QR code shall be affixed to the packaging and to the documents accompanying the battery.*
- *Article 77, Section 3(2): The QR code and the unique identifier shall comply with the ISO/IEC standards 15459-1:2014, 15459-2:2015, 15459-3:2014, 15459-4:2014, 15459-5:2014 and 15459-6:2014 or their equivalent.*
- *Annex VI, Part C: The QR code shall be in high contrast to the background colour and of a size that is easily readable by a commonly available QR reader, such as those integrated in hand-held communication devices.*

- **In what cases is it possible to issue a national regulation?**

*There is room for a national regulation with regard to language requirements (which language requirements apply to materials provided to consumers or authorities), repercussions, official tasks and many articles in the chapter concerning producer responsibility. On the other hand, many requirements that directly apply to products do not afford room for national regulation.*

- **Will the old Battery Directive be in effect during the transition and to what will it apply – exceptions?**

*Some of the Battery Directive articles will remain in effect and will not be repealed until the corresponding articles of the Battery Regulation enter into force based on their transition periods. According to Article 95 of the Battery Directive, Directive 2006/66/EC will be repealed as of 18 August 2025. However, the application of the following directive provisions will be continued as indicated below:*

- *The application of Article 11 on the removability of used batteries will be continued until 18 February 2027;*
- *The application of Article 12, Section 4 on processing and recycling (recycling efficiency) and Section 5 (reporting on recycling rate and efficiency) will be continued until 31 December 2025, with the exception of the provision on delivery of information to the Commission, the application of which will continue until 30 June 2027;*
- *The application of Article 21, Section 2 on markings will be continued until 18 August 2026.*

- **The lithium-ion batteries in electronic devices are mostly certified globally, which means that an attempt is made to add the markings of all countries on them. When the space runs out or the battery is too small**

**for the CE marking, what should be done? What about small internal batteries that cannot be replaced by the end user – do they need markings? What if there is no room for the marking?**

*The Regulation indicates the marking requirements, whereas product standards lay down the product requirements. If there is no room for the markings on the battery, they can be indicated on the packaging or in the documents provided with the battery. The order of importance has not been determined (a delegated regulation is on the way).*

- **Is the economic operator principally a company that is in the EEC area or can it also be in China or Australia? Specification: “is” refers to the place of registration/domicile. Is the Battery Regulation only binding within the EU? Is it currently known whether, or not, requirements in other parts of the world (the US, for example) are already or will be aligned with the Battery Regulation?**

*We do not yet know the legislation of other countries.*

*The following sections are from the EU product rule guide titled ‘Blue Guide’:*

*“Irrespective of their origin, products must be compliant with the applicable Union harmonisation legislation if they are made available on the Union market. Products manufactured in the EU and imported from outside the EU are treated in the same way. For products imported from countries outside the EU, Union harmonisation legislation sets certain obligations for the importer. The latter assumes certain obligations which to some extent mirror the obligations of manufacturers. In the case of products imported from countries outside the EU, an authorised representative may carry out a number of tasks on behalf of the manufacturer. If however, the authorised representative of a third country manufacturer supplies a product to a distributor or a consumer within the EU, they then no longer act as a mere authorised representative but become the importer and is subject to the obligations of importers.*

*When placing a product on the Union market, the responsibilities of a manufacturer are the same whether they are established outside the European Union or in a Member State. The importer is a natural or legal person established in the Union who places a product from a third country on the EU market.*

*For the purposes of Union harmonisation legislation, to be able to act on behalf of the manufacturer, the authorised representative must be established inside the Union.”*

*The Battery Regulation’s requirements regarding operating policies of due care apply to economic operators instead of products. Economic operators that bring batteries to the market or deploy them must meet the requirements of due care as of 18 August 2025. An economic operator is a manufacturer, authorised representative, importer, distributor or provider of distribution services.*

*The key content regarding due care is also derived from the operators needing to include the operating policies of due care in their procurement and supplier agreements. Furthermore, operators must, among other things, create and maintain a supply chain monitoring and transparency system, which includes elements such as a chain of origin system or tracing system that can identify operators in the early part of the supply chain. The aim of the regulation has been to set requirements for companies to impact their operations in international supply chains. Therefore, the impacts of the regulation are also intended to materialise non-EU countries in which companies that bring products to the EU markets operate.*

- **Verifying the notified body -> which body is this?**

*Conformity assessment bodies can apply to be named notified bodies. The Ministry of the Environment is responsible for the naming. The assessment bodies submit the relevant applications to the Ministry. No Finnish conformity assessment body is yet to submit an application to the Ministry. If an economic operator wishes to assess the conformity of its product, the assessment body does not need to be Finnish. As such, it is also possible to use a body verified by another Member State.*

- **The database of notified bodies (NB) in NANDO does not appear to have a single notified body for the Battery Regulation. Is this really the case?**  
*There is currently no notified body for batteries within the EU (30 May 2024).*
- **A question concerning due care: Is it sufficient to supplement the information on the manufacturer'/importer's web pages to fulfil the following obligation with regard to retail outlets/distributors: "... shall make available to its immediate downstream purchasers all relevant information gained and maintained ..." or should a distributor collect the information already available online and make it available to its customers?**  
*According to Article 49 of the Battery Regulation, an economic operator shall adopt, and clearly communicate to suppliers and the public, a company battery due diligence policy, and include it, and the relevant risk management measures, in their procurement and supplier agreements. According to Article 52, an economic operator shall make available to its immediate downstream purchasers all relevant information gained and maintained pursuant to its battery due diligence policy. Suppliers shall make reports regarding third-party verification available to upstream operators. Furthermore, an economic operator shall establish and operate a system of controls and transparency regarding the supply chain, including a chain of custody or traceability system, identifying upstream actors in the supply chain; provisions on the documentation included in the system are laid down in Article 49(2). The Battery Regulation does not directly address the method of making the information available, which means that this matter will remain open for the present to wait for instructions prepared by the Commission.*
- **It is somewhat confusing that CE markings should already be made as of 18 August 2024.**  
*The conformity assessment can be conducted according to Annex VIII, Module A of the Battery Regulation, which means that a notified body is not required.*
- **What batteries can be covered by Module A?**  
*Module A can be used for assessing the conformity of all batteries at this stage when a notified body is not yet available. A notified body is required for the requirements of Articles 7 and 8, for example.*
- **Who is the importer in the context of remote sales to an end user from outside the EU? In this case, is the end user responsible for ensuring that the batteries that the batteries adhere to the regulation?**  
*A product is brought to the EU market when it is released for free movement through customs procedures. The end user (the consumer or the end user in professional and industrial operations) is the importer and, therefore, responsible for the conformity of the product.  
**PIRELY:** the remote seller bears the producer responsibility; the remote seller must appoint an authorised representative to handle the producer responsibility obligations on behalf of the remote seller and register itself as a member of a producer responsibility organisation.*
- **A product is only brought to the EU market once? If it is brought to the EU market in France and sold further to Finland, how does this fit?**  
*Market surveillance: If a product is imported to France from outside the EU, the French operator is regarded as the importer. In this case, the Finnish operator is the distributor.  
**PIRELY:** In the legislation for producer responsibility in waste management, the importer is an operator that professionally makes available in Finland products that come from another EU Member State or third country.*
- **Can the language of the instructions and documents be agreed upon with the customer? Does everything need to be translated into Finnish and Swedish, even if the customer wants the documents in English?**  
*The following amendment is being prepared for the Government Decree on Batteries and Accumulators: Section 14(a)  
Language requirements on the markings, instructions, safety information and documents of batteries and accumulators*

*The battery markings laid down in articles 18, 38, 41, 42 and 74 of the Battery Regulation, as well as the accompanying documents, must be available in Finnish and Swedish or other language approved by the market surveillance authority.*

*The information and documents referred to in Article 38(1)(a) and (7), Article 41(2)(c) and (8), Article 42(2)(c) and (6) and Article 74(1) must be provided at least in Finnish and Swedish.*

*The amendment in preparation and will be circulated for statements in the following autumn.*

- **When does the identifying number of the notified body need to be provided in connection to the CE marking? Is the limit 2 kWh?**

*The identifying number for the notified body is required to be provided in connection to the CE marking for the batteries specified in Articles 7 and 8. Article 7: electric vehicle batteries, rechargeable industrial batteries with a capacity greater than 2 kWh and LMT batteries.*

*Article 8: industrial batteries with a capacity greater than 2 kWh, except those with exclusively external storage (this is likely to refer to flow batteries), electric vehicle batteries and LMT batteries (containing cobalt, lead, lithium or nickel in active materials)*

**Art 12 storage systems; two questions – How do you determine the separation of these batteries; i.e. are these battery products that are connected with an electric cable to an assembly such as a solar cell array or related electric system with its own inverters, control system and cells? Secondly, in references to tests and the annex in which they are listed – Art 12 is quite open and possibly refers to other tests; which is the specific obligation that must be agreed on with the manufacturer to ensure that the importer and manufacturer fulfil the Art 12 requirements. The aim of the question is to gain clarity, especially with regard to the latter question, in terms of how to formulate the agreement obligation correctly and accurately. Reference to Art 12's "possible other... safety hazards" (Section b, and Section c in reference to it) is not specific enough to serve as contractual text; the basic elements of risk management are probability, stability and detectability – the last one is not as relevant but the others are (for example, "risks with significant impacts the probability of which is higher than xx/yyy").**

*The Regulation defines an energy storage system, as referred to in Article 12, as follows:*

*'a stationary battery energy storage system' means an industrial battery with internal storage that is specifically designed to store from and deliver electric energy to the grid or store for and deliver electric energy to end-users, regardless of where and by whom the battery is being used;*

*Based on this definition, the device described in the question would appear to fit this category. The Regulation does not more specifically address which risks must be considered and at what level, nor does it define the agreements between economic operators. Future harmonised product standards will most likely specify the tests and practices according to which products can be determined to be compliant.*

- **If you have batteries or accumulators manufactured under your own brand, must the technical documents and certificates of conformity indicate the manufacturer's information (as referred to in the Regulation) or is it enough for the documents to feature the information of the actual manufacturer that operates outside the EU, for example? The products listed in the documents can be traced back to the manufacturer's brand product regardless.**

*The importer or distributor of a products is regarded as its manufacturer when it brings a product to the market under its own name or brand or changes a product already on the market in a way that may impact the product's conformity. In these cases, the importer or distributor is bound by the obligations imposed on the manufacturer. In this case, the EU declaration of conformity and declaration of performance, for example, must be prepared by the new manufacturer and the certificates of the notified body must have been granted to it*

Source Tukes website: [Deficiencies in documents issued by notified bodies to demonstrate product conformity \(Tukes\)](#)

- **Who is responsible for the battery of an electric vehicle that has been imported as used? For example, if the importer is a private person or a retail outlet for used cars**

*As regards product responsibility: if a used car is imported by a private person instead of the original importer/manufacturer.*

*PIRELY: Depending on the method of sale, the producer responsibility can fall on the remote seller or vehicle broker.*

- **Insurance – is this a change? A long time ago, solvency needed to be demonstrated? What difference is there between the guarantee required by the Battery Regulation and the financial resources now required from producer responsibility organisations (so that they can fulfil their producer responsibility obligations for at least six months)?**

*The matter will be examined in the national implementation work included in the 2025 regulation project.*

*The current national regulation conflicts with the guarantee regulation of the Battery Regulation.*

*According to Article 58 of the Battery Regulation, a producer, in the case of individual fulfilment of extended producer responsibility obligations, and producer responsibility organisations appointed in the case of collective fulfilment of extended producer responsibility, shall provide a guarantee intended to cover the costs related to waste management operations due by the producer, or the producer responsibility organisation, in the event of non-compliance with the extended producer responsibility obligations, including in the event of permanent cessation of their operations or insolvency.*

*Pursuant to the effective Waste Act, producer responsibility organisations must have the sufficient financial resources to organise their operations in such a way that they can fulfil the producer responsibility obligations transferred to them continuously for at least six months. In order to indicate this, producer responsibility organisations must present to the Pirkanmaa Centre for Economic Development, Transport and the Environment an account of the sufficient financial arrangements and an action plan on the organisation of reuse and waste management.*

- **What does the Regulation or other legislation lay down as regards the safe collection of waste batteries? The safety of retail outlet staff, etc.**

*Articles 59, 60 and 61 of the Battery Regulation refer to organisation the collection of waste batteries and its safety.*

*For example, if a collection point is situated in an outlet, it is the operator's responsibility to consider what risks this may cause on the premises and what preparations should be made for them.*

*Chapter 3 of the Rescue Act includes relevant information (Duties of business and industrial operators and owners and occupants of buildings) <https://finlex.fi/fi/laki/kaannokset/2011/en20110379.pdf> You can contact the local fire inspector.*

*The occupational safety legislation may also impose requirements.*

*An amendment to waste classification regarding lithium-ion batteries is under way to categorise these batteries as hazardous waste. The change in classification may also impact the obligations regarding the collection of waste batteries. As part of the national implementation of the Battery Regulation in 2025, the need to amend the Waste Decree's provisions on the collection of waste batteries will be examined.*

- **Does Recser or Akkukierrätys Pb know of an easier way to handle the producer responsibility obligations in the various European countries? Is a "one-stop-shop" service available?**

*Due to various registration and reporting obligations, for example, producer responsibility organisations are national bodies, which means that there is currently no pan-European one-stop-shop service available.*

*Information on the producer registers and registration practices of various countries is available on the*

website of the Pirkanmaa ELY Centre: [Producer registers in EU countries – Producer responsibility – ELY Centre](#).

- **When will producers be made aware of the new reporting classes/reporting requirements?**  
*A specifying draft regulation on the reporting is currently being circulated for comments. The Commission's instructions will be released in August 2025, at the latest. The producer responsibility chapter will take effect on 18 August 2025, after which the reporting based on the new classifications will take effect according to a schedule released by the Commission. Based on the current information, the information for 2026 must be reported according to the new classes and reporting requirements.*
- **Does Recser also operate in Estonia? The question is related to producer responsibility.**  
*Recser only operates in Finland and takes care of the obligations of the expanded producer responsibility on behalf of its contracted producers. Links to the Estonian producer register and the pages of the supervisory authority are available on the website of the Pirkanmaa ELY centre: [Producer registers in EU countries – Producer responsibility – ELY Centre](#).*

**A Finnish remote seller of batteries (remote sells batteries in Finland directly to end customers). Are there obligations to accept, as there are for distributors?**

*If the question refers to a Finnish operator that remotely sells batteries and accumulators directly to end users in other EU Member States (or other countries with statutory producer responsibility for batteries and accumulators), the operator is regarded as a remote seller with producer responsibilities. The Finnish remote seller must appoint an authorised representative for each Member State to which remote sales are made to handle producer responsibility.*

*If the question refers to a Finnish operator with an online shop through which Finnish end users can order batteries and accumulators, it may be the case that the operator is regarded as an importer or retailer, i.e. distributor. If the Finnish operator imports the batteries and accumulators it sells itself, it is regarded as an importer in terms of producer responsibility, which means that it bears the responsibilities of a producer. If the operator purchases the batteries and accumulators from another Finnish company (such as a wholesale outlet), the operator is regarded as a retailer and has the responsibilities of a distributor in terms of producer responsibility. However, if the retailer sells products under its own brand, it is regarded as a manufacturer with producer responsibilities.*

- **How is the battery class determined?**  
*Ultimately, the purpose of use specified by the battery manufacturer determines the battery class. The classifications can also be examined with an authority on a case-by-case basis.*  
*Classification examples:*  
*Robot batteries = the batteries of industrial robots that have been designed for industrial use are classified as industrial batteries*  
*Cleaning devices = the purpose of use must be examined; can be classified as industrial batteries, for example*  
*Wheelchairs = classified as LMT batteries*  
*If the same battery is used for multiple purposes, the purpose of use of the battery itself must be examined instead of the product in which the battery is installed.*
- **I have enquired about our suppliers' capabilities to meet the changes imposed by the Battery Regulation which will take effect in August and received this exact answer:** In relation to the new EU regulation 2023/1542 for batteries, this issue does not seem to be very advanced yet, as for the Presumption of Conformity of CE marking of batteries, the Standards to be complied with have not yet been published.  
**Is it really the case that standards regarding batteries are yet to be released?**

*As regards the Battery Regulation, there are no harmonised standards yet that could be directly used to indicate conformity. There are, of course, battery standards, but the Official Journal of the European Union has not yet harmonised them under the Regulation.*

- **Does the EU declaration of conformity only refer to this Battery Regulation instead of any individual standards (if the matters specified in the Regulation are in order)?**

*Other harmonised standards and technical specifications can be referred to, but it must be possible to demonstrate that the requirements of the Regulation are fulfilled by applying them.*

- **Is it the case that importing batteries from elsewhere in the European Economic Area or EFTA area to an EU Member State is also regarded as importing? In other words, does bringing in batteries from Switzerland, for example, constitute importing?**

*From the perspective of market surveillance, bringing a product to the common market area constitutes importing. You can read more about the agreement between Switzerland and the EU in the following: [EU–Switzerland mutual recognition agreement \(MRA\) | EUR-Lex \(europa.eu\)](#)*

*The case is different for producer responsibility, because importing means bringing a product into an individual country.*

- **Many requirements state that a battery must be “accompanied by a document”. Are there any cases in which a document/information can be made available online instead of on the battery, packaging or supplementary documentation? In this regard, does it make a difference if a battery is sold separately or included in an electric or electronic device?**

*Pursuant to the Battery Regulation (Article 41), one requirement imposed on the manufacturer concerns clear, understandable and legible instructions and safety information. The instructions can be separate or provided with the device instructions.*

- **The Regulation states that batteries that fall into multiple classes are classified according to the class that imposes the strictest requirements. Is this procedure unambiguous and what is the order of the classes in terms of “strictness”? Or is this specific to each requirement/article?**

*These are assessed on a case-by-case basis.*

- **Does the producer responsibility also apply to operators that manufacture medical devices that include a battery? The battery has been manufactured outside the EU (China) and the medical device has been manufactured in Finland.**

*The responsibility applies to all batteries and accumulators, including those integrated into another device/product.*

- **Are disposable batteries also regarded as accumulators that are beholden to the same requirements? The Battery Regulation applies to both batteries and accumulators.**