

# Swedish Code of Statutes

**SFS 2008:834**

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## **Ordinance on producer responsibility for batteries;**

issued on 30 October 2008.

The Government prescribes<sup>1</sup> as follows.

**Section 1** This Ordinance is issued

1. under the provisions of Chapter 15, Section 6 of the Swedish Environmental Code with regard to Sections 14–20 and 32,
2. under the provisions of Chapter 15, Section 7 of the Swedish Environmental Code with regard to Sections 12, 13, 21, 22 and 32,
3. under the provisions of Section 2 of the Act on Charges for Environmentally Hazardous Batteries (1990:1332) with regard to Sections 24 and 25, and
4. in other respects under the provisions of Chapter 8, Section 13 of the Instrument of Government.

### **Definitions**

**Section 2** In this Ordinance the following terms have the meaning set out below:

*battery*: any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more battery cells,

*industrial battery*: any battery designed for exclusively industrial or professional uses or used in any type of electric vehicle,

*automotive battery*: any battery used for automotive starter, lighting or ignition power that is not an industrial battery, and

*portable battery*: any battery that is sealed and can be hand-carried and that is not an industrial battery or an automotive battery.

<sup>1</sup> Cf Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJ L 266, 26 September 2006, p. 1, Celex 32006L0066).

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**Section 3** In this Ordinance the following terms have the meaning set out below:

*producer*: any person who, by transferring or otherwise supplying a battery on a professional basis, places a battery on the Swedish market for the first time, and

*collection system*: a system that a producer maintains or is affiliated to and to which waste batteries can be delivered in order to be transported and recycled or disposed of on behalf of the producer.

**Section 4** In this Ordinance the term *Battery Directive* refers to Directive 2006/66/EC of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC<sup>2</sup>.

**Section 5** Other terms and expressions used in this Ordinance have the same meaning as in Chapter 15 of the Environmental Code and the Waste Ordinance (2001:1063).

### **Purpose and objectives of the Ordinance**

**Section 6** The purpose of this Ordinance is to ensure that batteries are designed and manufactured in a way that prevents waste and, as regards waste that is nevertheless generated, that producers provide systems for waste collection, that the batteries can be recycled and that the targets set out in this Ordinance for collection, specific treatment and recycling, are achieved.

**Section 7** The targets of the Ordinance for collection are:

1. that 95 per cent of the total number sold of automotive and industrial batteries containing lead be collected,
2. that 95 per cent of the total number sold of automotive and industrial batteries not containing lead be collected, and
3. that 75 per cent of the total number of batteries sold other than those referred to in 1 and 2 be collected.

**Section 8** The targets of the Ordinance for specific treatment and recycling are:

1. with regard to batteries containing mercury, that 98 per cent of the mercury content of the batteries be treated specifically,
2. with regard to batteries containing lead, that 65 per cent of the average weight of the batteries be recycled with the highest possible recycling rate for the lead content,
3. with regard to batteries containing nickel-cadmium, that 75 per cent of the average weight of the batteries be recycled with the highest possible recycling rate for the cadmium content, and
4. with regard to batteries other than those referred to in 1–3, that 50 per cent of the average weight of the batteries be recycled.

<sup>2</sup> OJ L 266, 26 September 2006, p. 1 (Celex 32006L0066).

## Scope

**Section 9** This Ordinance shall not apply to batteries in equipment that

1. is connected with the protection of important security interests of a Member State of the European Union, arms, munitions or war materiel, if the equipment has been manufactured for a specific military purpose, or
2. is intended to be sent out into space.

**Section 10** Chapter 15, Section 8 of the Environmental Code contains provisions directing that municipalities shall be responsible for the transportation and recycling or disposal of household waste. This responsibility is only restricted by the provisions of this Ordinance in the case of waste delivered under the Ordinance to a responsible producer or collection system referred to in Section 16.

## Prohibition of certain batteries

**Section 11** The Chemical Products (Handling, Import and Export Provisions) Ordinance (1998:944) contains provisions prohibiting the professional sale, transfer or import to Sweden of certain environmentally hazardous batteries.

## Obligation of notification

**Section 12** Before placing batteries on the market the producer shall notify the Swedish Environmental Protection Agency. The notification shall contain

1. the name, address and personal or corporate identity number of the producer,
2. data on the collection system or systems for batteries that the producer intends to use, and
3. a description of how the producer intends to meet his obligations under this Ordinance.

If the producer intends to coordinate his producer responsibility under this Ordinance with producer responsibility under the Ordinance on Producer Responsibility for Electrical and Electronic Products (2005:209) or the Ordinance on Producer Responsibility for Vehicles (2007:185), the notification shall communicate this.

## Labelling

**Section 13** A producer shall ensure that the batteries he places on the market are labelled in accordance with the provisions set out in the Appendix to this Ordinance.

## Obligation to deal with batteries

**Section 14** A producer shall deal with waste batteries.

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**Section 15** The obligation to deal with batteries under Section 14 does not apply in a calendar year in which the producer places on the market

1. less than 1 kilogramme of mercury batteries,
2. less than 2 kilogrammes of cadmium batteries,
3. less than 250 kilogrammes of lead batteries, each of which are heavier than 3 kilogrammes,
4. less than 100 kilogrammes of lead batteries, each of which are lighter than 3 kilogrammes,
5. less than 50 kilogrammes of other batteries than those referred to in 1–4.

**Section 16** A producer shall fulfil his obligation under Section 14 by ensuring that there is one or more suitable collection systems for batteries.

**Section 17** With regard to vehicle batteries that become waste outside a professional activity and with regard to portable batteries, a producer shall fulfil his obligation under Section 14 by dealing with the batteries without payment.

**Section 18** A person supplying lead batteries each weighing more than three kilogrammes as a business operation shall accept such batteries that are handed in to the business operator.

With regard to batteries not sold by the business operator, the obligation under the first paragraph only applies to a quantity of batteries that is in reasonable proportion to the quantity supplied by the business operator.

**Section 19** A collection system as referred to in Section 16 shall be deemed suitable if it

1. is easily accessible and provides good service to households, municipalities and others who may wish to hand in batteries to the system,
2. makes it easier for households and other users to separate the batteries from other waste.
3. has collection sites with suitable geographical spread having regard to the batteries' expected use, population density and other circumstances,
4. is designed so that persons handling the batteries in the system are not exposed to health and safety risks on account of the batteries,
5. accepts batteries of the type for which the system is designed regardless of the chemical composition or origin of the batteries,
6. is available to all producers on non-discriminatory terms, and
7. means that the producers participating in the system take joint responsibility for a percentage of waste in Sweden corresponding to the total market share of the participating producers.

For service to municipalities under the first paragraph, point 1, the collection system shall mean that batteries can be handed in to the collection system, or collected by a person representing the collection system, at one of the places that the municipality concerned has arranged for management of

batteries. The municipality and the producer may agree on deviations from this requirement.

A collection system that fulfils the requirements of the Ordinance on Producer Responsibility for Electrical and Electronic Products (2005:209) or the Ordinance on Producer Responsibility for Vehicles (2007:185) or the Ordinance on Producer Responsibility for Certain Radioactive Products and Orphan Sources (2007:193) shall be deemed suitable for batteries included in the products covered by the Ordinances.

**Section 20** A producer shall fulfil his obligation under Section 14 by ensuring that the batteries handed in to the collection system or systems referred to in Section 16 are transported, pre-treated, re-used, recycled or otherwise dealt with in some other environmentally acceptable way.

### **Obligation to supply information on the content and treatment of the batteries**

**Section 21** For each calendar year a producer shall report the following to the Swedish Environmental Protection Agency:

1. the types and quantity of batteries the producer has placed on the market in Sweden,
2. the quantity of batteries collected into the collection system under Section 16 and recycled or disposed of or removed from Sweden for recycling or disposal,
3. the degree to which management of batteries achieves the targets for specific treatment and recycling in Section 8, and
4. how the producer has fulfilled his obligations under this Ordinance.

The first paragraph, point 4 does not apply to how collection at local level fulfils the requirements in Sections 19 and 20.

With regard to information on recycling and disposal outside the European Union, the producer shall be able to show that the batteries have been dealt with in compliance with the requirements of the Battery Directive.

Reporting in accordance with the first paragraph may be coordinated with reporting in accordance with the Ordinance on Producer Responsibility for Electrical and Electronic Products (2005:209) and the Ordinance on Producer Responsibility for Vehicles (2007:185).

**Section 22** A producer shall inform users of batteries of

1. the potential effects on human health and the environment as a result of the substances present in batteries.
2. the meaning of the labelling referred to in the Appendix to this Ordinance,
3. the obligation to sort waste consisting of batteries under the provisions of the Waste Ordinance (2001:1063) and the sorting method to be used,
4. the collection systems available to users, and
5. how the users can contribute to the recycling of batteries.

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This information shall be exhaustive and supplied in such a way that it reaches those users who can be expected to want to hand in batteries to the producer or to a collection system.

The producer shall consult with the municipalities on how the information is to be provided locally. If found appropriate in such consultations, the information may be provided through the municipality in its information to households and others concerning waste management.

### **Register**

**Section 23** The Swedish Environment Protection Agency shall compile the data provided by producers under Sections 12 and 21 in a register.

### **Charges for certain environmentally hazardous batteries**

**Section 24** A producer of sealed nickel-cadmium batteries shall pay a charge of SEK 300 per kilogramme of sealed nickel-cadmium batteries that the producer places on the market. The charge shall cover the costs to society of collection, sorting, transport and disposal of such batteries. The charge shall be paid to the Swedish Environmental Protection Agency.

**Section 25** If there are special grounds, the Swedish Environmental Protection Agency may determine in individual cases that the charge be reduced or waived.

### **Accumulation and use of funds from the charge**

**Section 26** The Swedish Environmental Protection Agency shall allocate proceeds of the charge under Section 24 to a fund.

**Section 27** If there are monies in the fund referred to in Section 26, compensation from the fund may be given to a municipality or a producer or a person engaged by the municipality or producer for

1. costs of sorting, recycling or disposal of sealed nickel-cadmium batteries, and
2. costs of information on treatment of nickel-cadmium batteries.

The monies may also be used to cover the costs of the Swedish Environmental Protection Agency for handling the charge and for costs attributable to setting up and administering the register referred to in Section 23.

**Section 28** Questions concerning compensation from the fund will be considered by the Swedish Environmental Protection Agency.

### **Reporting and supervision**

**Section 29** The Swedish Environmental Protection Agency shall fulfil the tasks concerning reporting to the European Commission that are prescribed in Articles 10, 12 and 22 of the Battery Directive.

**Section 30** Provisions on supervision and fees are found in Chapter 26 of the Swedish Environmental Code, the Ordinance on Supervision under the Environmental Code (1998:900) and the Ordinance on Fees for Examination and Supervision under the Environmental Code (1998:940).

### Authorisation

**Section 31** The Swedish Environment Protection Agency may issue the regulations needed for the application of Sections 12, 19, 21 and 22.

### Penal provisions

**Section 32** A fine shall be imposed on any person who fails either intentionally or through negligence to fulfil his obligations to

1. ensure that batteries are labelled as provided in Section 13, or
2. deal with batteries as provided in Sections 14 and 16.

A person who has breached an injunction or prohibition issued under Chapter 26 of the Environmental Code that is subject to a conditional financial penalty may not be held responsible under this Ordinance for acts covered by the injunction or prohibition.

A person shall not be held responsible under this Ordinance for an act that is punishable under Chapter 29 of the Environmental Code.

### Appeals

**Section 33** Chapter 19, Section 1 of the Swedish Environmental Code contains provisions on appeals.

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1. This Ordinance enters into force on 1 January 2009, when the Ordinance on Batteries (1997:645) will cease to apply.

2. If monies have been paid in to the Swedish Environmental Protection Agency under the superseded Ordinance, these monies may be used for

a) compensation to persons who, under Section 14 of this Ordinance, have collected and incurred costs for sorting, recycling or disposal of batteries containing lead, cadmium or mercury and which may be assumed to have been placed on the market before 1 January 2009,

b) repayment of charges for batteries removed from Sweden, if the batteries were placed on the market before 1 January 2009, and

c) paying the Swedish Environmental Protection Agency costs for examination of questions concerning disbursement of the monies.

3. The Swedish Environmental Protection Agency may issue regulations providing that compensation under point 2 shall be paid at a standard rate determined with regard to both the quantity dealt with and the handling cost and an assessment of the percentage of the quantity dealt with that can be assumed to have been placed on the market before 1 January 2009.

4. The Swedish Environmental Protection Agency examines matters concerning the use of monies under point 2.

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5. With regard to the collection targets specified in Section 7, point 3, it is sufficient for collection to achieve 65 per cent by 26 September 2012 at the latest and 75 per cent by 26 September 2016 at the latest.

6. With regard to the recycling targets specified in Section 8, point 4, it is sufficient if the target is reached by 26 September 2010.

On behalf of the Government

ANDREAS CARLGREN

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**Labelling of batteries**

Batteries shall be labelled with the following symbol.



The symbol consists of a crossed out wheeled bin. The symbol must be visible, legible and indelible.

The symbol must cover at least 3 per cent of the surface area of the largest side of the battery. However, the symbol shall not be larger than 5 x 5 centimetres. On cylindrical batteries the symbol must cover at least 1.5 per cent of the surface area of the battery.

The battery does not need to be labelled with the symbol if the battery is so small that 3 per cent of its surface is less than 0.5 x 0.5 centimetres and the symbol, sized at least 1 x 1 centimetre, is instead placed on the battery's packaging.

A battery containing

- more than 0.0005 per cent by weight of mercury shall be labelled Hg,
- more than 0.002 per cent by weight of cadmium shall be labelled Cd, or
- more than 0.004 per cent by weight of lead shall be labelled Pb.

The Hg, Cd or Pb labels shall be placed under the wheeled bin symbol and be at least one quarter the size of the wheeled bin symbol.