

Bird & Bird

The new European Battery Regulation

An overview of the most important
contents

September 2023



Introduction

On 17 August 2023, the new European [Battery Regulation](#) (EU 2023/1542) entered into force. The regulation is part of the European *Green Deal*, which aims for the EU to become climate neutral by 2050. It establishes strict requirements regarding sustainability, performance, safety, labelling and information, collection and recycling of batteries. The regulation thereby governs the entire life cycle of batteries placed on the market in the EU, with the aim of strengthening a climate-friendly circular economy. Design and manufacturing of batteries should be geared towards optimising their performance, durability and safety and reducing their carbon footprint. In addition, the regulation aims to ensure that environmental and human rights due diligence requirements are complied with in the battery value chains.

The new provisions will apply from 18 February 2024 – with exceptions for some provisions that will have to be implemented only at a later date. Companies should therefore consider as soon as possible whether and which new obligations will arise for them from the regulation. To help with the familiarisation with the extensive and slightly complicated regulation, in the following we provide you with an overview of its content structure and the most important provisions.

Content structure and most important provisions

Chapter	Content	Most important provisions
I	<p>General provisions, Art. 1- 5</p> <p><u>Art. 1:</u> Subject matter and scope</p> <p><u>Art. 2:</u> Objectives</p> <p><u>Art. 3:</u> Definitions</p> <p><u>Art. 4:</u> Free movement</p> <p><u>Art. 5:</u> Sustainability, safety, labelling and information requirements for batteries</p>	<ul style="list-style-type: none"> • <u>Personal scope:</u> Obligations are imposed - to varying degrees – on (almost) all economic operators who place batteries on the market or put them into service in the EU or are involved in their recycling or recovery. • <u>Material scope:</u> All categories of batteries, including those incorporated into other products, namely portable batteries, starting, lighting and ignition batteries (SLI batteries), light means of transport batteries (LMT batteries), electric vehicle batteries and industrial batteries. Only batteries for specific equipment (e.g. batteries for use in space) are excluded.
II	<p>Sustainability and safety requirements, Art. 6-12</p> <p><u>Art. 6:</u> Restrictions on substances</p> <p><u>Art. 7:</u> Carbon footprint of electric vehicle batteries, rechargeable industrial batteries and LMT batteries</p> <p><u>Art. 8:</u> Recycled content in industrial batteries, electric vehicle batteries, LMT batteries and SLI batteries</p> <p><u>Art. 9:</u> Performance and durability requirements for portable batteries of general use</p> <p><u>Art. 10:</u> Performance and durability requirements for rechargeable industrial batteries, LMT batteries and electric vehicle batteries</p> <p><u>Art. 11:</u> Removability and replaceability of portable batteries and LMT batteries</p> <p><u>Art. 12:</u> Safety of stationary battery energy storage systems</p>	<ul style="list-style-type: none"> • <u>Restrictions</u> on the use of certain <u>substances</u> in batteries. • For certain batteries, a <u>carbon footprint declaration</u> must be prepared and certain <u>maximum carbon footprints</u> must be met. The <u>start of the obligation</u> depends on the type of battery and requirement. • For certain batteries, <u>minimum values are set for the recycling share</u> of certain contained materials (e.g. nickel). • For the first time, <u>legal requirements for the performance and durability</u> of batteries. • Portable batteries and LMT batteries <u>must be easily removable and replaceable</u> (obligation applies from 18 February 2027).

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III	<p>Labelling, marking and information requirements, Art. 13-14</p> <p><u>Art. 13</u>: Labelling and marking of batteries</p> <p><u>Art. 14</u>: Information on the state of health and expected lifetime of batteries</p>	<ul style="list-style-type: none"> • Obligation to print a <u>QR code</u> for information retrieval as well as various <u>labels</u> (e.g. "<i>separate collection</i>") on batteries. The start of the obligation varies by obligation and type of battery. • For certain batteries, obligation to record certain data (e.g. on state of health) in the <u>battery management system</u> and to make this data available. The obligations apply in addition to the provisions on type approval of vehicles.
IV	<p>Conformity of batteries, Art. 15-20</p> <p><u>Art. 15</u>: Presumption of conformity of batteries</p> <p><u>Art. 16</u>: Common specifications</p> <p><u>Art. 17</u>: Conformity assessment procedures</p> <p><u>Art. 18</u>: EU declaration of conformity</p> <p><u>Art. 19</u>: General principles of the CE marking</p> <p><u>Art. 20</u>: Rules and conditions for affixing the CE marking</p>	<ul style="list-style-type: none"> • Provisions on the conformity assessment procedure and CE marking.
V	<p>Notification of conformity assessment bodies, Art. 21-37</p>	<ul style="list-style-type: none"> • Requirements for conformity assessment bodies and the conformity assessment procedure.
VI	<p>Obligations of economic operators other than the obligations in Chapters VII and VIII, Art. 38-46</p> <p><u>Art. 38</u>: Obligations of manufacturers</p> <p><u>Art. 39</u>: Obligations of suppliers of battery cells and battery modules</p> <p><u>Art. 40</u>: Obligations of authorised representatives</p> <p><u>Art. 41</u>: Obligations of importers</p> <p><u>Art. 42</u>: Obligations of distributors</p> <p><u>Art. 43</u>: Obligations of fulfilment service providers</p> <p><u>Art. 44</u>: Case in which obligations of manufacturers apply to importers and distributors</p> <p><u>Art. 45</u>: Obligations of economic operators placing on the market or putting into service batteries that have been subject to preparation for re-use, preparation for repurposing, repurposing or remanufacturing</p> <p><u>Art. 46</u>: Identification of economic operators</p>	<ul style="list-style-type: none"> • <u>Delayed effective date</u>: Chapter applies only from 18 August 2024. • <u>The most extensive obligations apply to the manufacturer</u>. He must design, manufacture and label the battery in accordance with the regulation and prepare and provide the necessary documentation (e.g. instruction manual). Batteries already placed on the market may have to be recalled if they do not comply with the requirements of the regulation. • <u>Economic operators who remanufacture or repurpose batteries and then place them on the market</u> are also considered manufacturers. • Under certain conditions, also <u>importers and distributors</u> are considered manufacturers. • <u>Suppliers</u> must provide the information required by the manufacturer free of charge.
VII	<p>Obligations of economic operators as regards battery due diligence policies, Art. 47 – 53</p> <p><u>Art. 47</u>: Scope of this Chapter</p> <p><u>Art. 48</u>: Battery due diligence policies</p> <p><u>Art. 49</u>: Economic operator's management system</p> <p><u>Art. 50</u>: Risk management obligations</p> <p><u>Art. 51</u>: Third-party verification of battery due diligence policies</p>	<ul style="list-style-type: none"> • <u>Limited personal scope</u>: Chapter does not apply to economic operators that <ul style="list-style-type: none"> ○ had a net turnover of less than EUR 40 million in the penultimate financial year and are not part of a corporate group that exceeds this value on a consolidated basis, or ○ place remanufactured or repurposed batteries on the market, provided they had already previously been placed on the market or put into service.

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	<p><u>Art. 52</u>: Disclosure of information on battery due diligence policies</p> <p><u>Art. 53</u>: Recognition of due diligence schemes</p>	<ul style="list-style-type: none"> From 18 August 2025, obligation to implement a <u>system to identify, evaluate and eliminate risks</u> in the supply chain and to provide related information – the provisions resemble the German Supply Chain Risk Management Act (<i>Lieferkettensorgfaltspflichtengesetz</i>). Compliance with the obligations is <u>monitored</u> by a Chapter V certified body.
<p>VIII</p>	<p><i>Management of waste batteries, Art. 54 – 76</i></p> <p><u>Art. 54</u>: Competent authority</p> <p><u>Art. 55</u>: Register of producers</p> <p><u>Art. 56</u>: Extended Producer Responsibility</p> <p><u>Art. 57</u>: Producer Responsibility Organisation</p> <p><u>Art. 58</u>: Authorisation on fulfilment of extended producer responsibility</p> <p><u>Art. 59</u>: Collection of waste portable batteries</p> <p><u>Art. 60</u>: Collection of waste LMT batteries</p> <p><u>Art. 61</u>: Collection of waste SLI batteries, waste industrial batteries and waste electric vehicle batteries</p> <p><u>Art. 62</u>: Obligations of distributors</p> <p><u>Art. 63</u>: Deposit return systems for batteries</p> <p><u>Art. 64</u>: Obligations of end-users</p> <p><u>Art. 65</u>: Obligations of operators of treatment facilities</p> <p><u>Art. 66</u>: Participation of public waste management authorities</p> <p><u>Art. 67</u>: Participation of voluntary collection points</p> <p><u>Art. 68</u>: Restrictions regarding handover of waste portable batteries and waste LMT batteries</p> <p><u>Art. 69</u>: Obligations for Member States regarding collection targets for waste portable batteries and waste LMT batteries</p> <p><u>Art. 70</u>: Treatment</p> <p><u>Art. 71</u>: Targets for recycling efficiency and recovery of materials</p> <p><u>Art. 72</u>: Shipment of waste batteries</p> <p><u>Art. 73</u>: Preparation for re-use or preparation for repurposing of waste LMT batteries, waste industrial batteries and waste electric vehicle batteries</p> <p><u>Art. 74</u>: Information on prevention and management of waste batteries</p> <p><u>Art. 75</u>: Minimum requirements for reporting to the competent authorities</p> <p><u>Art. 76</u>: Reporting to the Commission</p>	<ul style="list-style-type: none"> <u>Delayed effective date</u>: Chapter applies only from 18 August 2025. Producers have a so-called "<u>extended producer responsibility</u>". They can exercise this responsibility themselves or transfer it to a certified Producer Responsibility Organisation. Obligation to implement a <u>collection, take-back and recycling system</u>: Waste batteries must be taken back free of charge and subjected to treatment in accordance with Art. 70. <u>Targets for collection, recycling efficiency and recovery of materials</u>. <u>Extensive information obligations of producers / Producer Responsibility Organisations</u> towards end-users, distributors, waste management operators and authorities. Obligation of distributors to take back batteries, regardless of whether the battery was purchased from them. <u>Perspective</u>: By 31 December 2027, the European Commission will assess feasibility and potential benefits of deposit return systems for batteries.
<p>IX</p>	<p><i>Digital battery passport, Art. 77 – 78</i></p> <p><u>Art. 77</u>: Battery passport</p>	<ul style="list-style-type: none"> From 18 February 2027, LMT batteries, industrial batteries with a capacity > 2 kWh and electric vehicle batteries must have an <u>electronic record ("battery passport")</u>. The

Chapter	Content	Most important provisions
	Art. 78: Technical design and operation of the battery passport	battery passport must be accessible via the QR code (see above).
X	<p>Union market surveillance and Union safeguard procedures, Art. 79 – 84</p> <p>Art. 79: Procedure at national level for dealing with batteries presenting a risk</p> <p>Art. 80: Union safeguard procedure</p> <p>Art. 81: Compliant batteries which present a risk</p> <p>Art. 82: Joint activities</p> <p>Art. 83: Formal non-compliance</p> <p>Art. 84: Non-compliance with due diligence obligations</p>	<ul style="list-style-type: none"> • Provisions on <u>measures at national and European level</u> with regard to <ul style="list-style-type: none"> ○ batteries that do not comply with the regulation or otherwise pose a risk and ○ infringements by an economic operator of the due diligence obligations in Art. 48 et seq.
XI	Green public procurement and procedure for amending restrictions on substances, Art. 85-88	
XII	Delegated powers and committee procedure, Art. 89-90	
XIII	Amendments, Art. 91-92	
XIV	<p>Final provisions, Art. 93-96</p> <p>Art. 93: Penalties</p> <p>Art. 94: Review</p> <p>Art. 95: Repeal and transitional rules</p> <p>Art. 96: Entry into force and application</p>	<ul style="list-style-type: none"> • Member states must enact <u>legislation on sanctions</u> for violations of the regulation (only) <u>by 18 August 2025</u>. • The regulation does not provide for <u>civil liability</u> - but does not exclude it either. Civil liability according to the general principles of German tort law (due to the violation of safety obligations) seems possible.

Conclusion / Need for action

A considerable part of the requirements of the new European Battery Regulation was - at least in its fundamentals - already contained in the old Battery Directive (2006/66/EC) and the German Battery Act (Batteriegelgesetz). This includes, for example, provisions on the labelling of batteries, on take-back and recycling, on collection targets and on recycling efficiency. However, these provisions are tightened considerably by the new Battery Regulation. In addition, the new regulation creates various new obligations for the relevant economic actors, especially in Chapter VII.

If your company falls within the scope of the new Battery Regulation, you should therefore urgently check whether your company meets the new requirements or whether there is need for action.



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