Batteries Regulation guidance document:

Battery allocation to the five battery categories

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Content

1 Objective

REGULATION (EU) 2023/1542 ("Batteries Regulation" or "BR") entered into force on 17.08.2023 (Article 96 (1) BR). From 18.02.2024 it is binding and directly applicable in all Member States (Article 96 (2) BR). Some provisions enter into force only later, for example Chapter VIII (Management of Waste Batteries, Article 54 BR et seq.) on 18.08.2025 (Article 96 (2) c) BR). Directive 2006/66/EC ("Batteries Directive") is repealed with effect from 18.08.2025 (Article 95 BR).

The Batteries Directive identifies three types of batteries. With the Batteries Regulation five battery categories are introduced now, two of them are new. The allocation of batteries to a specific category is relevant for further obligations for example in terms of reporting (see Article 75 BR), the restrictions on substances for certain batteries (see Article 6 and Annex I BR) and the removability and replaceability for certain batteries (see Article 11 BR). Some of the battery definitions in the Batteries Regulation were changed and others are completely new.

This document provides guidance and clarification subject to the before mentioned issues.

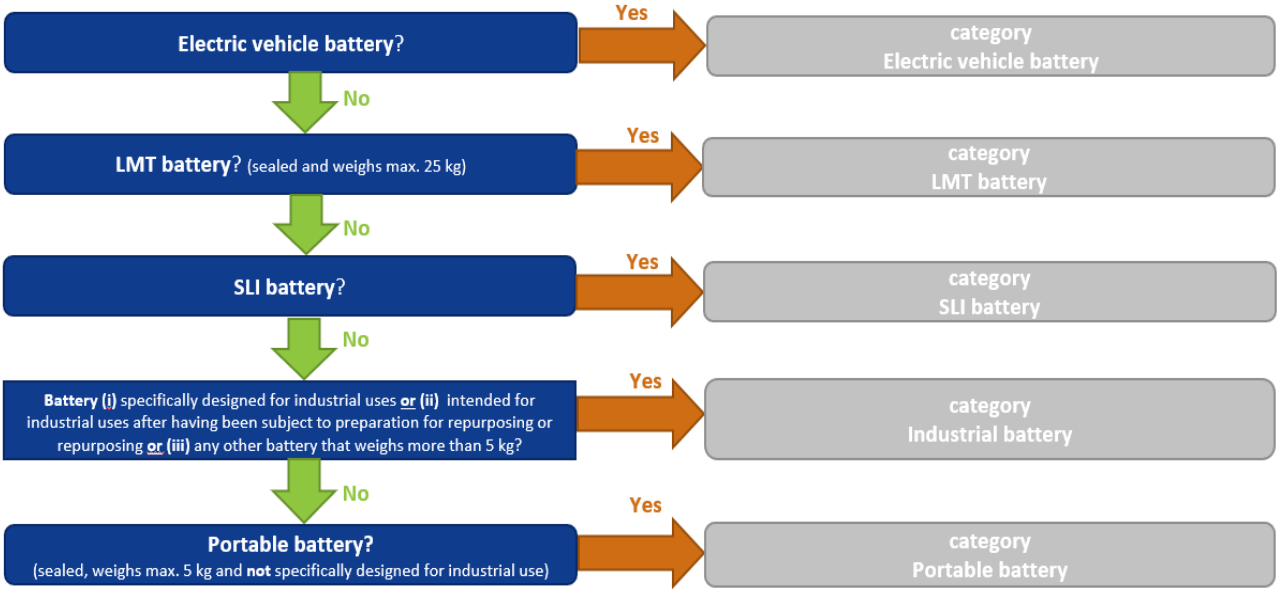
2 Five battery categories under the Batteries Regulation

Article 1 (3) BR defines five battery categories as follows

> *"This Regulation applies to all categories of batteries, namely*
>
> ***(i) portable batteries,***
>
> ***(ii) starting, lighting and ignition batteries (SLI batteries),***
>
> ***(iii) light means of transport batteries (LMT batteries),***
>
> ***(iv) electric vehicle batteries*** *and*
>
> ***(v) industrial batteries***
>
> *[...]."*

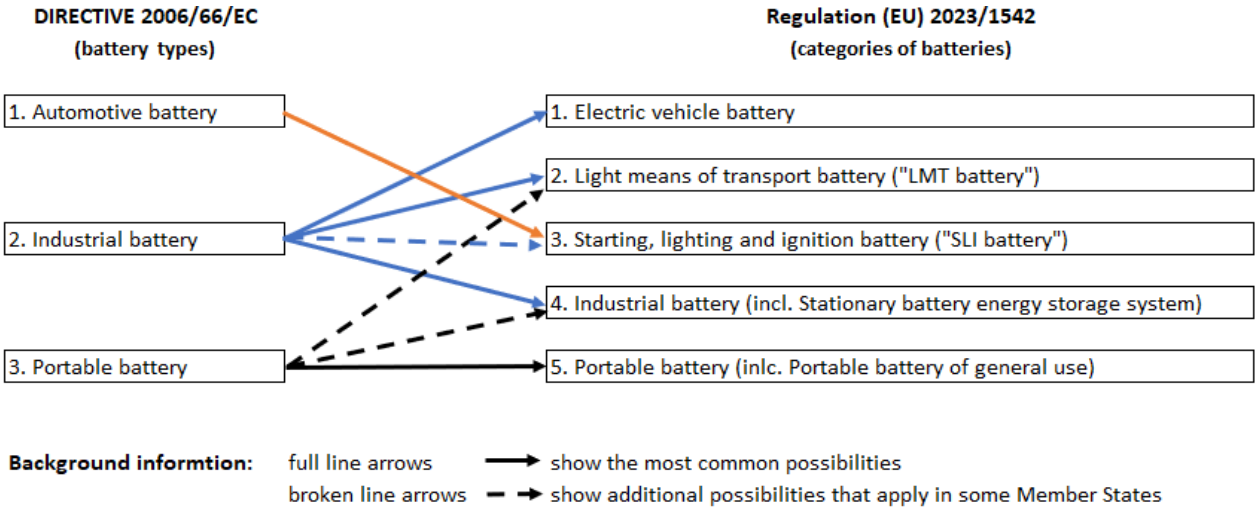
3 Methodology to allocate batteries to the right category

According to the before mentioned definitions under Article 3 (1) no. 9, 11, 12, 13 and 14 BR EWRN proposes the following methodology for the allocation of batteries to the right category.



4 Methodology for the change from 3 types of batteries to 5 battery categories

The three types of batteries under the Batteries Directive are transferred to the five battery categories under the Batteries Regulation as shown below[1].



[1] Please contact your national battery register for specific national possibilities that may apply.

5 General findings in the Batteries Regulation

There are some general **findings** in the BR that should be taken into consideration before looking at the definitions in detail.

a) There are battery definitions that introduce a **threshold** of **weight** as an **additional criterion**.

b) **Article 1 (3) subparagraph 2 BR** defines *that **for** the **purposes of Chapter II**[2], where **batteries placed on the market can be considered to fall under more than one category,** they **shall be deemed** to fall under the **category to which the strictest requirements apply**.*

6 Battery category definitions

Let us look at the legal definitions of the battery categories. The battery categories are defined under Articl 3 (1) BR as

*(14) '**electric vehicle battery**' means a battery that*

- *is specifically designed to provide electric power for traction in hybrid or electric vehicles of category L as provided for in Regulation (EU) No 168/2013, **that** weighs more than 25 kg,*
- ***or** a battery that is specifically designed to provide electric power for traction in hybrid or electric vehicles of categories M, N or O as provided for in Regulation (EU) 2018/858;*

***Please note:** According to Recital 15 […] Batteries that are used for **traction in electric vehicles** and which, under Directive 2006/66/EC, fall under the category of industrial batteries, constitute a large and growing part of the market due to the quick growth of electric road transport vehicles. It is therefore appropriate to classify those batteries that are used for **traction in road vehicles** as a new separate category of electric vehicle batteries.*

*[…] Batteries used **for traction in other transport vehicles including rail, waterborne and aviation transport or off-road machinery**, continue to fall under the category of industrial batteries under this Regulation. […]*

*(11) '**light means of transport battery**' or '**LMT battery**' means a battery that*

- *is sealed,*
- *weighs 25 kg or less*
- ***and** is specifically designed to provide electric power for the traction of wheeled vehicles that can be powered by an electric motor alone or by a combination of motor*

[2] Chapter II comprises Articles 6 to 12 BR

and human power, including type-approved vehicles of category L within the meaning of Regulation (EU) No 168/2013 of the European Parliament and of the Council (43),

- ***and*** *that is not an electric vehicle battery;*

Please note: *According to Recital 15 […] Batteries used for* ***traction in light means of transport****, such as e-bikes and e-scooters, were not classified as a separate category of battery under Directive 2006/66/EC. However, such batteries constitute a significant part of the market due to their growing use in urban sustainable mobility. It is therefore appropriate to classify those batteries as a new separate category of batteries, namely light means of transport batteries (LMT batteries). […]*

*(12) '****starting, lighting and ignition battery****' or '****SLI battery****' means a battery that*

- *is specifically designed to supply electric power for starting, lighting, or ignition*
- ***and*** *that can also be used for auxiliary or backup purposes in vehicles, other means of transport or machinery;*

*(9) '****portable battery****' means a battery that*

- *is sealed,*
- *weighs 5 kg or less,*
- *is not designed specifically for industrial use*
- ***and*** *is neither an electric vehicle battery, a LMT battery, nor a SLI battery*

Please note: *According to Article 6 (1) and Annex 1 BR from 18.08.2024 portable batteries, whether or not incorporated into appliances, shall not contain more than 0,01 % of lead (expressed as lead metal) by weight. The restriction set out in shall not apply to portable zinc-air button cells until 18 August 2028.*

*(13) '****industrial battery****' means a battery that*

- *is specifically designed for industrial uses,*
- *intended for industrial uses after having been subject to preparation for repurposing or repurposing,*
- ***or*** *any other battery that weighs more than 5 kg*
- ***and*** *that is neither an electric vehicle battery, a LMT battery, nor a SLI battery;*

7 Scrutinizing the definitions of the battery categories

7.1 Weight as a criterion?

The **weight thresholds alone** are not sufficient to allocate a battery to the right battery category, but the weight of a battery may function as an exclusion criterion.

> *For example, a **battery** that **weighs more than 5 kg cannot be** considered a **portable battery** because by definition a portable battery has a maximum weight of 5 kg (Article 3 (1) no. 9 BR). But such a battery can be an industrial one if the other prerequisites of one of the definitions of industrial battery are met.*
>
> *On the other hand, a **battery** (no electric vehicle-, LMT- or SLI-battery) that **weighs 5 kg or less** could be a **portable OR** an **industrial** battery if only its weight would be relevant. But also the other legal prerequisites of the relevant definitions must be fulfilled for the allocation to the right battery category.*

The differentiation between industrial and portable batteries depends on the interpretation of the wording **"specifically designed for industrial uses"**, (Article 3 (1) no. 9 and 13).

Therefore, the **industrial battery definition** under the Batteries Directive and the Batteries Regulation shall be **(i) compared, (ii) interpreted** and the **(iii) intention of the legislator** shall be taken into consideration.

7.2 Comparing the old and new industrial battery definition

The definition of industrial battery was altered in the BR compared to the old Batteries Directive.

Article 3 no. 6 **Batteries Directive** defines "industrial battery" as any	Article 3 (1) no. 13 **Batteries Regulation** defines "industrial battery" as a
battery or accumulator designed for exclusively industrial or professional uses […];	battery that is specifically designed for industrial uses, […];

At first it seems that **deleting** the alternative „professional uses" in the new BR definition downsized the scope of industrial batteries and now fewer industrial batteries are allocated to this category.

7.3 Interpreting the definitions

Therefore, the interpretation of „***specifically designed for industrial uses***" is relevant for the differentiation and allocation to the right category.

What does "**industrial**" mean? Synonyms for "industrial" are manufacturing, factory, commercial, business, trade (Oxford and Collins Dictionary) and even work (Microsoft Dictionary). "**Exclusively**" means only and "**specifically**" for a particular purpose (Oxford Dictionary).

This interpretation leads to the conclusion that the wording "industrial uses" under the new Batteries Regulation may also include "professional uses" and that the scope of industrial batteries was not narrowed down.

7.4 Intention of the legislator

Recital 15 of the BR can help to understand the intention of the legislator of the Batteries Regulation. According to Recital 15

> *"The **classification into portable** batteries, on the one hand, and **industrial** batteries and **automotive** batteries on the other hand under Directive 2006/66/EC **should be further developed to better reflect new developments in the use** of batteries. Batteries that are used for traction in electric vehicles and which, under Directive 2006/66/EC, fall under the category of industrial batteries, constitute a large and growing part of the market due to the quick growth of electric road transport vehicles. It is **therefore appropriate to classify those batteries** that are used for traction in road vehicles **as a new separate category** of electric vehicle batteries. Batteries used for traction in light means of transport, such as e-bikes and e-scooters, were not classified as a separate category of battery under Directive 2006/66/EC. However, such batteries constitute a significant part of the market due to their growing use in urban sustainable mobility. It is **therefore appropriate to classify those batteries as a new separate category of batteries**, namely light means of transport batteries (LMT batteries). …"*

Preliminary conclusion (1): The new battery categories were introduced to meet the new challenges with e-mobility and to allocate, collect and treat these specific batteries separately from industrial batteries.

Recital 15 of the Batteries Regulation also mentions

> *"… The industrial battery category **encompasses a broad group of batteries, intended to be used for** industrial activities, communication infrastructure, agricultural activities, or generation and distribution of electric energy. …"*

Preliminary conclusion (2): Agricultural activities for example cannot only be considered as large-scale – on an industrial level - but also as a farming business of a family for example. Communication infrastructure not only occurs on an industrial level but also in small and medium sized enterprises and professional businesses like in law firms, doctor's offices, retail shops etc.

Conclusion: Especially the reasons for the new battery categories as well as the examples provided for industrial batteries by the legislator additionally support the interpretation that the legislator did not intend to downsize the scope of industrial batteries by deleting the wording "professional uses".

7.5 Proposal for a definition of "specifically designed for industrial uses"

In order to differentiate between portable and industrial batteries the wording "(not) specifically designed for industrial use(s)" needs to be defined. EWRN proposes to do so as follows:

(i) Batteries can be considered as specifically designed for industrial uses if they **normally arise or are normally used in 'other than private households'.**

Possible criteria therefore can be dimensions, weight, voltage, price and type of connection.

(ii) Batteries cannot be considered as specifically designed for industrial use(s) if they **normally arise or are normally used in private households**.

EEE (also) used in private households is always considered as b2c-EEE (dual-use). In this case the built-in battery (also) normally arises in a private household or is normally used there and therefore considered as a portable battery (for example smoke detectors that can be or are used in private households).

8 Examples of batteries and their allocation to the five categories

Below you can find battery examples allocated to the specific battery category. This is only a non-exhaustive list of examples.

electric vehicle battery

Batteries used for traction in road vehicles (e.g., electric cars, electric motorbikes (if weight exceeds 25 kg), electric trucks but not batteries for trains, boats, airplanes)

LMT battery

Batteries used in light means of transport (e.g., e-scooters, electric bikes, hoverboards, self-balancing e-vehicles, e-wheelchairs, mobility scooters); weight max. 25 kg

SLI battery

Starter batteries for conventional road vehicles (e.g., cars, trucks, motorbikes), starter batteries for electrical vehicles that may also fulfil auxiliary functions (such as powering lights and supporting onboard electronics)

industrial battery

Batteries used in b2b-EEE that is used in other than private households only (e.g., lead batteries for fire alarm panel backups if those batteries normally arise or are normally used in other than private households, batteries for service robots, batteries for forklift trucks), batteries for electric trains or e-boats, energy storage batteries for photovoltaic systems in private households

portable battery

batteries specifically designed to be interoperable with the following common formats 4,5 Volts (3R12), button cell, D, C, AA, AAA, AAAA, A23, 9 Volts (PP3), batteries used for traction in wheeled vehicles considered to be toys (e.g., kids electric ride on cars), batteries for smoke detectors that normally arise or are normally used in private households, batteries in mobile phones and cordless tools, backup button cells for personal computers, power banks.

Portable batteries shall not contain any lead (Article 6 (1) and Annex I BR); weight max. 5 kg.

9 European WEEE Registers Network (EWRN)

EWRN is an independent network of national registers at the heart of the national implementation of Directive 2002/96/EC and the new Directive 2012/19/EU ("WEEE2") in the respective EU Member States. Those responsible for managing the national registers are working together at EWRN as experts regarding electrical and electronic equipment ("EEE") and its proper treatment. EWRNs primary objectives includes promoting a harmonised approach to registration, reporting and scoping issues across the Member States. This includes harmonised interpretation of the new exclusions under WEEE2.

Many of the national (W)EEE registers are also competent for the enforcement of the Batteries Regulation. EWRN therefore extended its objectives and promotes harmonisation of registration, reporting and scoping questions with regard to batteries, too.