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Productwise Battery Shorts, Part 2: Conformity Assessment and CE Marking Requirements

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In Part 2 of our 'Battery Shorts' series, we look at the conformity assessment and CE marking requirements under the new European Union Batteries Regulation, which have applied since 18 August 2024.

If you are wondering whether the Batteries Regulation applies to your products, please see Part 1 of our series.

Conformity assessment and CE marking

Many product manufacturers will be familiar with the EU conformity assessment process if they sell CE marked products. For the first time, the Batteries Regulation introduces a requirement to conduct a specific EU conformity assessment for the battery, in order to demonstrate compliance with the requirements of the Batteries Regulation.

Manufacturers need to:

- Draw up technical documentation and a Declaration of Conformity (DoC) for their batteries, which can be combined with the DoC for products containing batteries. When it comes to evidence of compliance, if manufacturers apply harmonised standards or common specifications laid down in an implementing act (where these exist), this gives rise to a presumption of conformity.
- Establish procedures to ensure conformity of products containing batteries as part of series production.
- Retain technical documentation and the DoC for 10 years after the last battery has been placed on the market.
- Apply the CE mark on batteries. The CE mark should be affixed visibly, legibly and indelibly to the battery itself. Where this is not possible or not warranted due to the nature of the battery, it should instead be affixed to packaging and accompanying documentation. Where notified body involvement is required, the notified body number should be affixed next to the CE mark.

Can I rely on my third-party battery supplier to comply with these requirements and draw up the necessary documentation?

Many product manufacturers will be purchasing batteries from third-party suppliers. However, the manufacturer of the finished product remains legally responsible for compliance of the product as a whole, including the battery.

Where manufacturers rely on documentation provided by a third-party battery supplier as part of their evidence of conformity, they should ensure that they have taken steps to verify the accuracy and completeness of the technical documentation and put in place appropriate contractual protections in the supplier agreement. A manufacturer of a product containing a battery will need to draw up and sign its own DoC, though it may be possible to rely on a third-party battery supplier's compliance documentation in support of this.

If you have any questions about the conformity assessment procedure, or other requirements under the Batteries Regulation, please reach out to your usual Cooley contacts.

Stay tuned for Part 3 of our Productwise Battery Shorts series, which will summarise the new substance restrictions in the Batteries Regulation.

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