

Draft

Federal Act enacting the accompanying legislation for the implementation of the EU Batteries Regulation in the field of waste battery management and the Federal Act on the Market Surveillance of Batteries (Battery Market Surveillance Act – BattMüG 2026) and amending the AWG 2002 (EU Batteries Regulation Accompanying Act – BattBegG)

The Nationalrat has decreed the following:

Table of contents

- Article 1 Accompanying Act for the implementation of the EU Batteries Regulation in the field of waste battery management
Article 2 Amendment to the AWG 2002 (Waste Management Act 2002)
Article 3 of the Federal Act on the Market Surveillance of Batteries (Batteries Market Surveillance Act – BattMüG 2026)

Article 1

Accompanying legislation for the implementation of the EU Batteries Regulation in the area of waste battery management

Purpose and scope of the Act

§ 1. (1) The purpose of this federal act is to implement Regulation (EU) 2023/1542 on batteries and waste batteries, amending Directive 2008/98/EC and Regulation 2019/1020 and repealing Directive 2006/66/EC (hereinafter: (EU Batteries Regulation), OJ No L 191, 28 July 2023, p. 1, to adopt supplementary measures for the sustainable management of waste batteries (Chapter VIII).

(2) This act applies to batteries and waste batteries falling within the scope of the EU Batteries Regulation.

Definitions

§ 2. In addition to the terms referred to in Article 3 of the EU Batteries Regulation, for the purposes of this Federal Act

1. “self-importers”: end-users who purchase batteries from abroad for use in their business and for whom these batteries become waste within the business;
2. “final distributor” means any person who offers batteries commercially to an end consumer;
3. “end user” means any person who purchases batteries for their own use;
4. “battery categories”: portable batteries, batteries for light means of transport (LMT batteries), starter batteries, industrial batteries and electric vehicle batteries;
5. “quantity fraction of a scheme” means the quantity of batteries of a specific battery category placed on the market or imported for own use and reported by a collection and recovery scheme, expressed as a proportion of the total mass of batteries of that category placed on the market or imported for own use and reported by collection and recovery schemes.

Authority

§ 3. (1) The competent authority for monitoring and verifying compliance with the obligations arising from Chapter VIII of the EU Batteries Regulation is the Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management.

(2) The Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management shall be the contact point responsible for communication with the Commission in accordance with Article 54(4) of the EU Batteries Regulation.

Details of the organisation and operational procedures

§ 4. (1) Manufacturers are registered via the register referred to in § 22(1) AWG 2002 on the website edm.gv.at. In doing so, the requirements laid down in Article 55 of the EU Batteries Regulation are to be complied with.

(2) The authorisation of battery collection and recovery schemes is governed by §§ 29, 29a, 31, 32 and 36 AWG 2002. The coordination of the obligations of the collection and recovery schemes is carried out by the body designated by the Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management in accordance with § 13b(2) of AWG 2002.

(3) Supervision of the fulfilment of extended producer responsibility obligations pursuant to Article 57 of the EU Batteries Regulation is carried out in accordance with the requirements of § 75(2) to (6) of AWG 2002.

(4) Reports on batteries and waste batteries pursuant to Article 75 of the EU Batteries Regulation and this Federal Act shall be submitted to the Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management via the register referred to in § 22(1) of the AWG 2002. The first report must be submitted for the calendar year 2026.

(5) The Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management shall provide information in accordance with Article 76 of the EU Batteries Regulation.

Collection of waste batteries and collection coordination

§ 5. (1) Manufacturers of portable batteries, LMT batteries or waste starter batteries referred to in Article 3(1)(47)(a) to (d) of the EU Batteries Regulation shall each set up at least one collection point in each policy district at which waste portable batteries, waste LMT batteries or waste starter batteries can be supplied by final distributors of portable batteries, LMT batteries or starter batteries at least free of charge.

(2) Insofar as there is no contract for the collection of waste portable batteries, waste LMT batteries or waste starter batteries with one or more collection and recovery schemes, the municipalities (associations of municipalities) may, within the framework of the separate collection of waste batteries pursuant to § 28a AWG 2002,

1. when the quantity threshold referred to in § 28a AWG 2002 is reached, or
2. in the event that the quantity threshold referred to in § 28a AWG 2002 has not been reached within six months,

notify the coordinating body referred to in § 13b(2) AWG 2002 of a collection requirement referred to in paragraph (3).

(3) The notification of a collection requirement shall contain the following information:

1. global location number (GLN) of the collection point,
2. battery category,
3. estimated quantity and
4. the number, type, shape and size of the collection bins.

(4) Without prejudice to Article 62(1)(a) of the EU Batteries Regulation, final distributors of portable batteries must place clearly identifiable collection bins for waste portable batteries in an easily accessible and clearly visible location within their business premises. If certain waste batteries are to be returned free of charge directly to a member of staff rather than via the collection bin, this must also be clearly and visibly indicated in the business premises.

(5) Operators of voluntary collection points in accordance with Article 67 of the EU Batteries Regulation may collect waste portable batteries or waste LMT batteries only if they have entered into a contract with an authorised collection and recovery scheme regarding the subsequent transport and subsequent treatment of the waste batteries.

(6) A waste collector or treatment operator who is not a manufacturer or a collection and recovery scheme, and who collects waste portable batteries or waste LMT batteries from dealers or other collection points and does not pass them on to manufacturers or collection and recovery schemes, shall, in addition to the data required under the last subparagraph of Article 75(1) of the EU Batteries Regulation, report the data specified in Article 75(1)(e) to (g) of the EU Batteries Regulation, broken down by chemical composition and category of waste batteries.

(7) In addition to the reporting obligation pursuant to Article 75(2) of the EU Batteries Regulation, manufacturers of starter, industrial and electric vehicle batteries shall report the amount of collected waste batteries, broken down by chemical composition and category.

(8) Only a waste collector or waste handler who is not a manufacturer or a collection and recovery scheme and collects starter, industrial and electric vehicle batteries from dealers, other collection points or end-users and does not pass them on to manufacturers or collection and recovery schemes is obliged to notify pursuant to Article 75(3) of the EU Batteries Regulation.

Treatment

§ 6. Without prejudice to Articles 70, 71 and 73 of the EU Batteries Regulation, manufacturers, collectors, treatment operators and end users shall comply with the requirements of the Ordinance on Waste Treatment Obligations (AbfallBPV), Federal Law Gazette II No 102/2017, in currently applicable version.

Information on waste prevention and the management of waste batteries

§ 7. (1) Manufacturers of portable batteries, LMT batteries and starter batteries shall coordinate the information referred to in points (a) to (f) of Article 74(1) of the EU Batteries Regulation with the collection points set up by municipalities or associations of municipalities pursuant to § 28a AWG 2002.

(2) The information referred to in Article 74(1) and (3) of the EU Batteries Regulation must be made available at least in German.

(3) Without prejudice to Article 74(4) of the EU Batteries Regulation, traders operating a website shall make the information referred to in Article 74 available on that website.

Mandatory participate

§ 8. (1) Manufacturers of portable, LMT, starter, industrial and electric vehicle batteries shall participate in a collection and recovery scheme approved in accordance with § 29 AWG 2002 for the respective battery category for the batteries that they place on the market. Switching between different collection and recovery schemes is allowed only at the end of a calendar quarter.

(2) Manufacturers must contractually transfer the obligations incumbent on them per battery category in accordance with

1. § 5(1) and (7), § 6, § 7 and
2. Chapter VIII of the EU Batteries Regulation

for the entire battery category to a collection and recovery scheme authorised for that purpose, thereby transferring the corresponding obligations to the operator of the scheme.

(3) By way of derogation from paragraph 2, manufacturers of starter, industrial and electric vehicle batteries may take back the batteries that they have placed on the market themselves and forward them for treatment in accordance with Articles 70 and 73 of the EU Batteries Regulation and § 6. The respective quantities shall be reported to the collection and recovery schemes in which the manufacturers participate.

(4) Manufacturers and self-importers shall grant the relevant collection and recovery scheme and the coordinating body referred to in § 11 corresponding inspection rights, in particular over the quantities of batteries that they place on the market or import for their own use.

Requirements for the establishment and operation of a collection and recovery scheme

§ 9. (1) Without prejudice to Article 57 of the EU Batteries Regulation, a collection and recovery scheme for waste batteries in order to assume the obligations under § 8(2) may be set up and operated in a comprehensive manner for only one or more battery categories.

(2) Collection and recovery schemes for waste portable batteries and waste LMT batteries must demonstrate adequate coverage across the entire territory of Austria, whereby, in accordance with the obligation under § 5(1), at least one affiliated collection point must be established in each political district and a disposal logistics plan must be drawn up to demonstrate that collection from the collection points can take place.

(3) collection and recovery schemes for starter, industrial and electric vehicle batteries shall establish a disposal logistics plan that demonstrates that the collection of take-back and collection points, including collection points set up by manufacturers in cooperation with the persons or entities referred to in Article 61(1)(a) to (d) of the EU Batteries Regulation can take place in all political districts. The waste management plan for industrial batteries must also demonstrate that the collection from private end-users, as required by Article 61(1) of the EU Batteries Regulation, can be carried out at their premises.

(4) The collection of funds for the establishment and operation of a collection and recovery scheme shall be carried out in accordance with the following principles:

1. Generally applicable tariffs shall be provided for at least each battery category and each chemical composition in accordance with Article 57(2) of the EU Batteries Regulation; all contract partners shall be treated in accordance with the same principles.
2. On the basis of a reasonable cost calculation, the tariffs must be designed in such a way that the costs expected
 - a) for the waste batteries of a particular category collected (recorded) during the calendar year, including any possible dismantling,
 - b) as regards the costs of their treatment,
 - c) the expenditure for the coordinating body on the total expected quantity expected to be placed on the market in the same calendar year of the corresponding battery category in respect of which participation in the scheme occurs and
 - d) to which the costs of collecting and transmitting the necessary data
 are allocated. In addition, on the basis of a comprehensible risk assessment, sufficient insolvency-proof cash reserves must be established in order to make it possible to cover the long-term expected costs of collection and recovery in the event of unforeseen damage. The establishment of these reserves shall be tested annually by the auditor as part of the annual audit.
3. Changes to tariffs must be published in good time, at least six weeks before they come into effect.
4. Collection and recovery schemes must contractually ensure that participating manufacturers and self-importers contribute appropriately to the monitoring of fund collection, in particular by providing a complete declaration of the total quantity of batteries placed on the market or imported for their own use, broken down by each battery category, for which they participate in the respective scheme, including an allocation to the relevant rates.

(5) Collection and recovery schemes for portable, LMT, starter, industrial or electric vehicle batteries shall submit a respective duly signed agreement in accordance with § 29(4) AWG 2002 with the coordinating body referred to in § 11 with the respective contents required in accordance with the obligations of the collection and recovery schemes to the Federal Minister for Agriculture and Forestry, Climate Protection and Environmental Protection, Regions and Water Management as an application document for approval of the scheme. An amendment to this agreement or the conclusion of a new agreement must also be submitted and does not require an amendment permit pursuant to § 29(1) AWG 2002.

(6) A collection and recovery scheme for waste batteries may cease to operate only at the end of a calendar quarter.

(7) Collection and recovery schemes must offer proportionate flat-rate solutions to manufacturers and self-importers of portable and LMT batteries who place very small quantities on the market or import them for their own use; these solutions must correspond to the proportion of the total volume.

(8) Collection and recovery schemes for waste portable and LMT batteries must fulfil their take-back obligations under Article 59(1) and Article 60(1) of the EU Batteries Regulation in proportion to the quantity of batteries of a given category placed on the market by their participants relative to the total quantity of batteries of that category placed on the market.

Own collection services and additional reporting requirements for collection and recovery schemes

§ 10. (1) Collection and recovery schemes must offer an agreement on the crediting of quantities of waste batteries of the relevant battery category that have been verifiably collected by their participants and sent for treatment in accordance with Articles 70 and 73 of the EU Batteries Regulation and § 6.

(2) The quantities of waste portable and LMT batteries collected in accordance with Articles 59 and 60 of the EU Batteries Regulation at collection points and in accordance with paragraph 1 and supplied or to be supplied for treatment in accordance with Articles 70 and 73 of the EU Batteries Regulation, which are not reported as collection requirements and forwarded via the coordinating body to a collection and

recovery scheme, shall be taken into account by the coordinating body for the determination of the compulsory portion in accordance with **Annex 1** as a separate collection service of the collection and recovery scheme, provided that the coordinating body is notified by the collection and recovery scheme within 30 days of the collection of the waste batteries to another legal entity (to a commissioned transferee), indicating the following data by means of the register pursuant to § 22(1) AWG 2002 from the first day of the month following collection:

1. the locations where the data was collected and – where available – the GLNs for these locations,
2. the authorised transferee,
3. the quantities sent or collected for treatment and awaiting treatment,
4. there is proof of compliance with § 6 and
5. the date of collection.

Documents confirming this information shall be kept by the collection and recovery scheme. § 17(5), first to third sentences, of the AWG 2002 applies mutatis mutandis.

(3) Collection and recovery schemes for waste batteries must each report the total quantity of batteries placed on the market and imported for their own use by their participants, broken down by battery category and chemical composition, to the coordinating body electronically via the register no later than seven weeks after the end of each calendar quarter.

(4) In addition to the reports required under Article 75(1) and (2) of the EU Batteries Regulation, and without prejudice to any contractual obligations to provide evidence of proper business conduct, the operator of a collection and recovery scheme must submit reports to the Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management, at least once a year by 10 April of the following year

1. a list of participants, in particular manufacturers and self-importers, indicating the GLN and the quantity of batteries placed on the market or imported for own use in the previous calendar year in respect of which participation in this scheme has taken place; and
2. a quantity of collected waste batteries broken down by battery category and chemical composition

and these to be submitted by means of the register.

(5) Furthermore, the operator of a collection and recovery scheme shall, by 10 September each year at the latest, submit to the Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management an activity and annual report (in any case the annual financial statement with annexed notes) for the previous calendar year showing the financial situation for the area referred to in § 9(1).

(6) Collection and recovery schemes shall include with the annual report an auditor's confirmation of

1. compliance with the tariff principles laid down in § 28c(3) AWG 2002 in conjunction with paragraph 5, taking into account the final costing of the tariffs applicable in the preceding calendar year,
2. compliance with the prohibition on cross-subsidisation pursuant to § 32(3) AWG 2002, and
3. sufficient financial security pursuant to § 29(2) subparagraph 8 AWG 2002, specifying the amount and nature of the security

(7) The operator of a collection and recovery scheme shall publish the general terms and conditions in an appropriate manner. Before any amendment is made to the General Terms and Conditions, the proposed amendment must be submitted to the Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management.

Coordinating body

§ 11. (1) The coordination tasks referred to in § 13b(1) AWG 2002 shall be carried out by the coordinating body designated by the Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management in accordance with § 13b(2) AWG 2002.

(2) Agreements with collection and recovery schemes for waste portable or LMT batteries must include the following provisions, which clarify the provisions of § 13b(1)(1) AWG 2002:

1. Handling of the collection from collection points, in particular
 - a) establishment of the possibility of voluntary undertaking collections within a certain timer frame declared by the operators of the collection points,

- b) deadlines for carrying out collections in accordance with Articles 59 to 60 of the EU Batteries Regulation,
 - c) consent to the direct appointment of an appointed transferee of the collection and recovery scheme by the coordinating body at the scheme's expense if a collection by the scheme is not carried out in good time;
2. Without prejudice to the obligation to bear costs under Article 56(4) and Articles 59 to 60 of the EU Batteries Regulation, the setting of flat-rate fees to cover the costs incurred by municipalities or associations of municipalities in connection with the coordination of collection; in doing so, the following must be taken into account:
 - a) the expected quantities of waste, the equipment required to fulfil the tasks of municipal collection, the service life of the equipment and the possibilities of increasing efficiency with regard to collection;
 - b) the flat-rate fees for financing the collection shall include the necessary costs incurred by the collection points in connection with the take-back and shall be reduced proportionately in relation to the respective quantity of waste portable batteries collected, if these are not returned by the municipalities or associations of municipalities to the manufacturers in the context of the collection coordination;
 - c) the collection and recovery schemes must bear the flat-rate fees in proportion to their respective market shares, whereby the infrastructure costs of the collection points that can be demonstrated to have been covered as part of their own collection activities shall be offset against the respective volume of waste portable and LMT batteries collected in this way, up to a maximum of the proportionate flat-rate fee;
 3. Setting a fee to cover the costs of ensuring that end-users across Austria receive consistent information, to be borne by the coordinating body and by the municipalities or associations of municipalities in proportion to their population; this fee is to be borne by the collection and recovery schemes in proportion to their market shares;
 4. the possible establishment of mandatory subcategories in cases where this is necessary for economic or waste management reasons, in order to reflect different costs;
 5. the designation of the institutions that may act as arbitration bodies, the types of cases that may be referred to arbitration, the duration of the arbitration proceedings and who bears the costs of such proceedings.
- (3) The coordination shall include the following detailed measures pursuant to § 13b(1)(2) AWG 2002:
1. determining the respective shares of responsibility of the collection and recovery schemes for waste portable and LMT batteries, and forwarding any reported collection requirements to the collection and recovery scheme with the highest share of responsibility;
 2. forwarding a reported collection requirement of an end-user of waste starter, industrial or electric vehicle batteries to a collection and recovery scheme for waste starter, industrial or electric vehicle batteries, if no manufacturer responsible for collection and treatment can be identified;
 3. apportionment of the lump sums referred to in subparagraph 2 of paragraph 2 and of the remuneration referred to in subparagraph 3 of paragraph 2;
 4. drawing up an annual plan for information activities in accordance with § 7, involving the operators of collection points.
- (4) The agreements with the collection and recovery schemes for waste starter, industrial or electric vehicle batteries shall include:
1. the possible establishment of mandatory subcategories in cases where this is necessary for economic or waste management reasons, in order to reflect different costs;
 2. the designation of the institutions that may act as arbitration bodies, the types of cases that may be referred to arbitration, the duration of the arbitration proceedings and who bears the costs of such proceedings.
- (5) In carrying out its duties, the coordinating body must comply with the guidelines set out in **Annex 1**,
- (6) The agreements with the collection and recovery schemes for waste starter batteries must specify, in accordance with the provisions of § 13b(1)(1) AWG 2002 that the scheme consents to the handling of collections, in particular from collection points operated by municipalities (associations of municipalities), by the coordinating body through the direct commissioning of a designated contractor of

the collection and recovery scheme at the scheme's expense is granted, if a collection by the scheme is not carried out in good time.

Reporting and forwarding a collection request

§ 12. (1) Collection and recovery schemes for waste portable or LMT batteries must collect such batteries from collection points in accordance with their respective share of responsibility, as set out in **Annex 1**, when the coordinating body notifies them electronically of a collection requirement. Collection and recovery schemes for waste starter batteries must collect waste starter batteries from collection points when the Coordination Office notifies them electronically of a collection requirement.

The forwarding of the collection requirement shall include the following information:

1. GLN of the collection point,
2. estimated quantity per battery (sub)category and
3. the number, type, shape and size of the collection bin.

(2) The collection and recovery scheme shall immediately notify the Coordination Office of the GLN of the authorised transferee.

(3) Before taking delivery of waste portable, LMT or starter batteries, the designated collector must notify the Coordination Office of the collection date (the date on which transport begins) and the GLN of the site to which the waste is expected to be taken.

(4) After collection, the mandated transferee shall report the GLN of the site to which the waste was delivered, the date of receipt and the weighted quantity of the respective battery (sub)category to the Coordination Office.

Obligations of the self-importer of batteries

§ 13. (1) Self-importers (§ 2(1)) are obliged, in the event that there is no manufacturer available to take back the waste batteries (self-import), either

1. a) to treat the waste batteries generated as waste by battery category and
 - b) within the meaning of Articles 70 and 73 of the EU Batteries Regulation and in accordance with § 6, and
 - c) to submit a report via the register, in accordance with § 22 AWG 2002, on the quantities of these waste batteries for each calendar year, starting with the calendar year 2026, broken down by battery category and chemical composition, that
 - aa) have been generated;
 - bb) that were delivered to authorised facilities for treatment;
 - cc) that were delivered to authorised facilities for preparation for reuse or preparation for recovery and
 - dd) that were exported to a third country for the purposes of treatment, preparation for reuse or preparation for recovery,

or

2. to participate in a collection and recovery scheme for these batteries.

(2) Own-use importers who have to fulfil a notification obligation pursuant to paragraph 1 shall register electronically in the register pursuant to § 22(1) AWG 2002 via the website edm.gv.at, giving the information referred to in Article 55(3) of the EU Batteries Regulation and the category or categories of batteries purchased in own import and their chemical composition. Self-importers who purchase batteries for the first time must register within one month of purchase.

Authorised representative for extended producer responsibility

§ 14. (1) The authorised representative for extended producer responsibility appointed pursuant to Article 56(3) of the EU Batteries Regulation or pursuant to § 12b(2) AWG 2002 shall be responsible for fulfilling the manufacturer's obligations under extended producer responsibility for batteries in accordance with Chapter VIII of the EU Batteries Regulation in Austria. A manufacturer may appoint only one authorised representative. The appointment of an authorised representative must be made directly by the manufacturer. The appointment may be transferred to a third person only in cases where the third person can present an express and certified authorisation of the manufacturer. The appointment of an authorised representative as well as amendments or termination of an authorisation may take effect only upon expiry of a calendar quarter. If a mandatory authorisation ceases within a calendar quarter, the manufacturer shall ensure uninterrupted continuation of the fulfilment of the obligations by a new authorised representative.

(2) For registration as an authorised representative for the extended producer responsibility, the following conditions must be met:

1. The authorised representative must be a natural or legal person established in Austria.
2. There must be a delivery address in Austria.
3. Responsibility for compliance with Austrian administrative regulations must be in place (§ 9 Administrative Penal Act, VStG).
4. The appointment must be made by means of a certified power of attorney in German or English, from which the following is evident
 - a) the scope of the authorisation, in particular the respective battery category,
 - b) the express consent of the authorised representative to fulfil the obligations of the appointing manufacturer, and
 - c) the contractual assurance that the authorised representative has been granted the right by the manufacturer to conclude mandatory contracts and that all documents and means necessary for the performance of their duties will be made available

The obligation to certify does not apply to manufacturers established in the European Union.

(3) An authorised representative for the extended producer responsibility shall assume all obligations of a manufacturer under the extended producer responsibility scheme for batteries distributed in Austria to end-users or to parties other than end-users. Furthermore, an authorised representative for the extended producer responsibility shall fulfil the following conditions:

1. registration as an authorised representative in the register in accordance with § 22(1) AWG 2002, specifying the information required under Article 55(3) of the EU Batteries Regulation,
2. Transfer of the data referred to Article 55(3) of the EU Batteries Regulation submitted to the register separately for each manufacturer authorising it pursuant to § 22(1) AWG 2002,
3. Transfer of the report of the manufacturer referred to in Article 75 of the EU Batteries Regulation submitted to the register separately for each manufacturer authorising it pursuant to § 22(1) AWG 2002, and
4. Notification of any cessation of the activities of the person authorising the power of attorney or the authorised representative by means of the register pursuant to § 22(1) AWG 2002.

The data referred to in subparagraph 1 shall be submitted to the register referred to in § 22(1) AWG 2002 within one month of being identified as an authorised representative pursuant to paragraph 4. Changes to the data referred to in subparagraphs 1, and 2 must be notified to the register referred to in § 22(1) AWG 2002 within one month.

(4) Only if the conditions set out in paragraph 2 are met, the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology shall designate an authorised representative in the register as referred to in § 22(1) AWG 2002. If one of the conditions set out in paragraph 2 ceases to be met or the authorising manufacturer or the authorised representative ceases their activities, the Federal Minister shall delete the designation as authorised representative. If the designation is refused or deleted, the Federal Minister shall issue a corresponding decision notice upon request. The appeal against the decision has no suspensive effect.

Penalties

§ 15. (1) Any person who, contrary to

1. Article 55(2) of the EU Batteries Regulation fails to register, or fails to register in good time, in the register referred to in § 22(1) AWG 2002, providing the information specified in Article 55(3) of the EU Batteries Regulation, and places batteries on the market in Austria,
2. does not designate an authorised representative for extended producer responsibility in accordance with Article 56(3) of the EU Batteries Regulation,
3. does not ensure the separate collection of waste portable batteries in accordance with Article 59(1) of the EU Batteries Regulation,
4. does not ensure the separate collection of waste LMT batteries in accordance with Article 60(1) of the EU Batteries Regulation,
5. does not ensure the separate collection of waste starter batteries, waste industrial batteries or waste electric vehicle batteries in accordance with Article 61(1) of the EU Batteries Regulation,
6. fails to take back used batteries free of charge in accordance with Article 62(1) and (5) of the EU Batteries Regulation,

7. Article 62(3), Article 65 and Article 67 of the EU Batteries Regulation: fails to hand over waste batteries to manufacturers or collection points operated by collection and recovery schemes, or to authorised waste collectors or treatment operators,
8. does not collect information as a provider of an online platform in accordance with Article 62(6) of the EU Batteries Regulation,
9. disposes of collected waste batteries or recovers their energy in accordance with Article 70(1) of the EU Batteries Regulation,
10. fails to provide the information specified in Article 73(2) and Article 74 of the EU Batteries Regulation,
11. fails to comply with the reporting obligations to the competent authorities in accordance with Article 75 of the EU Batteries Regulation,
12. does not set up collection points pursuant to § 5(1),
13. does not set up collection bins in accordance with § 5(4),
14. does not have information that is in accordance with § 7,
15. does not participate in a collection and recovery scheme in accordance with § 8(1) or
16. fails to collect, treat or report waste batteries in accordance with § 13,

commits an administrative offence punishable by a fine of between EUR 400 and EUR 41 200, provided that the act does not constitute a criminal offence within the jurisdiction of the courts or is not subject to a more severe penalty under other administrative penalty provisions; however, a person who is professionally active in the waste management sector is punishable by a minimum fine of EUR 4 200.

(2) Any person who, contrary to § 10, fails to comply with the obligations to record, retain, produce or provide evidence, report, provide information or allow inspection, or with the obligations to register, cooperate, notify or correct, or with the obligations to publish, commits – provided that the act does not constitute a criminal offence falling within the jurisdiction of the courts or is punishable by a more severe penalty under other administrative penal provisions – an administrative offence punishable by a fine of up to EUR 3 400.

(3) Any person who, contrary to Article 64 of the EU Batteries Regulation, fails to return waste batteries generated in private households or in agricultural and forestry businesses not required to keep accounts under § 125 of the Federal Tax Code (BAO) to the designated collection points shall be guilty of an administrative offence punishable by a fine of up to EUR 360.

(4) Where manufacturers fail to fulfil their obligation to participate in a collection and recovery scheme in accordance with § 8, they may, in the event of unjustified failure to participate in such a scheme, be liable to a fine of up to twice the amount of the fee payable for participation in an existing collection and recovery scheme. The amount is paid to the legal entity responsible for covering the costs of the bodies entrusted with carrying out the monitoring.

Transitional provisions

§ 16. The notifications of §§ 24 and 25 of the Batteries Regulation, Federal Law Gazette II No 159/2008, last amended by Federal Law Gazette II No 311/2021 must be submitted for the last time for the calendar year 2025.

Enforcement and empowerment

§ 17. The Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management is responsible for the implementation of this Federal Act.

Entry into force

§ 18. (1) This Federal Act shall enter into force on the first day of the month following its promulgation. At the same time, the Battery Ordinance Federal Law Gazette II No 159/2008, shall enter into force as amended by the promulgation Federal Law Gazette II No 311/2021, unless otherwise provided for in paragraph 2, is repealed.

(2) § 6(2) of the Batteries Regulation, Federal Law Gazette II No 159/2008, shall enter into force as amended by the promulgation Federal Law Gazette II No 311/2021 shall cease to have effect at the end of 17 August 2026 and § 8 of the aforementioned Act shall cease to have effect at the end of 17 February 2027.

Annex 1

Rules for the coordinating body pursuant to § 11
Regulations for portable batteries and LMT batteries

1. Quantity fraction of portable batteries or LMT batteries

For the calculation of the quantity fraction, the quantities of portable batteries or LMT batteries placed on the market or imported for own use and reported by collection and recovery schemes since the beginning of a calendar quarter shall be used.

The quantity fraction must be determined separately for each collection and recovery scheme on a quarterly basis; it must be established no later than two weeks after the expiry of the reporting deadline in accordance with § 10(3), and shall take effect for the calculation of the obligation share for the following calendar quarter.

In the event that a collection and recovery scheme ceases to operate at the end of a calendar quarter, the quantities placed on the market by that scheme for the quarters preceding the termination shall no longer be included in the calculation of the quantity fractions of the remaining scheme for the quarters following the termination.

The fixed quantity fractions of the collection and recovery schemes shall be published in each case.

The quantity fraction of a scheme shall be calculated as follows:

The quantity fraction of a scheme (MA_s) is the quantity of batteries in a category (M_s) reported by the scheme (of its participants), divided by the total quantity of all batteries in that category or subcategory reported by all schemes (M_{total}), expressed as a percentage:

$$MA_s \text{ in } \% = 100 \times M_s / M_{total}$$

The quantity fraction changes as a result of the reporting of batteries placed on the market or imported for own use per quarter.

2. Accounting for collected waste batteries (own collection figures)

The amounts collected as part of the organisation's own collection activities will only be taken into account once a declaration has been made in accordance with the provisions of § 10(2).

The coordinating body shall immediately check the plausibility of the notifications received in accordance with § 10(2) and recalculate the compulsory portion of the collection and recovery scheme for the corresponding battery category or subcategory in accordance with the notified quantities.

3. Selection criteria for forwarding a collection requirement

The selection criterion for referring a collection requirement to a collection and recovery scheme is the compulsory portion, which is calculated based on the quantity fraction and the collection portion:

3.1. Collection portion

The collection portion must be calculated on an ongoing basis, taking into account the waste batteries of a particular battery category or subcategory collected by collection and recovery schemes so far in the calendar year.

In the event that a collection and recovery scheme ceases to operate at the end of a calendar quarter, the accumulated quantities of that scheme of the quarters preceding the termination shall no longer be included in the calculation of the collection portion of the remaining schemes of the quarters following the termination.

The collection portion of a scheme is calculated as follows:

The collection rate (AA_s) of a scheme is the quantity of waste batteries of a specific battery category or subcategory (A_s) collected (retrieved) by the scheme, divided by the total quantity of all waste batteries of that battery category or subcategory (A_{total}) collected (retrieved) by schemes, expressed as a percentage:

$$AA_s \text{ in } \% = 100 \times A_s / A_{total}$$

The collection portion changes as a result of

- a) a transfer of the collection requirement following a voluntary assumption of that requirement in accordance with point 4(a),
- b) forwarding the collection requirement in accordance with point 4(b),
- c) taking into account one's own collection performance in accordance with point 2,
- d) any corrections following weighing and reporting of the actual quantity collected,
- e) regarding credits and offsets arising from an annual reconciliation in accordance with point 5.

The collection portion shall be used to calculate the compulsory portion.

3.2. Compulsory portion

For the coordinating body, the compulsory portion forms the basis for forwarding a collection requirement to a collection and recovery scheme.

The compulsory portion is the numerical value, expressed as a percentage, representing the extent of a collection and recovery scheme's obligation to collect waste batteries of a particular battery category or subcategory that have been made available at collection points. The compulsory portion shall be equal to the respective quantity fraction at the beginning of each calendar year.

After each change in the collection portion, the compulsory portion shall be recalculated and notified electronically to the respective scheme and published on the website of the coordinating body.

The compulsory portion of a scheme is calculated as follows:

The current compulsory portion of a scheme (VA_s) shall be determined on the basis of the quantity fraction (MA_s) in accordance with point 1 divided by the currently determined collection portion (AA_s) in accordance with point 3.1.

$$VA_s \text{ in } \% = 100 \times MA_s / AA_s$$

After a calendar quarter has been exceeded, the newly determined quantity fractions of the collection and recovery scheme shall be taken into account for the calculation of the compulsory portion.

4. Forwarding a collection requirement to a collection and recovery scheme

The coordinating body shall keep a list of all collection and recovery schemes for waste batteries in a battery category or subcategory, ranked according to the amount of the resulting compulsory portions, and update it on an ongoing basis. This list shall be made available to the collection and recovery schemes.

The transfer of a collection requirement to a collection and recovery scheme shall be carried out by means of the register as follows:

- a) The transfer resulting from a voluntary undertaking to collect waste in accordance with § 11(2) (1)(a) must be made to the collection and recovery scheme that has agreed to undertake this voluntarily; if several schemes have agreed to undertake collection on a voluntary basis, the coordinating body must select from among these schemes the one that has the highest compulsory portion at the end of the deadline for declaring the voluntary undertaking of collection requirements.
- b) If no scheme has agreed voluntarily to take on the collection requirement, the collection requirement must be forwarded to the collection and recovery scheme that has the highest numerical compulsory portion at the time the collection requirement is received by a collection point. If the compulsory portions of two or more schemes are identical, the scheme with the higher percentage by quantity shall be used.

The time at which a collection requirement is received and the deadline for declaring voluntary taking over of same must be recorded to the nearest minute. The compulsory portion for the collection and recovery scheme obliged to collect waste must be recalculated before a new collection requirement is processed, resulting in a revised ranking of compulsory portions.

A change in the compulsory portion a collection has been forwarded does not affect any forwarding that has already taken place.

- a) of an ordinance pursuant to § 14(1) and in accordance with that regulation, the obligations under § 13a or
- b) an EU Regulation laying down extended producer responsibility obligations for manufacturers and related national accompanying rules

regarding the collection and treatment of certain products or waste and who may legally assume responsibility for providing evidence in this regard;”

4. § 12a(2) is deleted.

5. In § 12b(1), the reference “paragraph 2(3)” is deleted and the following sentence is added:

“The same applies to manufacturers as defined in Article 3(1)(47)(d) of Regulation (EU) 2023/1542 on batteries and waste batteries, amending Directive 2008/98/EC and Regulation 2019/1020, and repealing Directive 2006/66/EC (hereinafter: EU Batteries Regulation), OJ L 191, 28.07.2023, p. 1.’

6. In paragraph 12b(2), the reference “paragraph 2(2)” is deleted and the following sentence is added:

“The same applies to any person who supplies batteries to a retailer in Austria and is established in another Member State or in an EFTA country that is a member of the EEA.”

7. In § 12b(6), the reference “paragraph 2(2) and (3)” is deleted and the following sentence is added:

“The same applies to manufacturers as defined in Article 3(1)(47)(d) of the EU Batteries Regulation and to persons who supply batteries to a retailer in Austria and are established in another Member State or in an EFTA State that is a member of the EEA.”

8. § 12c(1)(4) is deleted.

9. In § 13a(1), the words “or of portable batteries or accumulators” are deleted.

10. § 13a(2) is deleted.

11. § 13a(3)(2) is deleted.

12. § 13a(5), first sentence reads:

“(5) Manufacturers, pursuant to § 12a(1), who

- 1. do not individually fulfil their obligation to take back or
- 2. place electrical and electronic equipment on the market and intend to fulfil their take-back obligation individually,

must in accordance with an ordinance pursuant to § 14(1) register their data according to § 22(2) subparagraphs 1 to 3 and 10 and the data of their collection points pursuant to § 22(2) subparagraphs 1, 2 and 10 and the opening hours for their collection points pursuant to paragraph (1) electronically via the website edm.gv.at.”

13. In the first sentence of § 13b(1) after the words “which of an ordinance referred to in § 14(1)”, the words “or of an EU regulation laying down extended producer responsibility obligations for manufacturers and any accompanying national rules” shall be inserted.

14. In § 13b(1)(10), the words “and portable batteries” are replaced by the words “or the relevant battery category”.

15. § 13b(2) last sentence reads:

“The entrustment may be for an indefinite period and shall require the written consent of the legal entity.”

16. In § 13b, after paragraph 2, paragraph 2a is inserted as follows:

“(2a) The duties referred to in paragraph 1 shall also apply to batteries and waste batteries that are subject to the EU Batteries Regulation. The authorisation referred to in paragraph 2 shall apply mutatis mutandis.’

17. In § 13c(1), the words “or an EU regulation laying down extended producer responsibility obligations for manufacturers and any accompanying national rules” are inserted after the words “pursuant to an ordinance pursuant to § 14(1)”.

18. In § 15(4), the words “or an EU regulation laying down extended producer responsibility obligations for manufacturers and any accompanying national rules” are inserted after the words “pursuant to an ordinance pursuant to § 14(1) or § 23”.

19. § 21(3a) shall be deleted.

20. In § 28(1), the words “with the exception of waste electrical and electronic equipment and waste batteries and accumulators pursuant to an ordinance pursuant to § 14(1)” are replaced by the words “with the exception of waste electrical and electronic equipment pursuant to an ordinance pursuant to § 14(1) and waste batteries”.

21. § 28a including its heading, reads as follows:

“Collection of waste electrical and electronic equipment and waste batteries

§ 28a. The municipalities (or associations of municipalities) must set up a collection point for waste electrical and electronic equipment and for waste portable batteries, LMT and starter batteries from private households. The municipalities (or associations of municipalities) must publicise the collection point and its opening hours. Waste electrical and electronic equipment and waste portable, LMT and starter batteries shall be accepted at these points at least free of charge. The municipalities (or associations of municipalities) may, once a quantity threshold specified in an ordinance pursuant to § 14(1) has been reached, report a collection requirement to the coordinating body in accordance with § 13b at least twice per calendar year; the collection and treatment category in accordance with an ordinance pursuant to § 14(1) and the collection bins used must be specified. The quantity threshold for waste portable and LMT batteries is 300 kg each, and for waste starter batteries 600 kg. In accordance with Article 66(2)(b) of the EU Batteries Regulation, the municipalities (or associations of municipalities) may themselves take responsibility for the treatment of collected waste batteries in accordance with Article 70 of the EU Batteries Regulation.”

22. In § 28c(3)(1), the words “, batteries and accumulators” are deleted.

23. In § 29(4), after the words “in accordance with an ordinance pursuant to § 14(1)” and “in accordance with an ordinance pursuant to § 14(1)”, the words “or an EU regulation laying down obligations on extended producer responsibility for manufacturers, as well as related national accompanying regulations,” are inserted.

24. In § 29a(1)(2), the words “or an EU regulation establishing extended producer responsibility obligations for manufacturers, and any accompanying national rules” are inserted after the words “in accordance with an ordinance pursuant to § 14(1)”.

25. § 32(1)(2) reads as follows:

“2. Collection and recovery schemes for waste portable, LMT or starter batteries; and”

26. In § 32(2), the words “or an EU regulation laying down extended producer responsibility obligations for manufacturers and any accompanying national rules” are inserted after the words “with each obliged entity pursuant to a regulation pursuant to § 14(1)”.

27. In § 32(3), the words “or categories of an EU regulation laying down extended producer responsibility obligations on manufacturers and any accompanying national rules” are inserted after the words “group categories of an ordinance pursuant to § 14(1)”.

28. § 32(4) is deleted.

29. In § 42(1), at the end of subparagraph 13, before the comma, the following words are added: “; environmental organisations recognised under § 19(7) of the Environmental Impact Assessment Act 2000 (UVP-G 2000) may lodge an appeal irrespective of their participation in the administrative proceedings”.

30. In § 42(1), at the end of subparagraph 14, the full stop is replaced by a comma, and the following phrase is added as a concluding clause: “Environmental organisations from another State within the meaning of points (a) to (c) may lodge an appeal irrespective of whether they have participated in the administrative proceedings.”.

31. In § 59d(1)(3) AWG 2002, after the words “Seveso substances” the word “or” is replaced by the word “and”.

32. In § 73(1)(1), after the words “in accordance with the EC Waste Shipment Regulation” the words “in accordance with the EU Batteries Regulation” are inserted.

33. In § 75(2), after the words “by means of an ordinance pursuant to § 14 and § 14a” the words “or an EU regulation laying down extended producer responsibility obligations for manufacturers, as well as related national accompanying regulations,” are inserted and the words “and accumulators” are deleted.

34. In § 75(3), the words “of judicial criminal proceedings or” are inserted after the word “introduction”.

35. In § 75(7)(2), the word “and” is deleted, in subparagraph 3 the word “and” is added, and the following subparagraph 4 is inserted after subparagraph 3:

“4. Chapter VIII of Regulation (EU) 2023/1542 on batteries and waste batteries, amending Directive 2008/98/EC and Regulation 2019/1020 and repealing Directive 2006/66/EC (hereinafter: EU Batteries Regulation), OJ L 191, 28.07.2023, p. 1,”

36. The following paragraphs 30 and 31 are added to § 78:

“(30) In the case of collection and recovery schemes which, at the time this Act comes into force, hold a valid authorisation under § 29(1) for one or more categories of batteries or which are authorised to continue operating under § 29(7), such authorisation shall remain valid upon the entry into force of this Act. In this regard, the following shall apply:

1. A permit issued for the category of waste portable batteries shall constitute a permit for the categories of waste portable batteries and waste LMT batteries pursuant to § 2(4) of the Act accompanying the implementation of the EU Batteries Regulation.
2. An authorisation granted for the waste vehicle batteries category shall be deemed to be an authorisation for the waste starter batteries category in accordance with § 2(4) of the Act accompanying the implementation of the EU Batteries Regulation.
3. A permit granted for the category of waste industrial batteries shall be deemed to be a permit for the categories of waste industrial and electric vehicle batteries in accordance with § 2(4) of the Act accompanying the implementation of the EU Batteries Regulation.

(31) For a legal entity entrusted with coordination tasks in the field of batteries pursuant to § 13b(2) on the date of entry into force of this Act, the decision shall also apply to the tasks established pursuant to § 11 of the Act accompanying the implementation of the EU Batteries Regulation in the field of management of waste batteries.”

37. In § 79(1)(7b), the words “waste portable batteries and accumulators” are replaced by the words ‘waste portable batteries, waste LMT batteries and waste starter batteries’.

38. In § 79(2)(2b), the words “portable batteries or accumulators” are deleted.

39. After § 83, the following § 83a is inserted:

“Mandatory indication of the identification number in the customs declaration

§ 83a. When goods are released for free circulation, the customs declaration must include

1. the identification number pursuant to § 22(1), second sentence (GLN), of the primary party responsible for packaging pursuant to § 13g(1), who may also be a manufacturer pursuant to § 12a, and
2. the identification number pursuant to § 22(1), second sentence (GLN), of the authorised representative of the primary party responsible for packaging pursuant to § 13g(1), who may also be a manufacturer pursuant to § 12a,

to be specified where a product or packaging designated according to § 12a is sold commercially directly to private end-users in Austria by means of distance communication technology and the primary party responsible for packaging under § 13g(1) – who may also be a manufacturer according to § 12a – is established in another Member State or in a third country.”

40. In § 86(2), the words “, batteries and accumulators” shall be deleted.

41. In § 87a(1), the words “or an EU regulation laying down extended producer responsibility obligations for manufacturers and any accompanying national rules” are inserted after the words “pursuant to an ordinance pursuant to § 14(1)”.

42. *The following paragraph 8 is added to § 87a:*

“(8) A coordinating body as defined in § 13b may access data from the registers in order to carry out its tasks under § 13b(1) or under § 11 of the Accompanying Act implementing the EU Batteries Regulation in the field of waste battery management.”

43. *In § 87d(1), the phrase “, ‘batteries and accumulators’” is deleted.*

44. *The following paragraphs (51) to (52) are added to § 91:*

“(51) The entries in the table of contents relating to §§ 28a, 83a, § 2(8), § 12b(1), (2) and (6), § 12c(1), § 13a(1), (2), (3) and (5), § 13b(1), (2) and (2a), § 13c, § 15(4), § 28(1), § 28a including heading, § 28c(3), § 29(4), § 29a(1), § 32(1) to (4), § 42(1)(13) and (14), § 59d(1), § 73(1), § 75(2), (3) and (7), § 78(30) and (31), § 79(1) and (2), § 83a, § 86(2), § 87a(1) and (8) and § 87d(1) as amended by the Federal Act Federal Law Gazette II No xxx shall enter into force on the day following promulgation. At the same time, paragraph 12a(2) in the version in force at that time shall cease to apply.

(52) § 21(3a) as amended by the Federal Act Federal Law Gazette I No xxx shall cease to have effect on 30 June 2026.”

Article 3

Federal Act on the Market Surveillance of Batteries (Batteries Market Surveillance Act – BattMüG 2026)

1. General provisions

Scope

§ 1. (1) This Federal Act regulates the placing on the market, making available on the market and putting into service of batteries within the meaning of Regulation (EU) 2023/1542 on batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC (hereinafter: (EU Batteries Regulation), OJ No L 191, 28 July 2023, p. 1.

(2) For the purposes of this Act, products means all categories of batteries, namely portable batteries, batteries for light means of transport (hereinafter ‘LMT batteries’), starter batteries, electric vehicle batteries and industrial batteries, as defined in the EU Batteries Regulation.

Authorisation to issue statutory instruments

§ 2. (1) The Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management may issue statutory instruments for products referred to in § 1(2) in order to safeguard the interests set out in the EU Batteries Regulation.

(2) The following requirements may be laid down by statutory instrument pursuant to paragraph 1.

1. Requirements relating to the placing on the market, making available on the market and putting into service of these products, including market surveillance;
2. Obligations of economic operators and, in accordance with the provisions of Union law, also obligations of other natural or legal persons;
3. Requirements for the display of these products;
4. Requirements for notified bodies.

2. Notification of conformity assessment bodies

Notifying authority

§ 3. The authority responsible for notifying conformity assessment bodies for products in accordance with § 1(2) is the Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management.

Notification procedures

§ 4. (1) The Federal Minister for Agriculture, Forestry, Climate and Environmental Protection, Regions and Water Management shall be the competent body for the establishment and implementation of the necessary procedures for the assessment and notification of conformity assessment bodies and for the monitoring of notified bodies, including compliance with Article 27 of the EU Batteries Regulation. An application for notification of a conformity assessment body as a notified body for products in accordance with § 1(2) shall be submitted to the Federal Minister for Agriculture and Forestry, Climate

and Environmental Protection, Regions and Water Management. Provided that this sub-section has been established in a register in accordance with § 22(1) AWG 2002, the application must be submitted via that register.

(2) For the scope of notification requested, the applicant conformity assessment body shall demonstrate compliance with the requirements of Article 25 of the EU Batteries Regulation and shall provide an accreditation certificate from an accreditation body within the meaning of Regulation (EC) No 765/2008 on the requirements for accreditation and repealing Regulation (EEC) No 339/93, OJ No L 218, 13.08.2008, p. 30, as amended by Regulation (EU) 2019/1020 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011, OJ No L 169, 25.06.2019, p. 1, showing that the conformity assessment body meets the requirements for notified bodies laid down in Article 25 of the EU Batteries Regulation and in the respective Regulation pursuant to § 2(2).

(3) If the applicant conformity assessment body does not have a valid accreditation certificate, the notifying authority shall reject the application. This also applies in case the requested scope of notification is not covered by the submitted accreditation certificate.

(4) The notifying authority shall issue a decision on the granting, refusal, revocation, suspension or restriction of the notification applied for, as well as on any extension thereof. Conditions or requirements may be imposed.

(5) The notifying authority shall transmit information through a notified body to the European Commission for publication by means of the electronic NANDO system.

(6) Where a notified conformity assessment body no longer fulfils its obligations, the notifying authority may restrict, suspend or withdraw the notification. In doing so, it takes into account the extent to which these obligations have not been met. This also applies to changes in the scope of accreditation. In the event of withdrawal or if the notified body ceases its activities, the notifying authority shall be empowered to impose appropriate measures to ensure that the files of that body are taken over by another notified body and that the files are kept available for the market surveillance authority and for the notifying authority upon request. The notified body shall notify the notifying authority of the intended cessation of its activities in a verifiable and timely manner and at least before the actual cessation.

(7) The applicant shall submit any change of circumstances pursuant to Article 25 of the EU Batteries Regulation to the notifying authority without undue delay and at the latest within 14 days, together with the relevant documents.

(8) The Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management shall notify the European Commission and the other Member States of any subsequent relevant changes to the notification in accordance with paragraph 5.

(9) The Federal Minister for Agriculture, Forestry, Climate and Environmental Protection, Regions and Water Management may, by statutory instrument, lay down more detailed provisions on the notification procedure, in particular the content and form of the forms and data formats to be used. In doing so, it must take into account the binding international regulations.

Appeals against decisions made by conformity assessment bodies

§ 5. (1) Appeals against decisions made by notified bodies may be lodged with the Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management.

(2) The Federal Minister for Agriculture, Forestry, Climate and Environmental Protection, Regions and Water Management shall examine complaints lodged in accordance with paragraph 1 and may, where appropriate, initiate a procedure in accordance with § 4(4) of this Federal Act.

(3) The Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management may, by statutory instrument, lay down further provisions regarding the appeals procedure referred to in paragraph 1.

3. Market surveillance

General information about market surveillance

§ 6. (1) The market surveillance authority within the meaning of this Federal Act is the Federal Minister for Agriculture and Forestry, Climate and Environmental Protection, Regions and Water Management. The Federal Minister for Agriculture, Forestry, Climate and Environmental Protection, Regions and Water Management may use an appropriate organisation as an external market surveillance authority to fulfil the tasks of market surveillance.

(2) Within the scope of its activities, the Customs Authority Austria shall cooperate in market surveillance in accordance with Chapter VII of Regulation (EU) 2019/1020. In the context of this cooperation, the Customs Authority Austria shall communicate to the market surveillance authority the information obtained in the course of its customs activities which is necessary for the performance of the tasks of the market surveillance authority and for the implementation of this Federal Act. This also applies to personal information obtained by the Customs Authority Austria in the course of its customs activities.

(3) In order to fulfil the tasks assigned to them under this Federal Act and their information and reporting obligations as set out in Regulation (EU) 2019/1020, the Market Surveillance Authority and the Customs Authority Austria are authorised to transmit data, process it using automated means and forward it to the competent authorities of the European Union and other Member States. Such data may be personal in so far as it is necessary, for example, for the identification of a product or for its traceability in the supply chain.

Supervision

§ 7. (1) The placing of batteries on the market and their putting into service are subject to supervision by the market surveillance authority with regard to compliance with the provisions of the EU Batteries Regulation and this Federal Act, in accordance with the following paragraphs and §§ 8 to 13. This is without prejudice to provisions on supervision contained in other legislation.

(2) The bodies of the market surveillance authority shall be authorised by economic operators for the purpose of supervision to enter the land or premises in which batteries are located or are to be presumed to be located. Economic operators are obliged to provide all necessary assistance and to supply all necessary information, in particular regarding the origin of batteries, as well as to produce documentation and user information upon request and to allow samples to be taken. To the extent necessary to carry out its statutory tasks, the market surveillance authority may, on a case-by-case basis, require economic operators to provide records of conformity assessment procedures in a German translation, unless they are available in English.

(3) When supervising the making available of batteries on the market, any disruption or hindrance to business operations or operational processes must be kept to the absolute minimum necessary.

Market supervision powers and measures

§ 8. (1) In accordance with Article 11(3) of Regulation (EU) 2019/1020, the market surveillance authority shall, by means of appropriate sampling, verify in an appropriate manner and to a reasonable extent whether products referred to in § 1(2) comply with the requirements laid down in Regulation (EU) 2023/1542. For this purpose, it shall inspect documents or, where appropriate, carry out physical checks and laboratory tests.

(2) In order to carry out its tasks in the context of market surveillance, the market surveillance authority shall have the powers referred to in Article 14(4)(a) to (h) and (j) and (k)(i) of Regulation (EU) 2019/1020.

(3) An improvement order must be issued to economic operators by way of a formal notice if the identified deficiencies can be rectified by the relevant economic operator in the supply chain. In doing so, the market surveillance authority must set a reasonable deadline by which compliance with the law must be achieved. If the deadline has passed without proof having been provided to the authority that the identified defects have been rectified, the product must be withdrawn from the market.

(4) Economic operators shall be required, by means of a formal notice, to withdraw the product from the market and recall it. Where withdrawal from the market or recall can be addressed to persons who are not individually identifiable, the market surveillance authority may order the withdrawal from the market or recall of that product by regulation. The nature and type of the product to which the market withdrawal or recall relates must be specified.

(5) The market surveillance authority may require an economic operator concerned, insofar as this is necessary, particularly in view of the extent to which the battery is in use among the general public and the risk posed by the battery, to issue a public notice or have such a notice issued via appropriate media and technologies, including the Internet, to be specified at the same time.

(6) When applying the supervisory measures referred to in paragraph 1, the least onerous means necessary to achieve the objective must be used in each case. The decision as to whether a battery poses a risk and the decision as to the extent of any risk shall be determined by the market surveillance authority on the basis of an appropriate risk assessment, taking into account the nature of the risk and the likelihood

of its occurrence. In doing so, due regard must be paid to international experience and the state of the art practices.

(7) Supervisory measures ordered by a decision shall be repealed at the request of the addressee of the decision if it is demonstrated to the market surveillance authority that the legally required condition has been established.

(8) If it is established that a battery poses a risk to human health or safety or to other public interests (§ 1(3) AWG 2002), even though it complies with the requirements of the EU Batteries Regulation and this Federal Act, the market surveillance authority shall issue a notice to the relevant economic operator requiring it to take appropriate measures to ensure that the battery in question no longer poses this risk when placed on the market, or that it is withdrawn from the market or recalled within a period to be specified that is proportionate to the nature of the risk.

(9) The market surveillance authority shall require the economic operator to extend its corrective measures to all affected batteries that it has made available on the market in the European Union.

(10) The market surveillance authority is authorised to request from the notified bodies the information and documentation necessary for the performance of its duties.

(11) The market surveillance authority shall have the power to require economic operators to provide all the information and documentation necessary to demonstrate the conformity of the product. The economic operator must provide these documents and details in German.

Information exchange rapid information system RAPEX

§ 9. (1) The national contact point for RAPEX (Rapid Information Exchange System) is the Federal Minister for Labour, Social Affairs, Health, Care and Consumer Protection.

(2) Where measures pursuant to § 8 or pursuant to Article 79(4) or Article 81(1) of the EU Batteries Regulation or pursuant to Article 19 of Regulation (EU) 2019/1020 are taken or planned in respect of a product posing a serious risk, the market surveillance authority shall immediately forward the necessary information to the national contact point via RAPEX.

(3) Where the conditions set out in Article 20 of Regulation (EU) 2019/1020 are met, the European Commission must be notified via RAPEX through the Federal Minister for Labour, Social Affairs, Health, Care and Consumer Protection.

Provisional supervisory measures to avert danger

§ 10. (1) Where it is necessary to avert an imminent danger to the life or health of persons or in the public interest, the market surveillance authority may take measures in accordance with § 8 on the spot, even without prior proceedings. A written decision on this shall be issued without delay. Unless that decision is taken within one month, the administrative measures shall be deemed to have been revoked. However, the measures shall not be deemed to have been revoked if the notice is served in accordance with § 19 of the Service of Documents Act (ZustG), Federal Law Gazette No 200/1982, has been returned to the authority due to non-delivery.

(2) Measures taken pursuant to paragraph 1 shall be lifted immediately once it has been firmly established that the battery is no longer being supplied or that it has been improved to the extent that it complies with the requirements of the EU Batteries Regulation.

(3) Decisions under paragraphs 1 and 2 are immediately enforceable.

Cooperation with the competent authorities of the Member States of the European Union

§ 11. Measures pursuant to § 8 may also be taken on the basis of substantiated notifications from foreign authorities authorised to do so under international agreements, which have established that the regulations have been infringed.

Technical and administrative checks

§ 12. (1) If the determination of whether a battery complies with the EU Batteries Regulation or this Federal Act cannot be made on the spot without further ado, the battery shall be made available for inspection by the economic operator at its expense at the designated location and at the designated time at the request of the market surveillance authority. The market surveillance authority may have the battery tested by an authorised testing body.

(2) Where there is a suspicion that a battery does not comply with the essential requirements laid down in the EU Batteries Regulation, economic operators shall, at the request of the market surveillance authority, make batteries available for verification at their own expense. The transport costs incurred shall be borne by the relevant economic operator.

(3) If, following the checks referred to in paragraph 1 or 2, a decision is issued in accordance with paragraph 8, the costs of the checks shall be charged to the addressee of the decision at the same time. If no such notice is issued, the tested battery must be returned in perfect condition. If this is not possible, compensation must be paid, upon request, in an amount equal to the proven cost price of the battery.

Authorisation for international data exchange

§ 13. (1) Insofar as is necessary for the performance of the market surveillance tasks conferred upon it by this Federal Act, the market surveillance authority shall be entitled to provide the European Commission and the authorities responsible for the enforcement of the relevant legal provisions in the Member States of the European Union, the European Economic Area and the European Free Trade Association with data on economic operators and battery- and device-specific data, and to transmit documents required by them for the performance of their tasks. This also includes the transmission of data for processing in foreign or international databases, provided that they are maintained by one of these authorities or are under the supervision of one of these authorities.

(2) Where a battery poses a risk, the market surveillance authority shall immediately inform the European Commission and the other Member States of the European Union of the national measures taken in accordance with § 9 and shall communicate to them all available information, in particular the data for the identification of the batteries concerned, their origin, their supply chain, the nature of the risk and the nature and duration of the national measures taken.

(3) The market surveillance authority shall immediately notify the European Commission of measures taken pursuant to § 8 if the grounds for ordering such a measure extend beyond the national territory. The market surveillance authority shall notify the European Commission of any amendments to or the repeal of these measures.

(4) Data on economic operators transmitted in accordance with paragraphs 1, 2 and 3 may also be personal, insofar as this is necessary for the identification of a product, its traceability in the distribution chain and the risk assessment.

Fees

§ 14. (1) Fees sufficient to cover costs shall be payable for administrative acts carried out under this Act. The fees are earmarked for the implementation of this Federal Act for the market surveillance authority to collect. Where the checking of a battery by the market surveillance authority reveals its non-compliance, the economic operator shall be required by the market surveillance authority to bear the costs incurred as a result of the checking by means of a decision.

(2) The fees for the administrative procedures to be carried out under this Federal Act shall be determined by the market surveillance authority in agreement with the Federal Minister of Finance by statutory instrument. The fees shall be determined in accordance with the personnel and material expenses incurred as a result of the administrative act. The cost-covering fees are to be collected for the purpose of the implementation of this Federal Act for the market surveillance authority.

4. Final provisions

Penalties

§ 15. Any person who

1. places a battery on the market as a manufacturer
 - a) that contains substances contrary to Article 6 of the EU Batteries Regulation,
 - b) for which, contrary to Article 7 of the EU Batteries Regulation, no carbon footprint declaration has been drawn up,
 - c) that does not meet the recycling targets set out in Article 8 of the EU Batteries Regulation,
 - d) that does not meet the requirements for the performance and durability of general purpose portable batteries set out in Article 9 of the EU Batteries Regulation,
 - e) that does not meet the performance and durability requirements for rechargeable industrial batteries, LMT batteries and electric vehicle batteries as set out in Article 10 of the EU Batteries Regulation,
 - f) that does not meet the requirements relating to the removability and interchangeability of portable batteries and LMT batteries in accordance with Article 11 of the EU Batteries Regulation,
 - g) that does not bear the markings and labels provided for in Article 13 of the EU Batteries Regulation, or

- h) without complying with the requirements of Article 38(6) and (7) and Article 41(2) of the EU Batteries Regulation,
2. as a manufacturer, does not provide the information provided for in Articles 7, 8, 14, 73 and 74 of the EU Batteries Regulation,
 3. as a distributor, including by means of distance selling, does not check whether the manufacturer of the battery is registered in the register pursuant to § 22 AWG 2002,
 4. as a distributor, fails to comply with the information requirements set out in Article 74(4) and (5) and Article 42(2) to (5) of the EU Batteries Regulation,
 5. as an economic operator, places on the market or puts into service batteries that have been prepared for repurposing, prepared for reuse, reused or recycled in contravention of the provisions of Article 45 of the EU Batteries Regulation,
 6. breaches its obligations under Article 4(1), (3) or (4), Article 5 or Article 7 of Regulation (EU) 2019/1020, insofar as they relate to products within the meaning of § 1(2).
 7. fails to provide assistance or to supply information, contrary to § 7(2), or
 8. contrary to § 8 does not comply with an order of the market surveillance authority
- commits an administrative offence punishable by a fine of up to EUR 25 000, unless the offence constitutes a criminal offence falling within the jurisdiction of the courts or is punishable by a more severe penalty under other administrative penalty provisions.

References

§ 16. References in this Federal Act to other Federal Acts shall be construed as references to the version in force at the time.

Entry into force

§ 17. This Regulation shall enter into force on the day following its promulgation.