

**SECOND SUPPLEMENT TO THE
GIBRALTAR GAZETTE**

No. 2,862 of 17th August, 1995.

LEGAL NOTICE NO. 117 OF 1995

INTERPRETATION AND GENERAL CLAUSES ACT

PUBLIC HEALTH ACT

PUBLIC HEALTH (WASTE) (No. 2) REGULATIONS 1995

In exercise of the powers conferred on it by section 23 of the Interpretation and General Clauses Act, and of all other enabling powers, and for the purpose of transposing into the national law of Gibraltar Council Directives 75/442/EEC, as amended by Council Directives 91/156/EEC and 91/692/EEC, 75/439/EEC, as amended by Council Directives 87/101/EEC and 91/692/EEC, 76/403/EEC and 91/157/EEC and Commission Directive 93/86/EEC, the Government has made the following regulations —

Title and commencement.

1. These regulations may be cited as the Public Health (Waste) (No. 2) Regulations 1995 and, subject to regulation 3, shall come into effect on the 1st day of September 1995.

Amendment to the Public Health Act.

2. The Public Health Act is amended —

- (a) by inserting after section 192 the following new Part —

“PART VA — WASTE.

Interpretation.

192A. In this Part and in Schedules 12 to 18, unless the context shall otherwise require —

“batteries” and “accumulators” have the meaning given to them by section 192K(1);

“the Batteries Directive” means Council Directive 91/157/EEC;

“the Directive” means Council Directive 75/442/EEC on Waste, as amended by Council Directives 91/156/EEC and 91/692/EEC and, unless the context shall otherwise require, expressions which are used in this Part and which are also used in the Directive shall have the same meaning as in the Directive;

“disposal” —

- (a) in relation to waste oil, means destruction or any of the operations specified in Schedule 12; and
- (b) in relation to any other waste means any of the operations specified in Schedule 12;

“holder” means the producer of waste or the person who is in possession of it;

“the Marking Directive” means Commission Directive 93/86/EEC adapting the Batteries Directive to technical progress;

“PCBs” means polychlorinated biphenyls or polychlorinated terphenyls, or any mixture of the two;

the “PCBs Directive” means Council Directive 76/403/EEC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls;

“recovery” —

- (a) in relation to waste oils means operations designed to permit their re-use, that is to say —
 - (i) any process whereby base oils can be produced by refining waste oils, in particular by recovering the contaminants, oxidation products and additives contained in such oils;

(ii) the use of waste oils as fuel with the heat produced being adequately recovered;

(b) in relation to any other waste, means any of the operations specified in Schedule 13.

“waste” means any substance or object in the categories specified in Schedule 14 which the holder discards or intends to discard, or is required to discard;

“waste oil” means oil falling within the definition of waste oils in the Waste Oils Directives which is waste;

“Waste Oils Directive” means Council Directive 75/439/EEC on the disposal of waste oils as amended by Council Directives 87/101/EEC and 91/692/EEC.

Application of Part VA and Schedules 12 to 18.

192B. (1) The purpose of this Part and Schedules 12 to 18 is to give effect to the directives mentioned in sub-section (2), and this Part and those Schedules shall be construed accordingly.

(2) The directives referred to in sub-section (1) are —

- (a) the Directive;
- (b) the Batteries Directive (other than Articles 3.2 and 9);
- (c) The Marking Directive;
- (d) the PCBs Directive;
- (e) the Waste Oils Directive.

(3) This Part shall not apply to —

- (a) gaseous effluents emitted into the atmosphere;
- (b) where they are already covered by other provisions of this or any other legislation applicable in Gibraltar —

- (i) radioactive waste;
- (ii) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries;
- (iii) animal carcasses and the following agricultural waste, namely faecal matter and other natural, non-dangerous substances used in farming;
- (iv) waste waters with the exception of waste in liquid form;
- (v) decommissioned explosives.

Competent authority.

192C. (1) The competent authority for the purposes of each of the directives referred to in section 192B(2) shall be the Government.

(2) The Government shall discharge its functions under this Part with the objectives (inter alia) set out below.

(3) In respect to functions pertaining to waste the objectives shall be —

- (a) ensuring that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and in particular —
 - (i) without risk to water, air, soil, plants or animals;
 - (ii) without causing a nuisance through noise or odours;
 - (iii) without adversely affecting the countryside or places of special interest;
- (b) establishing an integrated and adequate network of waste disposal installations, taking account of the best available technology not involving excessive costs;

- (c) securing that the network established under paragraph (b) —
 - (i) enables the European Community as a whole to become self-sufficient in waste disposal and the member States to move towards that aim individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste;
 - (ii) enables waste to be disposed of in one of the nearest appropriate installations by means of the most appropriate methods and technologies in order to ensure a high level of protection for the environment and public health;
 - (d) ensuring that waste management plans prepared under section 192M are implemented.
- (4) In respect of functions pertaining to waste oils the objectives shall be —
- (a) securing that waste oils are collected and disposed of without causing any avoidable damage to man and the environment;
 - (b) where technical, economic and organisational constraints allow, giving priority to measures for the processing of waste oils by regeneration;
 - (c) where waste oils are not regenerated on account of the constraints mentioned in paragraph (b), ensuring that any such operation as is referred to in paragraph (a) of the definition of recovery in section 192A(1) is carried out under environmentally acceptable conditions in accordance with the Waste Oils Directive provided that such operation is technically, economically and organisationally feasible;
 - (d) where waste oils are not submitted to the operations referred to in paragraphs (a) and (b) of the definition of 'recovery' in section 192A(1) on account of the constraints mentioned in paragraphs (b) or (c), taking the measure

GIBRALTAR GAZETTE, No.2,862, Thursday 17th August, 1995.

necessary to ensure their safe destruction or their controlled storage or tipping.

Waste licences.

192D. (1) Subject to the provisions of this section no person shall carry out a prescribed activity without first having obtained a licence from the Government.

(2) The prescribed activities for the purposes of this section are —

- (a) in respect of waste —
 - (i) disposal;
 - (ii) abandonment, dumping or otherwise depositing on land in so far as such activity is not disposal;
 - (iii) recovery; and
- (b) additionally in the case of waste oil —
 - (i) collection;
 - (ii) disposal;
 - (iii) regeneration or use as fuel;
 - (iv) storage;
 - (v) disposal of the residues of regeneration or from combustion.

(3) Subject to this section, section 192G (provisions as to waste oils), and section 192H (use of waste oils as fuel), the Government shall on receipt of a duly made application for a licence —

- (a) grant a licence; or
- (b) extend a licence.

(4) Notwithstanding sub-section (3) the Government may refuse to grant a licence to an applicant —

- (a) if it is satisfied that the applicant is unlikely to be able to comply with the requirements of this Part or Schedules 12 to 18;
 - (b) if the intended method to be used to carry out a prescribed activity is unacceptable from the point of view of environmental protection;
 - (c) additionally in the case of waste oil, if it is not satisfied that all appropriate environmental health protection measures have been taken including use of the best technology available where the cost is not excessive;
 - (d) the procedures of section 192Q (procedures for licence application) have not been materially complied with;
 - (e) fees due under section 192R have not been paid.
- (5) A licence granted under this section may —
- (a) authorise a prescribed activity to be carried out for a specified time;
 - (b) be extended from time to time;
 - (c) be granted subject to conditions and obligations.
- (6) A licence granted under this section shall specify —
- (a) the type and quantities of waste;
 - (b) the technical requirements;
 - (c) the security precautions to be taken;
 - (d) the disposal site;
 - (e) the treatment method.
- (7) A person who contravenes the provisions of sub-section (1) or contravenes a condition or obligation attached under sub-section (5)(c) to a licence granted to him, shall be guilty of an offence and shall be liable

on summary conviction to a fine not exceeding twice the amount at level 5 on the standard scale.

Registration of certain establishments and undertakings.

192E. (1) No establishment or undertaking shall carry out the activities described in sub-section (2) unless it has first registered with the Government.

(2) The activities referred to in sub-section (1) are —

- (a) collecting waste on a professional basis; or
- (b) arranging as dealers or broker for the disposal or recovery of waste on behalf of another person.

(3) The Government shall establish and maintain a register of establishments and undertakings for the purposes of this section.

(4) An establishment or undertaking desirous of being registered under this section shall give notice in writing to the Government of its desire.

(5) A notice under sub-section (4) shall include particulars of —

- (a) the name of the establishment or undertaking;
- (b) the place where the activity is to be carried out; and
- (c) the place where the establishment or undertaking may be contacted in relation to the relevant activity.

(6) Upon receipt of a notice under sub-section (4) containing the particulars required by sub-section (5), together with any fee in accordance with section 192R, the Government shall register the establishment or undertaking.

(7) An establishment or undertaking which contravenes the provisions of sub-section (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Duty of holders.

192F. A holder shall be guilty of an offence and shall on summary conviction be liable to a fine not exceeding level 5 on the standard scale if without reasonable excuse he causes waste to be handled by —

- (a) a person other than a person acting as a waste collector; or
- (b) an establishment or undertaking acting in contravention of section 192E(1).

Provisions as to waste oils.

192G. (1) In granting a waste licence for the regeneration of waste oils under section 192D(2)(b)(iii) the Government shall impose such conditions as are necessary to require the applicant to carry out the regeneration in such a way that —

- (a) the risks associated with the quantity of residues of regeneration and with the toxic and dangerous character of such residues, are reduced to a minimum;
- (b) the base oils derived from regeneration do not constitute a toxic and dangerous waste (as defined in Article 1(b) of Directive 78/319/EEC) and do not contain PCBs in concentrations in excess of 50 parts per million;
- (c) during storage and collection, waste oils are not mixed with —
 - (i) PCBs; or
 - (ii) toxic and dangerous waste (within the meaning of Directive 78/319/EEC).

(2) The conditions may permit the regeneration of waste oils containing PCBs if the regeneration processes make it possible either to destroy the PCBs or to reduce them so that the regenerated oils do not contain PCBs in concentrations which exceed 50 parts per million.

(3) The reference method of measurement to determine the concentration of PCBs in waste oils shall be that which shall from time to

time be fixed by the Commission under Article 10.4 of the Waste Oils Directive.

(4) A person who without reasonable excuse carries out activities described in sub-section (5) shall be guilty of an offence and shall on summary conviction be liable to a fine not exceeding twice the amount at level 5 on the standard scale.

(5) The activities referred to in sub-section (4) are —

- (a) discharging waste oils into surface water or ground water;
- (b) depositing or discharging —
 - (i) waste oils harmful to the soil; or
 - (ii) any uncontrolled residues resulting from the processing of waste oils.

Use of waste oils as fuel.

192H. (1) In granting a licence under section 192D for the use of plant in which waste oils are to be burned as fuel, the Government shall impose such conditions in respect of the emission into the atmosphere of substances listed in Column 1 of Schedule 15 as will ensure —

- (a) in the case of a substance for which a limit value is specified in Column 2 of that Schedule, that the concentration of that substance in such emissions does not exceed that limit value; and
- (b) in the case of such a substance for which a limit value is not so specified, that emissions of that substance are prevented or, where that is not practicable, reduced to a minimum and rendered harmless.

(2) Where emissions into the atmosphere of the substances listed in Column 1 of Schedule 15 arise in part from the combustion of waste oils, and in part from heating products, sub-section (1) shall apply only to that proportion of those substances which arises from the combustion of the waste oils.

(3) A licence may not be granted under section 192D for the burning as fuel of waste oils which —

- (a) constitute a toxic and dangerous waste as defined in Article 1(b) of Council Directive 78/319/EEC on toxic and dangerous waste; or
- (b) contain PCBs in concentrations greater than 50 parts per million.

Provisions as to PCBs.

192J. (1) If it appears to it that there are appropriate installations in Gibraltar, the Government shall designate installations at which PCBs may be disposed of (whether the PCBs are produced wholly or partly at the installation).

(2) No person shall dispose of PCBs other than at an installation designated under sub-section (1).

(3) The Governor may make rules for the control of installations designated under sub-section (1) and of the processes by which PCBs may be disposed of at such installations.

Provisions as to batteries and accumulators.

192K. (1) In this section a reference to a battery or accumulator is a reference to a source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary (non-rechargeable) batteries or secondary (rechargeable) cells containing —

- (a) either —
 - (i) more than 25mg of mercury per cell; or
 - (ii) in the case of alkaline manganese batteries, more than 0.025% mercury by weight;
- (b) more than 0.025% cadmium by weight; or
- (c) more than 0.4% lead by weight.

(2) In this section unless the context shall otherwise require —

“collection” means the gathering, sorting and/or grouping together of spent batteries and accumulators;

“excluded appliance” means an appliance within the list of categories of appliance contained in Annex II to the Batteries Directive and which is set out in Schedule 16;

“extreme conditions” includes, but without prejudice to the generality of the expression, temperatures below 0° Centigrade or above 50° Centigrade, or conditions in which that battery is likely to be exposed to shocks;

“heavy metal content mark” means, in the case of a battery or accumulator —

- (a) which contains mercury, the chemical symbol “Hg”;
- (b) which contains cadmium, the chemical symbol “Cd”; or
- (c) which contains lead, the chemical symbol “Pb”.

“market” has the same meaning as in the Batteries Directive or the Marking Directive, as the context may require.

“prohibited battery” means-

- (a) in the case of an alkaline manganese battery for prolonged use in extreme conditions, one which contains more than 0.05% mercury by weight; or
- (b) in all other cases an alkaline manganese battery which contains more than 0.025% mercury by weight,

except in the case of both (a) and (b) alkaline manganese button cells or batteries composed of button cells;

“relevant heavy metal content mark” in relation to a battery or accumulator means the heavy metal mark which comprises the chemical symbol which relates to the heavy metal content of that particular battery or accumulator;

“separate collection mark” means one of the symbols shown in Article 2 of the Marking Directive and which, subject to sub-section (5), are set out as to their forms in Schedule 17; and

“spent” in relation to a battery or accumulator means a battery or accumulator which is not re-usable and is intended for recovery or disposal.

(3) No person shall market a prohibited battery.

(4) Without prejudice to sub-section (3) and subject to sub-section (6), a separate collection mark and the relevant heavy metal content mark shall be printed on a battery or accumulator or, as the case may be, on the packaging for that battery or accumulator in accordance with sub-section (5) —

- (a) in relation to a battery or accumulator manufactured in Gibraltar for sale in the European Economic Area, by the manufacturer thereof; or
- (b) in a case where —
 - (i) the manufacturer thereof is not established in Gibraltar;
 - (ii) the battery or accumulator is to be marketed in Gibraltar; and
 - (iii) a separate collection mark and the relevant heavy metal content mark have not already been printed thereon or, as the case may be, on the packaging thereof,

by —

- (aa) the manufacturer’s authorised representative established in Gibraltar; or
- (bb) the person in Gibraltar responsible for putting the battery or accumulator on the market.

(5) For the purposes of sub-section (4) —

- (a) a separate collection mark shall be printed on a battery or accumulator or, as the case may be, on the packaging for that battery or accumulator in accordance with the requirements specified in Article 4(1) and (3) of the Marking Directive which for the purposes of this Part are set out in paragraphs 1 and 3 of Schedule 18; and
- (b) the relevant heavy metal content mark shall be printed on the battery or accumulator or, as the case may be, on the packaging for that battery or accumulator in accordance with the requirements of Article 4(2) and (3) of the Marking Directive which for the purposes of this Part are set out in paragraphs 2 and 3 of Schedule 18.

(6) Sub-sections (4) and (5) shall not apply in relation to a battery or accumulator which is marketed in Gibraltar on or before 31st December 1995 and which was manufactured in, or imported into, the European Economic Area before the date on which this Part comes into force.

(7) In relation to an appliance (other than an excluded appliance) into which a battery or accumulator is or, as the case may be, is to be incorporated, the person who imports into Gibraltar that appliance shall ensure that the battery or accumulator which is or, as the case may be, is to be incorporated therein can be readily removed, when spent, by the consumer.

(8) An excluded appliance shall be accompanied by instructions which

- (a) inform the user of the appliance of the content of environmentally hazardous batteries or accumulators contained in the appliance, and
- (b) show how the batteries or accumulators can be removed safely.

(9) Subject to sub-section (10), any person who without reasonable excuse contravenes or fails to comply with any of the provisions of sub-section (3) (4) or (7) shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(10) In relation to a failure to comply with the provisions of sub-section (3) it shall be a “reasonable excuse”, without prejudice to the generality of that expression, if that person believes (with reasonable cause) that the prohibited battery will not be used in the European Economic Area.

(11) The Government shall for the purpose of this section and for implementing the Batteries Directive provide for the collection of spent batteries from premises in a manner separate from the collection of other waste therefrom.

Duty to keep records.

192L. (1) Any establishment or undertaking carrying out any disposal or recovery operation shall —

- (a) make and maintain a record of the quantity, nature, origin, and where relevant, the destination, frequency of collection, mode of transport and treatment method in respect of the waste and the disposal or recovery operations in respect of which the licence was granted; and
- (b) make this information available on request to the Government.

(2) A person who fails to comply with the provisions of sub-section (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Waste management plan.

192M. (1) The Government shall as soon as practicable prepare a waste management plan and may from time to time modify it.

(2) A waste management plan shall relate in particular to —

- (a) the type, quantity and origin of waste to be recovered or disposed or;
- (b) general technical requirements;

- (c) any special arrangement for particular waste;
- (d) suitable disposal site or installations.

(3) The Government shall give to the Secretary of State such information as the United Kingdom may reasonably require to assist it in meeting its obligations with regard to waste management plans under Article 7.2 of the Directive.

Power to encourage waste reduction.

192N. (1) Where the need exists by virtue of any act or process being carried out or likely to be carried out by an undertaking, the Governor may make rules in respect of the purpose referred to in sub-section (2).

(2) Rules made under sub-section (1) may provide for appropriate measures to encourage —

- (a) the prevention or reduction of waste production and its harmfulness;
- (b) the recovery of waste by means of recycling, re-use or reclamation or any other process with a view to extracting secondary raw material;
- (c) the use of waste as a source of energy.

(3) The measures mentioned in paragraph (a) of sub-section (2) may, without prejudice to the generality of that sub-section, include —

- (a) the development of clean technologies more sparing in their use of natural resources;
- (b) the technical development and marketing of products designed so as to make no contribution, by the nature of their manufacture, use or final disposal to increasing the amount or harmfulness of waste and pollution hazards;
- (c) the development of appropriate techniques for the final disposal of dangerous substances contained in waste destined for recovery.

Publicity.

192P. The Government shall, by public information and promotional campaigns and at such frequency as it determines to be appropriate, draw to the attention of the public —

- (a) the need to ensure that waste oils are stored appropriately and collected as far as possible;
- (b) the dangers of uncontrolled disposal of spent batteries and accumulators;
- (c) the marking of batteries, accumulators and appliances with permanently incorporated batteries and accumulators;
- (d) the method of removing batteries and accumulators which are permanently incorporated into appliances.

Procedures for licence application.

192Q. (1) Every application for a licence and every licence shall be in the form prescribed by the Government.

(2) An application for a licence for a partnership shall be made in the names of all of the partners.

(3) An application shall be made to the Government not less than 2 months before it is desired that the licence be issued except that the Government may, without the need for such prior application, grant a temporary licence to any applicant to deal with an apprehended emergency.

(4) Any person who intends to apply for a licence or extension of a licence shall give notice of such intention in accordance with the provisions of sub-section (5).

(5) A notice shall be in the prescribed form, and shall, not less than 14 days before the application for the licence is made be published in the Gazette and in at least one newspaper circulating in Gibraltar.

(6) Where a notice of intention to apply for a licence has been published in accordance with the provisions of sub-section (5) a person

who wishes to object to the issue of such a licence, shall give notice of his objection within 14 days thereafter in the prescribed form to the Government and to the person named as the applicant in such notice of such intention.

(7) No objection under this section shall be considered by the Government in respect of an application for a licence unless —

- (a) the grounds of such objection are stated; and
- (b) notice thereof is given within the prescribed time.

(8) The Government shall at the request of either the applicant or the objector hold a hearing unless it decides that the matter can be dealt with sufficiently by written submissions.

(9) Any person who is aggrieved by —

- (a) the refusal to issue him with a licence or the extension of a licence for which he has applied;
- (b) any condition or obligation attached to the licence granted to him,

may appeal to the person appointed by the Government for this purpose.

(10) Where any appeal is heard by virtue of sub-section (9) an appeal shall lie on a point of law from the decision of the person appointed under that sub-section to the Supreme Court.

(11) The Chief Justice may make rules of court governing appeals under sub-section (10).

(12) A licence shall expire on the date stated thereon but in any event shall not continue in force for a period longer than three years from the date of grant thereof unless extended under the provisions of section 192D(3)(b).

(13) Where any licence is lost, destroyed or defaced the licence holder may make application in the prescribed form to the Government for a duplicate of such licence and the Government shall if it is satisfied that the licence is lost destroyed or defaced and has not expired and on

payment of the fee provided for under section 192R issue a duplicate thereof to the licence holder.

(14) The Government shall cause to be kept a register of licences granted under this Part in such form and containing such particulars as may be prescribed by it and there shall be entered in such register the details of any licence issued and conditions or obligations attached thereto and of any extension.

(15) The register of licences shall be available for inspection by members of the public during normal working hours.

Charges by the Government etc..

192R. (1) Where the Government incurs costs in carrying out its functions under these regulations it may charge a fee determined in accordance with sub-sections (2) and (3) to any person making an application for a licence, for the extension of a licence or for registration required by this Part or carrying on an activity to which this Part applies.

(2) The fee shall not exceed the sum of the costs reasonably incurred by the Government in dealing with the application or in respect of the application of this Part to the activity of that person and where the costs incurred are in respect of more than one person carrying on an activity to which this Part applies the fee charged to each such person shall not exceed the proportion of such sum attributable to the activity or activities of that person.

(3) Where, in the opinion of the Government, the Government can properly carry out its functions under this Part only by engaging specialists and consultants, the cost of such specialists or consultants shall be included in the fee payable under sub-section (1).

(4) The Government may determine the cost of employing an officer (including a public officer) for any period of work appropriate to his grade by reference to the average cost to it of employing officers of that grade for that period.

(5) When requiring payment the Government shall send or give to the person by whom the fee is payable a detailed statement of the work done and costs incurred and the period to which the statement relates, and —

- (a) the requirements in respect of an application under this Part shall be deemed not to have been complied with unless the fee, or such proportion of it as the Government may in its discretion specify, has been paid; and
- (b) the fee or such part of it as remains unpaid shall be recoverable as a civil debt.

Offences by corporations etc.

192S. (1) Where an offence under this Part which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any other person purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, sub-section (1) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) A fine imposed on an unincorporated association on its conviction for an offence shall be paid out of the funds of the association.

(4) Where an offence under this Part committed by a partnership is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of a partner, he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

Defences.

192T. In any proceedings for an offence under this Part it shall be a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

Provision of information.

192U. (1) Where the Government is of the opinion that any person is in possession of information which will assist the Secretary of State in the discharge of the obligations of the United Kingdom to supply information to the Commission under the provisions of the Directives specified in section 192B(2), it may direct that person to supply that information and a person so directed shall supply the information specified in the direction within the period so specified.

(2) Where the Government is in possession of information, whether obtained under sub-section (1) or otherwise, which will assist the Secretary of State in the discharge of the obligations of United Kingdom to supply information to the Commission under the provisions of the Directives specified in section 192B(2) it shall send such information on request to the Secretary of State.

Savings in respect of other provisions.

192V. Nothing in this Part or in any rule made thereunder shall affect any provision of, or any regulation or rule made under —

- (a) any other Part of this Act;
- (b) the Town Planning Act;
- (c) the Oil in Territorial Water Act.

Rules.

192W. (1) The Governor may make rules in order to comply with any Community obligations or enabling a right to be enjoyed in relation to measures relating to the prevention, reduction and elimination of pollution caused by waste and the recycling, regeneration and re-use of waste and without prejudice to the generality of the foregoing such rules may include provision in respect of —

- (a) any amendments to the Directive adopted under article 17 thereof;

- (b) specific rules for particular instances or supplementing those of the Directive on the management of particular categories of waste laid down by means of individual directives pursuant to article 2 of the Directive.

(2) Rules made under this section may —

- (a) amend, repeal or add to any provision of this Part; and
- (b) to the extent necessary, amend, repeal or add to any provision of any other enactment in force.”;
- (b) by inserting after Schedule 11 the following new Schedules 12 to 18 —

“SCHEDULE 12

Section 192A

DISPOSAL OPERATIONS

1. Tipping above or under ground (e.g. landfill, etc.);
2. Land treatment (e.g. biodegradation of liquid or sludge discards in soils etc.);
3. Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories etc.);
4. Surface impoundment (e.g. placement of liquid or sludge discards into pits, ponds or lagoons etc.);
5. Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.);
6. Release of solid waste into a water body except seas/oceans;
7. Release into seas/oceans including seabed insertion;
8. Biological treatment not specified elsewhere in this Schedule which results in final compounds or mixtures which are disposed of by means of any of the operations specified in this Schedule;

9. Physico-chemical treatment not specified elsewhere in this Schedule which results in the final compounds or mixtures which are disposed of by means of any of the operations specified in this Schedules (e.g. evaporation, drying, calcination, etc.);

10. Incineration on land;

11. Incineration at sea;

12. Permanent storage (e.g. emplacement of containers in a mine etc.);

13. Blending or mixture prior to submission to any of the operations specified in this Schedule;

14. Repacking prior to submission to any of the operations specified in this Schedule;

15. Storage pending any of the operations in this Schedule, excluding temporary storage, pending collection, on the site where it is produced.

SCHEDULE 13

Section 192A

OPERATIONS WHICH MAY LEAD TO RECOVERY

1. Solvent reclamation/regeneration;
2. Recycling/reclamation of organic substances which are not used as solvents;
3. Recycling/reclamation of metals and metal compounds;
4. Recycling/reclamation of other inorganic materials;
5. Regeneration of acids or bases;
6. Recovery of components used for pollution abatement;
7. Recovery of components from catalysts;
8. Oil refining or other re-uses of oil;

9. Use principally as a fuel or other means to generate energy;
10. Spreading on land resulting in benefits to agriculture or ecological improvement, including composting and other biological transformation processes, except in the case of waste excluded under section 3(3)(b)(iii);
11. Use of wastes obtained from any of the operations listed in paragraphs 1 to 10 of this Schedule;
12. Exchange of wastes for submission to any of the operations listed in paragraphs 1 to 11 of this Schedule;
13. Storage of materials intended for submission to any operation mentioned in this Schedule excluding temporary storage, pending collection, on the site where it is produced.

SCHEDULE 14

Section 192A

CATEGORIES OF WASTE

1. Production or consumption residues not otherwise specified below;
2. Off-specification products;
3. Products whose date for appropriate use has expired;
4. Materials spilled, lost or having undergone other mishap, including any materials, equipment, etc. contaminated as a result of the mishap;
5. Materials contaminated or soiled as a result of planned actions (e.g. residues from cleaning operations, packing materials, containers etc.);
6. Unusable parts (e.g. reject batteries, exhausted catalysts etc.);
7. Substances which no longer perform satisfactorily (e.g. contaminated acids, contaminated solvents, exhausted tempering salts etc.);
8. Residues of industrial processes (e.g. slags, still bottoms, etc.);

9. Residues from pollution abatement processes (e.g. scrubber sludges, baghouse dusts, spent filters, etc.);

10. Machining/finishing residues (e.g. lathe turnings, mill scales etc.);

11. Residues from raw materials extraction and processing (e.g. mining residues, oil field slops etc.);

12. Adulterated materials (e.g. oils contaminated with PCBs etc.);

13. Any materials, substances or products whose use has been banned by law;

14. Products for which the holder has no further use (e.g. agricultural, household, office commercial and shop discards etc.);

15. Contaminated materials, substances, or products resulting from remedial action with respect to land;

16. Any materials, substances or products which are not contained in the above categories.

SCHEDULE 15

Section 192H(1)

LIMIT VALUES ON ATMOSPHERIC EMISSIONS

Emission limit values⁽¹⁾ for certain substances emitted as a result of the combustion of waste oils in plants with a thermal input of 3 MW (LHV) or more —

COLUMN 1 POLLUTANT	COLUMN 2 LIMIT VALUE mg/Nm ³
Cd	0,5
Ni	1
Cr+Cu+V+Pb	5
Cl ⁽²⁾	100
F ⁽³⁾	5
SO ²	—
Dust(total)	—

⁽¹⁾These limit values, which may be exceeded when waste oils are burned, indicate the mass concentration of emissions of the aforementioned substances in waste gas, in terms of the volume of waste gas in the standard state (273 K; 1013 hPa), after deduction of the water vapour moisture content, and of a 3% oxygen content by volume in waste gas.

In the case of the second subparagraph of Article 8(3) of the Batteries Directive, the oxygen content will be that which corresponds to normal operating conditions in the particular process concerned.

⁽²⁾Inorganic gaseous compounds of chlorine expressed as hydrogen chloride.

⁽³⁾Inorganic gaseous compounds of fluorine expressed as hydrogen fluoride.

SCHEDULE 16

Section 192K(2)

List of categories of appliance contained in Annex II of the Batteries Directive

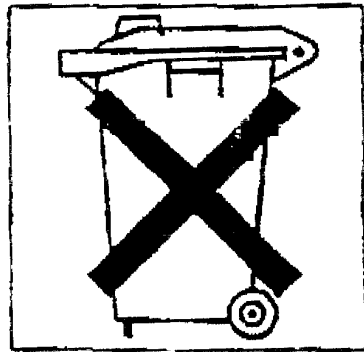
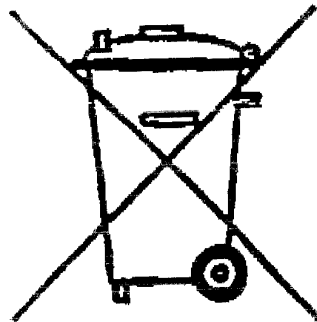
1. Those appliances whose batteries are soldered, welded or otherwise permanently attached to terminals to ensure continuity of power supply in demanding industrial usage and to preserve the memory and data functions of information technology and business equipment, where use of the batteries or accumulators is technically necessary.
2. Reference cells in scientific and professional equipment, and batteries and accumulators placed in medical devices designed to maintain vital functions and in heart pacemakers, where uninterrupted functioning is essential and the batteries and accumulators can be removed only by qualified personnel.
3. Portable appliances, where replacement of the batteries by unqualified personnel could present safety hazards to the user or could affect the operation of the appliance and professional equipment intended for use in highly sensitive surroundings, for example in the presence of volatile substances.

SCHEDULE 17

Section 192K(2)

The Separate Collection Mark

The mark indicating separate collection shall consist of one of the roll-out containers crossed through as shown below —



SCHEDULE 18

Section 192K(5)

Article 4 in the Marking Directive

1. The separate collection mark shall cover 3% of the area of the largest side of the battery or accumulator, up to a maximum size of 5cm x 5cm.

For cylindrical cells the mark shall cover 3% of half the surface area of the battery or accumulator and shall have a maximum size of 5cm x 5cm.

Where the size of the battery or accumulator is such that the mark would be smaller than 0.5cm x 0.5cm, the battery or accumulator need not be marked but a separate collection mark measuring 1cm x 1cm shall be printed on the packaging.

2. The relevant heavy metal content mark shall be printed beneath the separate collection mark. The relevant heavy metal content mark shall cover an area of at least one quarter of the size of the separate collection mark.

3. The separate collection mark and the relevant heavy metal content mark shall be printed visibly, legibly and indelibly.”.

3. Transitional provisions.

Where a person is habitually carrying out a prescribed activity within the meaning of section 192D (as contained in regulation 2) of the Public Health Act or transports waste to which Part VA (as contained in regulation 2) of that Act applies at the coming into effect of these regulations he may continue to do so until such time as he has been granted a licence, or until he is refused a licence as the case may be, provided that he gives notice of intention to apply for a licence within 2 months of the coming into effect of these regulations.

4. Revocation.

The Public Health (Waste) Regulations 1995 are revoked.

Dated this 10 day of August 1995.

J. Pilcher
Minister for the Environment and Tourism.