

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3886 of 27 October, 2011

LEGAL NOTICE NO. 213 OF 2011.

INTERPRETATION AND GENERAL CLAUSES ACT

PUBLIC HEALTH ACT (AMENDMENT NO.5) REGULATIONS 2011

In exercise of the powers conferred upon it by section 23(g)(ii) of the Interpretation and General Clauses Act, and all other enabling powers, and in order to partly transpose Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC, the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Public Health Act (Amendment No.5) Regulations 2011 and come into operation on the day of publication.

Amendment of Act.

2. The Public Health Act, (“the principal Act”) is amended in accordance with these Regulations.

Amendment of section 192A.

3. In section 192A of the principal Act—

- (a) immediately before the definition of “best available techniques” insert the following definition—

““appliance” means any electrical or electronic equipment, as defined in the Environment (Waste) Regulations 2007, which is fully or partly powered by batteries or accumulators or is capable of being so;”;

- (b) for the definition of “batteries” and “accumulators” substitute the definition—

““batteries”, “accumulators”, “waste batteries” and “waste accumulators” have the meanings given to them under Part IV the Environment (Waste) Regulations 2007;”

- (c) in the definition of “the Batteries Directive” for the words “Council Directive 91/157/EEC” substitute the words “Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC, as amended from time to time;”;

- (d) after the definition of “disposal” insert the definition–

““economic operator” means any producer, distributor, collector, recycler or other treatment operator;”;

- (e) after the definition of “specified hazardous waste” insert the definitions–

““recycling”, in relation to waste batteries and accumulators, means the reprocessing in a production process of waste materials for their original purpose or for other purposes, but excluding energy recovery;

“treatment”, in relation to waste batteries and accumulators, means any activity carried out on waste batteries and accumulators after they have been handed over to a facility for sorting, preparation for recycling or preparation for disposal;”.

Amendment of section 192B.

4. In section 192B(2)(b) for the words “(other than Articles 3.2 and 9)” substitute the words “(in particular Articles 3, 7, 12 and 15)”.

Amendment of section 192C.

5. After section 192C(4) of the principal Act insert–

- “(5) In respect of functions pertaining to waste batteries and accumulators, and without prejudice to subsection (3), the objectives shall, have regard to the environmental impact of transport, be–

- (a) to take the necessary measures to maximise the separate collection of waste batteries and accumulators; and
- (b) to minimise the disposal of batteries and accumulators as mixed municipal waste,

in order to achieve a high level of recycling for all waste batteries and accumulators.”.

Amendment of section 192D.

6. In section 192D–

(a) after subsection (2)(d) insert the following paragraph–

“(e) additionally in the case of waste batteries and waste accumulators, their treatment and recycling in Gibraltar.”;

(b) after subsection (4)(e) insert the following paragraph–

“(f) additionally in the case of waste batteries and waste accumulators–

- (i) if the proposed treatment operation does not meet the minimum requirements set out in Part A of Schedule 16; or
- (ii) if the proposed recycling efficiencies and associated provisions set out in Part B of Schedule 16 are not met.”.

Sections 192JB to 192JD.

7. After section 192JA of the principal Act insert–

“Waste batteries and waste accumulators.

192JB. A permit issued under section 192D(1) in respect of the treatment and recycling of waste batteries and accumulators in

Gibraltar shall contain such additional conditions or restrictions as the Competent Authority deems necessary to give effect to any provision in Part IV of the Environment (Waste) Regulations 2007 or the Batteries Directive.

Reporting of recycling efficiencies.

- 192JC.(1) Within 6 months from the end of the calendar year concerned, the Competent Authority shall ensure that a report is submitted to the European Commission setting out the levels of recycling of waste batteries and accumulators achieved in respect of recycling operations licensed in Gibraltar under section 192D, and such report shall detail the extent to which the efficiencies in Part B of Schedule 16 have been met.
- (2) The first report shall cover the period 1 January to 31 December 2010.

Export of waste batteries and accumulators.

- 192JD.(1) Part IIB (*Transfrontier Shipment of Waste*) shall govern the export of waste batteries and accumulators to Member States and to third countries.
- (2) Where waste batteries and accumulators are exported out of the European Union in accordance with—
- (a) Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste;
 - (b) Council Regulation (EC) No 1420/1999 of 29 April 1999 establishing common rules and procedures to apply to shipments to certain non-OECD countries of certain types of waste; and
 - (c) Commission Regulation (EC) No 801/2007 of 6 July 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply,

these shall count towards the fulfilment of the obligations and efficiencies laid down in Schedule 16 only if there is sound evidence that the recycling operation took place under conditions equivalent to the requirements of the Batteries Directive.

- (3) The references to the European Union Regulations in subsection (2) are understood to be references to those Regulations as amended from time to time.”.

Repeal of section 192K.

8. Section 192K of the principal Act is repealed.

Amendment of section 192P.

9. In section 192P, paragraphs (b), (c) and (d) are repealed.

Substitution of Schedule 16.

10. For Schedule 16 to the principal Act substitute–

“SCHEDULE 16

Section 192D(4)(f)

**WASTE BATTERIES AND ACCUMULATORS:
TREATMENT AND RECYCLING REQUIREMENTS**

PART A: TREATMENT

1. Treatment shall, as a minimum, include removal of all fluids and acids.
2. Treatment and any storage, including temporary storage, at treatment facilities shall take place in sites with impermeable surfaces and suitable weatherproof covering or in suitable containers.

PART B: RECYCLING

3. Recycling processes shall achieve the following minimum recycling efficiencies-

- (a) recycling of 65 % by average weight of lead-acid batteries and accumulators, including recycling of the lead content to the highest degree that is technically feasible while avoiding excessive costs;
- (b) recycling of 75 % by average weight of nickel-cadmium batteries and accumulators, including recycling of the cadmium content to the highest degree that is technically feasible while avoiding excessive costs; and
- (c) recycling of 50 % by average weight of other waste batteries and accumulators.”.

Repeal of Schedule 17.

11. Schedule 17 to the principal Act is repealed.

Dated 27th October, 2011.

P R CARUANA,
Chief Minister,
For the Government

EXPLANATORY MEMORANDUM

These Regulations partly transpose Directive 2006/66/EC on batteries and accumulators.

The Regulations amend the Act by making provision for waste batteries and accumulators in the permit regime established under Part VA (Waste) of the Public Health Act.

