

Public Consultation Draft

STATUTORY INSTRUMENTS

S.I. No. ____ of 2008

WASTE MANAGEMENT (BATTERIES AND ACCUMULATORS) REGULATIONS 2008

PUBLISHED BY THE STATIONERY OFFICE
DUBLIN

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GOVERNMENT PUBLICATIONS OFFICE,
SUN ALLIANCE HOUSE, MOLESWORTH STREET, DUBLIN 2

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(PRN __/____)

Price: €_____

Public Consultation Draft

INDEX

PART I PRELIMINARY AND GENERAL

1. *Citation.*
2. *Purpose of regulations.*
3. *Interpretation of regulations.*
4. *Scope of regulations.*

PART II PROHIBITION ON MARKETING OF BATTERIES CONTAINING SPECIFIED HAZARDOUS SUBSTANCES

5. *Prohibition of specified hazardous substances.*
6. *Exemptions.*
7. *Duty to inform the Agency.*
8. *Functions of the Board.*
9. *Procedure in relation to directions of the Board.*
10. *Appeals against Directions of the Board.*
11. *Injunctions.*

PART III REGISTRATION BODY

12. *Establishment of a Registration Body.*
13. *Grant or refusal of approval.*
14. *Review and revocation of approval.*
15. *Functions of the Registration Body.*
16. *Powers of the Registration Body.*
17. *Obligation of Producers to register with the Registration Body.*
18. *Application for registration or renewal of registration.*
19. *Certification of producers.*
20. *Distance Sellers.*

PART IV MANAGEMENT OF WASTE BATTERIES

21. *Distributor responsibility.*
22. *Disposal of waste batteries by distributors.*
23. *Financing the take back of waste batteries.*
24. *Alternative financing arrangements.*
25. *Collection of waste batteries.*
26. *Disposal of waste batteries.*
27. *Treatment of waste batteries.*
28. *Recycling of waste batteries.*
29. *Record keeping.*
30. *Waste management plans and reports.*
31. *Obligation of producers to provide information to users of batteries.*
32. *Obligation of producers to provide information to the Registration Body.*
33. *Obligation of distributors to provide information to users of batteries.*

Public Consultation Draft

PART V APPROVED BODIES

34. *Exemption from certain requirements.*
35. *Application to the Minister for approval.*
36. *Grant or refusal of approval.*
37. *Review and revocation of approval.*
38. *Use of logo adopted by an approved body.*
39. *Notifications to local authorities and the Registration Body.*

PART VI FUNCTIONS OF THE AGENCY AND LOCAL AUTHORITIES

40. *Enforcement.*
41. *Authorised Officers.*
42. *Registration of Distributors.*

PART VII MISCELLANEOUS

43. *Non-application of section 34(1)(a) of the Act.*
44. *Non-application of section 39(1) of the Act.*
45. *Increased environmental performance.*
46. *Removal of waste batteries.*
47. *Offences.*
48. *Penalties*
49. *Revocation.*

FIRST SCHEDULE INFORMATION TO BE COMPILED AND PROVIDED WHEN APPLYING FOR REGISTRATION OR RENEWAL OF REGISTRATION IN ACCORDANCE WITH ARTICLE 18

SECOND SCHEDULE INFORMATION TO BE PROVIDED IN REPORTS IN ACCORDANCE WITH ARTICLES 22 AND 23

THIRD SCHEDULE REQUIREMENTS REGARDING NOTICES IN ACCORDANCE WITH ARTICLES 30 AND 33

FOURTH SCHEDULE INFORMATION TO BE PROVIDED IN PLANS AND REPORTS IN ACCORDANCE WITH ARTICLE 30

FIFTH SCHEDULE SYMBOL FOR THE MARKING OF BATTERIES INDICATING SEPARATE COLLECTION IN ACCORDANCE WITH ARTICLE 31

SIXTH SCHEDULE INFORMATION TO BE PROVIDED WHEN APPLYING FOR REGISTRATION OR RENEWAL OF REGISTRATION IN ACCORDANCE WITH ARTICLE 42

Public Consultation Draft

SEVENTH SCHEDULE RULES IN RESPECT OF REGISTERED
ACTIVITIES IN ACCORDANCE WITH ARTICLE 44

EIGHTH SCHEDULE INFORMATION TO BE PROVIDED IN
APPLICATIONS FOR REGISTRATION
CERTIFICATES IN ACCORDANCE WITH
ARTICLE 44

Public Consultation Draft

S.I. No. ____ of 2008

WASTE MANAGEMENT (BATTERIES AND ACCUMULATORS) REGULATIONS 2008

The Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on him by sections 7, 18, 19, 27, 28, 29, 34 and 39 of the Waste Management Acts 1996 to 2007, section 53 of the Environmental Protection Agency Acts 1992 and 2003, and section 3 of the European Communities Acts 1972 to 2007 hereby makes the following Regulations:

PART I

PRELIMINARY AND GENERAL

Citation.

1. These Regulations may be cited as the Waste Management (Batteries and Accumulators) Regulations 2008.

Purpose of Regulations.

2. The purposes for which these Regulations are made include the purpose of giving effect to provisions of European Parliament and Council Directive 2006/66/EC¹ on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EC².

Interpretation of regulations.

3. (1) In these Regulations, any reference to a Schedule or article that is not otherwise identified is a reference to a Schedule or article of these Regulations.
- (2) In these Regulations, any reference to a sub-article or paragraph that is not otherwise identified is a reference to the sub-article or paragraph of the provision in which the reference occurs.
- (3) In these Regulations, save where the context otherwise requires –
"the Act" means the Waste Management Acts 1996 to 2007;

¹ O.J. No. L266, 26.9.2006, p.1 as amended by corrigendum (O.J. No L311, 10.11.2006, p. 58).

² O.J. No. L78, 26.3.1991, p. 38 as amended by Commission Directive 98/101/EC (O.J. No L1, 5.1.1999, p.1).

Public Consultation Draft

“the Waste Management Acts 1996 to 2007” mean the Waste Management Act 1996 (No. 10 of 1996) as amended by the Waste Management (Amendment) Act 2001 (No. 36 of 2001), Part 3 of the Protection of the Environment Act 2003 (No. 27 of 2003), Part 2 of the Waste Management (Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 290 of 2005) and the Waste Management (Environment Levy) (Plastic Bag) Order 2007 (S.I. No. 62 of 2007);

the “Companies Acts” means the Companies Acts 1963 to 2001 and every other enactment which is to be read together with any of those Acts;

“the Environmental Protection Agency Acts 1992 and 2003” means the Environmental Protection Agency Act 1992 (No. 7 of 1992) as amended by Part 2 of the Protection of the Environment Act 2003 (No. 27 of 2003);

”the Agency“ means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Acts 1992 and 2003;

“Authorised Officer” means a person appointed under Article 41 of these Regulations to be an authorised officer;

“the Board” means the Board of the Environmental Protection Agency;

“all reasonable times” means all times when members of the public have access to a place where batteries or, as appropriate, accumulators are distributed;

“appliance” means any electrical or electronic equipment, as defined by Directive 2002/96/EC³, which is fully or partly powered by batteries or accumulators or is capable of being so;

“approved body” means an appropriate body corporate approved by the Minister in accordance with the provisions of Part V of these Regulations;

“authorised person” means a person appointed in writing by the Agency or a local authority to be an authorised person for the purpose of these Regulations;

“authorised waste collector” means a holder of a waste collection permit that is in force and which allows for the collection of waste batteries and accumulators;

³ O.J. No. L37, 13.02.2003, p.24.as amended by European Parliament and Council Directive 2003/108/EC of 8 December 2003 amending Directive 2002/96/EC on waste electrical and electronic equipment (O.J. No. L345, 31.12.2003, p. 106).

Public Consultation Draft

“automotive battery or accumulator” means any battery or accumulator used for automotive starter, lighting or ignition power;

“battery” or “accumulator” means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (nonrechargeable) or consisting of one or more secondary battery cells (rechargeable);

“battery pack” means any set of batteries or accumulators that are connected together or, as appropriate, encapsulated within an outer casing so as to form a complete unit that the enduser is not intended to split up or open;

“button cell” means any small round portable battery or accumulator whose diameter is greater than its height and which is used for special purposes such as hearing aids, watches, small portable equipment and back-up power;

“civic amenity facility” means a purpose-designed facility operated by or on behalf of a local authority or a private sector operator which is provided for the efficient reception and temporary storage of recyclable and non-recyclable waste materials, including segregated waste batteries and accumulators;

“collection point” means –

- (i) a civic amenity facility,
- (ii) a premises from which batteries or, as appropriate, accumulators are stored following acceptance in accordance with the provisions of article 21(2),
- (iii) any premises where industrial batteries or, as appropriate, accumulators are used, or
- (iv) other facility for the receipt, storage or recovery of waste batteries or, as appropriate, accumulators

subject to such a facility, other than a premises where industrial batteries or, as appropriate, accumulators are used, being appropriately licensed, permitted or registered under Regulations made pursuant to Section 39 of the Act, or other such facilities as may be prescribed in Regulations;

“the Directive” means European Parliament and Council Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EC;

“collection rate” means, for a given Member State in a given calendar year, the percentage obtained by dividing the weight of waste portable batteries or, as appropriate, accumulators collected in accordance with Article 8(1) of this Directive or with Directive 2002/96/EC in that calendar year by the average weight of portable batteries and

Public Consultation Draft

accumulators that producers either sell directly to endusers or deliver to third parties in order to sell them to endusers in that Member State during that calendar year and the preceding two calendar years;

“cordless power tool” means any hand held appliance powered by a battery or accumulator and intended for maintenance, construction or gardening activities;

“disposal” means any of the applicable operations provided for in Annex IIA to Directive 2006/12/EC⁴;

“to distribute” means –

- (i) to sell in exchange for any consideration including money whether or not by finance agreement, including but not exclusive to any loan, lease, hiring or deferred sale agreement or arrangement relating to any battery or, as appropriate, accumulator whether or not the terms of that agreement or arrangement or any collateral agreement or arrangement provide that a transfer of ownership of that equipment will or may take place, or
- (ii) giving as a prize or otherwise making a gift,

and cognate words, other than distributor, shall be construed accordingly;

“distributor” means any person that provides batteries or, as appropriate, accumulators on a professional basis to an enduser;

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

“environmentally sound management of waste batteries or, as appropriate, accumulators” means the collection, storage, treatment and recycling or, as appropriate, disposal of waste batteries or, as appropriate, accumulators including those incorporated into appliances or battery packs in an environmentally sound manner;

“finance agreement” means any loan, lease, hiring or deferred sale agreement or arrangement relating to any battery or accumulator or, as appropriate, any equipment containing a battery or accumulator whether or not the terms of that agreement or arrangement or any collateral agreement or arrangement provide that a transfer of ownership of that battery or accumulator or, as appropriate, that equipment containing a battery or accumulator will or may take place;

“financing the environmentally sound management of waste batteries or accumulators” means the cost of collection from collection points,

⁴ O.J. No. L114, 27.4.2006, p.9.

Public Consultation Draft

together with the treatment, recovery and environmentally sound disposal of waste batteries or accumulators, including where appropriate the provision of receptacles to facilitate the segregation of waste batteries or accumulators at collection points and associated operational costs;

“industrial battery or accumulator” means any battery or accumulator designed for exclusively industrial or professional uses or used in any type of electric vehicle;

“the Minister” means the Minister for the Environment, Heritage and Local Government;

“placing on the market” means supplying or making available, whether in return for payment or free of charge, to a third party within the Community and includes import into the customs territory of the Community;

“portable battery or accumulator” means any battery, button cell, battery pack or accumulator that –

- (a) is sealed,
- (b) can be hand-carried or, as appropriate,
- (c) is neither an industrial battery or accumulator nor an automotive battery or accumulator;

“producer” means any person in a Member State that, irrespective of the selling technique used, including by means of distance communication as defined in Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts⁵, places batteries or accumulators, including those incorporated into appliances or vehicles, on the market for the first time within the territory of that Member State on a professional basis;

“recovery” means any of the applicable operations provided for in Annex IIB to Directive 75/442/EEC⁶;

“recovery facility” means a facility for the deposit, refurbishment, treatment, recycling or recovery of waste batteries or accumulators;

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

⁵ O.J. No. L144, 4.6.1997, p19 as last amended by Directive 2005/29/EC (O.J. No. L149, 11.6.2005, p22).

⁶ O.J. No. L194, 25.07.1975, p.39.

Public Consultation Draft

“registration body” means the person, association or body corporate approved by the Minister in accordance with the provisions of Part III of these Regulations;

“third country” means a country or territory outside the geographical territory of the European Union;

“treatment” 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;

“waste battery or accumulator” means any battery or accumulator which is waste within the meaning of Article 1(1)(a) of Directive 2006/12/EC.

- (4) In these Regulations any reference to a –
- (a) battery that is not otherwise identified is a reference to a battery or, as appropriate, accumulator,
 - (b) portable battery that is not otherwise identified is a reference to a portable battery or, as appropriate, portable accumulator,
 - (c) industrial battery that is not otherwise identified is a reference to an industrial battery or, as appropriate, industrial accumulator,
 - (d) automotive battery that is not otherwise identified is a reference to an automotive battery or, as appropriate, automotive accumulator,
 - (e) waste battery that is not otherwise identified is a reference to a waste battery or, as appropriate, waste accumulator,
 - (f) waste portable battery that is not otherwise identified is a reference to a waste portable battery or, as appropriate, waste portable accumulator,
 - (g) waste automotive battery that is not otherwise identified is a reference to a waste automotive battery or, as appropriate, waste automotive accumulator or, as appropriate,
 - (g) waste industrial battery that is not otherwise identified is a reference to a waste industrial battery or, as appropriate, waste industrial accumulator

whether or not incorporated into an appliance or battery pack.

Scope of regulations.

4. (1) These Regulations, save where the context otherwise requires, shall apply –
- (a) to all types of batteries, regardless of their shape, volume, weight, material composition or use, and
 - (b) without prejudice to the Waste Management –

Public Consultation Draft

- (i) (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006), and
 - (ii) (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005).
- (2) Without prejudice to sub-article (1), these Regulations shall not apply to batteries used in equipment –
- (a) connected with the protection of Member States' essential security interests, arms, munitions and war material, with the exclusion of products that are not intended for specifically military purposes or, as appropriate,
 - (b) designed to be sent into space.

PART II

PROHIBITION ON MARKETING OF BATTERIES CONTAINING SPECIFIED HAZARDOUS SUBSTANCES

Prohibition of specified hazardous substances.

5. On and from 26 September 2008, producers shall be prohibited from placing on the market or, as appropriate, distributors shall be prohibited from distributing –
- (a) any battery that contains more than 0.0005% of mercury by weight or, as appropriate,
 - (b) any portable battery that contains more than 0.002% of cadmium by weight.

Exemptions.

6. The provisions of this part shall not apply to –
- (a) button cells with a mercury content of no more than 2% by weight,
 - (b) portable batteries or, as appropriate, accumulators intended for use in –
 - (i) emergency and alarm systems, including emergency lighting,
 - (ii) medical equipment,
 - (iii) cordless power tools, or
 - (c) batteries placed on the market in compliance with 91/157/EEC Council Directive of 18 March 1991 on batteries and accumulators containing certain dangerous substances.

Duty to inform the Agency.

7. (1) On and from 26 September 2008, where a producer or, as appropriate,

Public Consultation Draft

a distributor of batteries on the basis of information in his or her possession and as a professional, ought to know, that any battery which he or she has placed on the market which is prohibited under the provisions of article 5, he or she shall immediately inform the Agency, the details of which shall include –

- (a) information enabling a precise identification of the product or batch of products in question,
 - (b) a full description of the prohibited hazardous substances, and
 - (c) all available information relevant for tracing the product.
- (2) A producer or, as appropriate, a distributor of batteries shall, on request being made to him or her by the Agency, provide every reasonable assistance to the Agency.

Functions of the Board.

8. (1) For the purposes of ensuring that batteries placed on the market comply with the requirements of the Directive and that producers and distributors of batteries comply with their obligations under these Regulations, the Board or, as appropriate, an Authorised Officer may take all reasonable measures, including such of the following as is decided to be appropriate in each case –
- (a) for any battery, to –
 - (i) organise, even after it has been placed on the market, appropriate checks on its material composition, on an adequate scale, up to the final stage of use or consumption,
 - (ii) request all necessary information in relation to the battery from any person who, in the opinion of the Board or, as appropriate, an Authorised Officer, may be in a position to provide such information or, as appropriate,
 - (iii) take samples of batteries and subject them to such checks as are considered necessary in order to determine compliance with the requirements of the Directive,
 - (b) for any battery that could be prohibited under the provisions of article 5, issue a direction prohibiting the supply, offer to supply or display of any battery pending the carrying out of the safety evaluations, checks and controls necessary to establish that it does not contain prohibited hazardous substances,
 - (c) for any battery prohibited under the provisions of article 5, –
 - (i) issue a direction prohibiting the placing of the product on the market, or

Public Consultation Draft

- (ii) if already on the market, take all appropriate steps, including if necessary issuing a direction, to ensure –
 - (A) the immediate withdrawal of such battery type from the marketplace, its recall from endusers, and its environmentally sound management in accordance with the provisions of Articles 26, 27 and 28, and
 - (B) that endusers are alerted to the prohibited hazardous substances contained in such batteries.
- (2) A direction issued under sub-article (1) shall be addressed to such of the following as is appropriate –
 - (a) the producer,
 - (b) any person involved as a distributor or, as appropriate,
 - (c) any other person, where necessary, with a view to co-operation in action taken to avoid risks arising from such batteries.

Procedure in relation to directions of the Board.

- 9. (1) Where it is feasible, the Board or, as appropriate, an Authorised Officer shall give –
 - (a) an opportunity to any person, to whom the Board or, as appropriate, the Authorised Officer concerned is considering issuing a direction to under these Regulations, to submit his or her views on the proposed direction to the Board or, as appropriate, the Authorised Officer concerned before the adoption of any measure in the proposed direction, or
 - (b) if an opportunity is not given to any person, to whom the Board or, as appropriate, the Authorised Officer concerned has issued a direction to under these Regulations, because of the urgency of the measures to be taken, an opportunity shall be given by the Board or, as appropriate, the Authorised Officer concerned to the relevant person to submit his or her views in due course after the direction has taken effect.
- (2) A direction made or issued by the Board or, as appropriate, an Authorised Officer under these Regulations shall be in writing, shall state the appropriate reasons on which it is based, shall, as soon as possible, be published by placing a notice relating to the direction in at least three national newspapers published in the State and, where the Board or, as appropriate, an Authorised Officer is aware of the identity of a person to whom the direction is addressed, shall, as soon as possible, be sent or given to that person in any of the following ways –
 - (a) by delivering it to that person,

Public Consultation Draft

- (b) by leaving it at the address at which that person carries on business,
 - (c) by sending it by prepaid registered post to the person at the address at which he or she carries on business,
 - (d) if an address for the service of directions has been furnished by the person to the Board or, as appropriate, an Authorised Officer, by leaving it at, or sending it by pre-paid registered post to, that address, or
 - (e) in any case where the Board or, as appropriate, an Authorised Officer considers that the immediate giving of the direction is required, by sending it, by means of a facsimile machine or by electronic mail, to a device or facility for the reception of facsimiles or electronic mail located at the address at which the person ordinarily carries on business or, if an address for the service of notices has been furnished by the person, that address, provided that the sender's facsimile machine generates a message confirming successful transmission of the total number of pages of the direction or the sender's facility for the reception of electronic mail generates a message confirming receipt of the electronic mail.
- (3) A direction made under these Regulations may require that the measures to be taken in the direction be undertaken –
- (a) immediately, because of the urgency of the measures to be taken,
 - (b) from a specified date,
 - (c) by a specified date, or
 - (d) between specified dates.
- (4) A direction made or issued by the Board or, as appropriate, an Authorised Officer under these Regulations, subject to article 10(2), takes effect on the date specified in the direction and shall indicate the appeal procedure under article 10.
- (5) Without prejudice to article 8(1)(c) the person to whom a direction has been issued under these Regulations to –
- (a) recall any battery from the marketplace or, as appropriate, from endusers or, as appropriate,
 - (b) notify endusers that a battery contains prohibited hazardous substances,
- shall place a notice over three consecutive days to that effect in at least three national newspapers published in the State.
- (6) A notice in accordance with the provisions of sub-article (5) shall cover at least –
- (a) half of one page of a broadsheet, or

Public Consultation Draft

- (b) one page of a tabloid,
newspaper.

Appeals against Directions of the Board.

10. (1) Any person aggrieved by a direction made by the Board, or as appropriate, an Authorised Officer under these Regulations may, within 21 days of receipt of the direction, appeal to the judge of the Circuit Court in whose Circuit the person carries on business.
- (2) Where an appeal is made under sub-article (1), the appellant may make an application to the Court that the direction shall stand suspended until the appeal is determined or withdrawn.
- (3) On hearing an appeal under sub-article (1), the Court may either confirm or vary the direction, or allow the appeal.
- (4) A decision of the Circuit Court on an appeal under sub-article (1) shall be final, save that, by leave of the Court, an appeal from the decision shall lie to the High Court on a specified question of law.

Injunctions.

11. Where a person fails to comply with a direction of the Board or, as appropriate, an Authorised Officer under these Regulations, the Board or, as appropriate, the Authorised Officer concerned may, in lieu of any summary proceedings against the person in respect of an offence under articles 5, 6, 7, and 8(2) institute in the High Court, proceedings for an order requiring the person to comply with the terms of the direction.

PART III

REGISTRATION BODY

Establishment of a Registration Body.

12. (1) The Minister may undertake, or approve a person or persons, or association, or body corporate to undertake, any or all of the functions provided for in article 15 for the purposes of this Part.
- (2) Any person or persons, or association, or body corporate who undertakes all of the functions provided for in article 15 shall be known for the purposes of these Regulations as the 'registration body'.

Grant or refusal of approval.

13. (1) Subject to sub-article (3), the Minister may, by notice in writing, grant approval or may refuse to grant such approval.

Public Consultation Draft

- (2) An approval issued in accordance with sub-article (1) shall be conditional on the submission of –
 - (a) where appropriate, a copy of the –
 - (i) articles of association of the body corporate, or
 - (ii) memorandum of association or registered rules of the association or society, and
 - (iii) the appropriate certificate issued by the Companies Registration Office or the Registrar of Friendly Societies,
 - (b) the names and addresses in the State of the officers of the registration body and its board of directors,
 - (c) the address of the registration body's registered office and the address of the secretary, if different from the registered office,
 - (d) a business plan in relation to the operation of the registration body,
 - (e) where appropriate, proposals in relation to corporate governance,
 - (f) proposals for the certification of producers for the purpose of article 19,
 - (g) proposals for determining the proportion of market share held by individual producers,
 - (h) proposals for registration fee structures, and
 - (i) such other information as may be specified in writing by the Minister for the purposes of this article.
- (3) An approval in accordance with the provisions of sub-article (1) shall be subject to such conditions as the Minister may specify, including but not exclusively –
 - (a) the period of approval which shall be for a period of not more than 10 years,
 - (b) variance in the terms and conditions of approval,
 - (c) revocation of approval, and
 - (d) the nature of information (including financial accounts) to be recorded and maintained by the body concerned.
- (4) The Minister may, by notice in writing, from time to time vary any condition attached to an approval granted in accordance with the provisions of this article.
- (5) The registration body –
 - (a) will be responsible for the effective carrying out of its functions, and
 - (b) shall ensure that its financial costs are borne from its own resources.

Public Consultation Draft

Review and revocation of approval.

14. (1) Subject to sub-article (2), where considered necessary, the Minister may review an approval granted in accordance with the provisions of article 13.
- (2) Where the Minister proposes to review an approval, the Minister shall –
 - (a) give notice in writing to the registration body of the proposal and the reasons therefor,
 - (b) specify a period of not less than four weeks within which the registration body may make a submission to the Minister in relation to a review, and
 - (c) consider any submission so made.
- (3) Following the consideration of any submission in accordance with sub-article (2), the Minister may issue a revised approval, varying any condition attaching to the approval or attach any additional conditions which he or she considers appropriate.
- (4) Where an approval, granted in accordance with the provisions of article 13 is due to expire, the registration body –
 - (a) shall not later than six months before the expiry of the approval, notify the Minister whether or not it intends to continue or cease operating as the registration body, or
 - (b) if intending to continue to operate as the registration body, shall not later than two months before the expiry of the approval, make a submission to the Minister in accordance with the provisions of said article.
- (5) Subject to sub-article (6), where it appears to the Minister that the registration body is not complying with conditions attached to such approval, he or she may revoke an approval granted in accordance with the provisions of article 13.
- (6) Where the Minister proposes to revoke an approval granted in accordance with the provisions of article 13, the Minister shall –
 - (a) give notice in writing to the registration body of the proposed decision and the reasons therefor,
 - (b) specify a period of not less than four weeks within which the registration body may make a submission to the Minister in relation to the proposed decision, and
 - (c) consider any submission so made.
- (7) Once an approval in accordance with the provisions of article 13 –

Public Consultation Draft

- (a) is revoked by the Minister, or
- (b) expires,

the registration body and any third party contracted to undertake any or all of the functions allotted to it, shall immediately transfer to the Minister, or to the person or persons, or association, or body corporate who is in receipt of the next approval to act as the registration body for the purposes of this Part, all records, documentation and data in written and in electronic form, including the requisite software and programmes, together with any funds and assets that were obtained on account of the functions provided for in article 15 and powers that were vested in accordance with the provisions of article 16.

Functions of the Registration Body.

15. (1) On a date not later than 1 July 2008, the registration body shall cause to be established and maintained a register (hereafter in this Part referred to as ‘the register’) of producers placing batteries on the market.
- (2) The registration body shall be required to –
- (a) provide for the maintenance of the register of all producers placing batteries on the market,
 - (b) provide for the determination of the proportion of market share held by each individual producer and notify him or her accordingly,
 - (c) cause to be kept proper accounts of all income and expenditure of the registration body in each calendar year, or in the first two years of its operations the relevant part thereof, and of the sources of such income and the subject matter of such expenditure and of the property, credits and liabilities of the registration body,
 - (d) in the first six months of each year, make a report to the Minister of its activities during the preceding calendar year, or in the first two years of its operations the relevant part thereof, which shall include a summary of all income and expenditure and balance sheet for that calendar year, or in the first two years of its operations the relevant part thereof, and audited accounts in respect of the calendar year, or in the first two years of its operations the relevant part thereof, prior to that,
 - (e) provide such information regarding the operation of the registration body as the Minister may from time to time require, and
 - (f) notify the relevant local authority or, as appropriate, the Agency where it is evident to the registration body that a producer has failed to comply with any provision or provisions of these Regulations and to provide all relevant information and data,

Public Consultation Draft

having regard to any conditions that the Minister may apply in approving the registration body in accordance with the provisions of article 13.

- (3) Without prejudice to sub-article (2) the registration body may, where appropriate, procure the services of a –
- (a) person or persons,
 - (b) association or associations or, as appropriate,
 - (c) body corporate or bodies corporate,
- to undertake any or all of the functions allotted to it.

Powers of the Registration Body.

16. (1) In carrying out its functions, the registration body or, as appropriate, a third party acting on its behalf shall be empowered to –
- (a) determine applications for registration and to issue approvals or refusals in accordance with the provisions of article 19,
 - (b) issue certificates of registration and registration numbers,
 - (c) obtain a statement from the external auditors of any producer relating to financial information or, as appropriate, examine the records of any producer relating to –
 - (i) the quantities, by weight or, as appropriate, by number of units, of waste batteries arising from batteries placed on the market by a producer, and
 - (ii) market data including the quantities, by weight or, as appropriate, by number of units, of batteries placed on the market by a producer,
 - (d) receive annual subscriptions, or make charges (hereafter in this Part referred to as 'the fees') to provide for the effective carrying out of its functions, and
 - (e) set the level of the fees which it may review from time to time.
- (2) Without prejudice to sub-article (1), where any or all of the registration functions are sub-contracted to a third party, the powers laid down in sub-article (1)(c) shall transfer to the third party concerned.
- (3) Without prejudice to sub-article (2), a third party empowered to determine the total quantity of collected waste attributable to each individual producer, including the members of any approved body established in accordance with the provisions of Part V of these Regulations, shall be prohibited from providing to any person or persons, including the contracting registration body, any information or data either verbally, in written or in electronic form –

Public Consultation Draft

- (a) concerning the quantity of collected waste attributable to or, as appropriate,
- (b) that may be used to identify or, as appropriate, calculate the market share of,

any individual producer other than to the individual producer concerned.

Obligation of Producers to register with the Registration Body.

17. (1) On and from 1 August 2008, each producer that has placed or is about to place batteries on the market shall be obliged to –

- (a) be registered with the registration body and declare to it or, as appropriate, a third party acting on its behalf that any battery that he or she has placed or will place on the market is marked in accordance with the provisions of article 31,
- (b) display the registration number issued to him or her in accordance with the provisions of article 19 on any invoice, credit note, dispatch and delivery docket issued to a distributor by him or her on or from 26 September 2008, and
- (c) pay the fees as may be determined by the registration body or, as appropriate, a third party acting on its behalf.

(2) A producer who –

- (a) fails to comply with any of the provisions of sub-article (1),
- (b) who is deemed not to be registered in accordance with article 19(2) or, as appropriate,
- (c) is refused an application for renewal of registration in accordance with the provisions of article 19(4),

shall be prohibited from placing batteries on the market in the State.

(3) Any person or persons who transports any battery on behalf of a producer who is attempting to place, or who is placing, the battery concerned on the market in the State, should ensure that the producer concerned is in possession of a valid Certificate of Registration or a Certificate of Renewal of Registration in accordance with the provisions of article 19.

(4) Any person organising a trade show, exhibition or, as appropriate, any event where batteries are being distributed shall ensure that any distributor or, as appropriate, producer, distributing batteries at the trade show, exhibition or, as appropriate, event concerned –

- (a) is registered in accordance with the provisions of article 42, and
- (b) who is required to comply with the provisions of sub-article (1) is in possession of a valid Certificate of Registration or a

Public Consultation Draft

Certificate of Renewal of Registration in accordance with the provisions of article 19.

- (5) Notwithstanding sub-article (4), any person organising a trade show, exhibition or, as appropriate, any event who fails to ensure that a producer placing batteries on the market in the State at the trade show, exhibition or, as appropriate, event concerned is in possession of a valid Certificate of Registration or a Certificate of Renewal of Registration in accordance with the provisions of article 19 shall be obliged to –
- (a) register each non-registered producer concerned with the registration body in accordance with the provisions of article 17,
 - (b) arrange for the environmentally sound management of waste batteries in accordance with the provisions of articles 23 and 27,
 - (c) achieve the collection and recycling targets prescribed in articles 23 and 28, and
 - (d) prepare and submit waste management plans and reports in accordance with the provisions of article 30.

Application for registration or renewal of registration.

18. (1) A producer shall, –
- (a) apply for registration to the registration body or, as appropriate, a third party acting on its behalf not later than 14 July 2008 or the date of commencement of business, whichever is the later, and
 - (b) apply for renewal of such registration to the registration body or, as appropriate, a third party acting on its behalf not later than 31 January in each year following initial registration for the relevant calendar year, subject only that a producer shall not be required to make such application within five months of –
 - (i) initial registration, or
 - (ii) the date a producer was required to apply for initial registration in accordance with the provisions of paragraph (a),whichever is the earlier.
- (2) An application for –
- (a) registration in accordance with the provisions of sub-article (1) shall be made in writing, shall contain at least the information set out in Part 1 of the *First Schedule*, and shall be accompanied by a –

Public Consultation Draft

- (b) renewal of registration in accordance with the provisions of sub-article (1) shall be made in writing, shall contain at least the information set out in Part 2 of the *First Schedule*, and shall be accompanied by a

declaration from the applicant detailing arrangements for providing adequate financing for the environmentally sound management of waste batteries that will be required in accordance with the provisions of article 23, or a copy of a valid certificate granted to the applicant by an approved body established in accordance with the provisions of Part V of these Regulations stating that such producer is participating, in a satisfactory manner, in a scheme for the environmentally sound management of waste batteries.

- (3) An application for registration or for renewal of registration in accordance with the provisions of article sub-article (1) shall be accompanied by the fee determined by the registration body.
- (4) A producer shall notify the registration body or, as appropriate, a third party acting on its behalf of any changes to the information provided in an application for registration, or as the case may be, the last preceding application for renewal of registration within 10 working days of such change.
- (5) Without prejudice to sub-article (1), an application for registration or for renewal of registration to the registration body or, as appropriate, a third party acting on its behalf may be made by an approved body established in accordance with the provisions of Part V of these Regulations on behalf of any producer in respect of which a certificate for the purposes of article 34 has been granted.

Certification of producers.

- 19. (1) Without prejudice to sub-articles (3) and (4), a producer –
 - (a) who makes an application, or
 - (b) on whose behalf an application has been made,in accordance with the provisions of article 18 shall be registered by the registration body provided that the requirements of articles 17 and 18 are complied with.
- (2) A producer shall not be deemed to be registered until a Certificate of Registration and registration number has issued by the registration body or, as appropriate, a third party acting on its behalf.
- (3) The registration body or, as appropriate, a third party acting on its behalf shall issue a Certificate of Registration or a Certificate of Renewal of Registration bearing a unique registration number as expeditiously as possible and, in any event, within –

Public Consultation Draft

- (a) six weeks of the date of receipt of an application for registration or renewal of registration, or
- (b) two weeks after the date of receipt of further information or particulars requested by the registration body in connection with such an application,

whichever is the later.

- (4) Without prejudice to sub-articles (1) and (3), the registration body may refuse an application for renewal of registration in accordance with the provisions of this article where it considers that a producer has, in the preceding twelve month period, failed to –
 - (a) achieve the targets specified in articles 23 and 28,
 - (b) maintain satisfactory records in accordance with the provisions of article 29,
 - (c) provide the information specified in articles 18, 30, 31 or 32.

- (5) Without prejudice to sub-article (3), up until 2 September 2008, the registration body or, as appropriate, a third party acting on its behalf shall issue a provisional Certificate of Registration bearing a unique registration number, within one week of the date of receipt of an application on or before 1 August 2008 for registration in accordance with the provisions of article 18 which shall be valid until–
 - (a) it is determined that the requirements of articles 17 and 18 are complied with and a Certificate of Registration is issued in accordance with the provisions of sub-article (3), or
 - (b) no later than 31 January 2009,

whichever is the earlier.

Distance Sellers

- 20. Where a producer or, as appropriate, a distributor supplies batteries by means of distance communication he or she shall –
 - (a) register in accordance with the provisions of article 17,
 - (b) notify the registration body or, as appropriate, a third party acting on its behalf at the time of registration or, as appropriate, renewal of registration, that he or she supplies batteries by means of distance communication and confirm that all such batteries placed on the market comply with the requirements of these Regulations,
 - (c) upon a request from the –
 - (i) registration body or, as appropriate, a third party acting on its behalf,

Public Consultation Draft

- (ii) local authority in the functional area where the registered office, or, if not a company, the principal place of business of the producer is located or, as appropriate,
- (iii) Agency,

undertake to provide it with information that demonstrates to its satisfaction, he or she has complied with his or her obligations in accordance with the provisions of Article 16 of the Directive to provide financing for the environmentally sound management of waste batteries deposited by a customers of the distance seller concerned at collection points in any of the Member States of the European Union where the endusers of the waste batteries reside provided that such endusers did not place on the market for the first time within the territory of any Member State concerned on a professional basis the batteries concerned.

PART IV

MANAGEMENT OF WASTE ELECTRICAL BATTERIES

Distributor responsibility

21. (1) On and from 26 September 2008, each distributor of batteries shall –
- (a) be prohibited from distributing batteries –
 - (i) placed on the market in the State by a producer, or
 - (ii) supplied to him or her by any person who supplies batteries placed on the market by a producer who –

who is not in possession of a valid Certificate of Registration or a Certificate of Renewal of Registration in accordance with the provisions of article 19 and, as appropriate, does not display the registration number issued to said producer in accordance with the provisions of article 19 on any invoice, credit note, dispatch or delivery docket in respect of batteries supplied to the distributor concerned,
 - (b) ensure that waste batteries regardless of their chemical composition, or as appropriate, origin –
 - (i) can be returned to him or her free of charge as long as any waste battery that is returned is of equivalent type as the batteries supplied by him or her, and
 - (ii) that are returned are transported and stored in accordance with sections 34 and 39 of the Act.
- (2) Distributors shall fulfil the obligation in sub-article (1)(b)(i) in instances where by accepting a waste battery at all reasonable times at

Public Consultation Draft

any or every place of business from which he or she distributes batteries whether or not the person depositing a waste battery purchases any product or products from the distributor concerned.

- (3) Without prejudice to sub-article (2), distributors, their servants or agents shall be prohibited from offering orally or in written form –
- (a) any reduction or discount on the retail price for any battery for the purposes of the reduced or discounted retail price concerned,
 - (b) two retail prices for any battery the purposes of the lower retail price concerned or, as appropriate,
 - (c) any inducement,

being predicated on the distributor not having to fulfil his or her obligation in sub-article (1)(b)(i).

- (4) Without prejudice to sub-article (2), where a producer or, as appropriate, a distributor supplies batteries by means of distance communication he or she shall –
- (a) place a visible and legible notice –
 - (i) at each point on his or her website or other electronic means of communication where –
 - (A) a battery being distributed is displayed,
 - (B) the retail price of a battery is quoted or, as appropriate,
 - (C) the ordering and financial transaction confirming purchase of a battery is undertaken or, as appropriate,
 - (ii) in each of his or her catalogues, brochures or, as appropriate, mail-shots,

indicating that he or she will take back waste batteries free of charge provided any waste battery that is returned is of equivalent type as the batteries supplied by him or her together with details of any or every place of business in the State from which he or she distributes batteries or, as appropriate, an address in the State where he or she takes back waste batteries,

- (b) notify customers when distributing any battery by voice telephony services, including telesales and telemarketing, that he or she will take back batteries free of charge as long any waste battery supplied by him or her together with details of any or every place of business in the State from which he or she distributes batteries or, as appropriate, an address in the State where he or she takes back waste batteries, and

Public Consultation Draft

- (c) Without prejudice to paragraphs (a) and (b), a producer or, as appropriate, a distributor who supplies any battery by means of distance communication shall accept waste batteries by accepting them at all reasonable times at –
 - (i) any or every place of business in the State from which he or she distributes batteries or, as appropriate,
 - (ii) an address in the State,occupied by the producer or, as appropriate, the distributor concerned or by any of his or her servants or agents.

- (5) Notwithstanding sub-article 1(a), any distributor who distributes any battery placed on the market by a producer who is not in possession of a valid Certificate of Registration or a Certificate of Renewal of Registration in accordance with the provisions of article 19 shall be obliged to –
 - (a) register with the registration body in accordance with the provisions of article 17,
 - (b) arrange for the environmentally sound management of waste batteries in accordance with the provisions of articles 23 and 27, and
 - (c) achieve the collection and recycling targets prescribed in articles 23 and 28, and
 - (d) prepare and submit waste management plans and reports in accordance with the provisions of article 30.

Disposal of waste batteries by distributors.

- 22. (1) On or from 26 September 2008, each distributor of batteries shall be –
 - (a) prohibited from –
 - (i) transferring to any person or persons waste portable batteries with the exception of –
 - (A) a collector who is acting on behalf of –
 - (I) the producer responsible for financing the environmentally sound management of the waste batteries concerned in accordance with the provisions of article 23 or, as appropriate,
 - (II) an approved body established in accordance with the provisions of Part V or its representative or, as appropriate,
 - (B) a producer who is responsible for financing the environmentally sound management of the waste

Public Consultation Draft

- batteries concerned in accordance with the provisions of article 23 or, as appropriate,
- (C) an approved body established in accordance with the provisions of Part V or its representative,

that is permitted in accordance with the provisions of section 34 of the Act,

- (b) entitled to dispose of waste portable batteries free of charge at a civic amenity facility provided he or she has fulfilled the obligations in articles 21 and 42, subject to –
 - (i) prior agreement with the operator of such a facility on the maximum quantity, by weight or, as appropriate, by number of units, of waste consignments together with the size and type of vehicle or vehicles to be permitted access to the aforementioned facility and any conditions that may be appropriate,
 - (ii) the waste portable batteries are transported in or on a vehicle registered in accordance with the provisions of section 131 of the Finance Act 1992 (No. 9 of 1992), and
- (c) may dispose waste portable batteries free of charge at a distribution centre where he or she purchases portable batteries provided he or she has fulfilled the obligations in articles 21 and 42, subject to –
 - (i) prior agreement with the operator of such a distribution centre,
 - (ii) the approval of the local authority in whose functional area the distribution centre concerned is situated,
 - (iii) the distribution centre concerned is registered in accordance with the provisions of article 42, and
 - (iv) the waste portable batteries are transported in or on a vehicle registered in accordance with the provisions of section 131 of the Finance Act 1992 (No. 9 of 1992).
- (2) Without prejudice to sub-article (1)(b), where it is established a civic amenity facility on account of its location cannot cater for vehicles of a particular size, the local authority in whose functional area the civic amenity site is located or the operator acting on its behalf may direct a distributor to deposit such waste portable batteries at an alternative collection point operated by the local authority or on its behalf.
- (3) Without prejudice to sub-article (1)(b), each distributor of batteries shall be entitled to dispose of waste portable batteries free of charge at a civic amenity facility until 28 March 2009 where the obligation in article 21 is fulfilled, subject to –

Public Consultation Draft

- (a) the distributor concerned demonstrating that he or she has –
 - (i) applied for registration in accordance with the provisions of article 41, and
 - (ii) been issued with a registration number in accordance with the provisions of section 9 of the Value Added Tax Act 1972 (No. 22 of 1972),
 - (b) prior agreement with the operator of such a facility on the maximum quantity, by weight or, as appropriate, by number of units, of waste consignments together with the size and type of vehicle or vehicles to be permitted access to the aforementioned facility and any conditions that may be appropriate,
 - (c) the waste portable batteries are transported in or on a vehicle registered in accordance with the provisions of section 131 of the Finance Act 1992 (No. 9 of 1992), and
 - (d) the provisions of sub-article (2).
- (4) Without prejudice to sub-article (1)(a), any distributor who transfers to any person or persons waste batteries, with the exception of –
- (a) a collector who is acting on behalf of –
 - (i) the producer responsible for financing the environmentally sound management of the waste batteries concerned in accordance with the provisions of article 23 or, as appropriate,
 - (ii) an approved body established in accordance with the provisions of Part V or its representative or, as appropriate,
 - (b) a producer who is responsible for financing the environmentally sound management of the waste batteries concerned in accordance with the provisions of article 23 or, as appropriate,
 - (c) an approved body established in accordance with the provisions of Part V or its representative,

that is permitted in accordance with the provisions of section 34 of the Act, shall ensure that the waste batteries concerned are collected by an authorised waste collector, arrange for the environmentally sound management of the waste batteries concerned in accordance with the provisions of articles 23 and 27, achieve the collection and recycling targets prescribed in articles 23 and 28 and submit a report in respect of the previous calendar year containing at least the information set out in Part 1 of the *Second Schedule* is submitted to the agency by 28 February of each year.

Public Consultation Draft

Financing the take back of waste batteries.

23. (1) On and from 26 September 2008, each producer shall ensure that he or she or a third party acting on his or her behalf finances any net costs arising from –
- (a) the environmentally sound management of waste batteries deposited at collection points and civic amenity facilities in the functional areas of all local authorities relating to his or her own products regardless of when placed on the market and their chemical composition,
 - (b) the collection from endusers and environmentally sound management of waste industrial batteries relating to his or her own products regardless of when placed on the market and their chemical composition, and
 - (c) any public information campaign on the collection, treatment and recycling of waste portable batteries in respect of portable batteries he or she has placed on the market in the State or, as appropriate, in proportion to his or her market share in respect of portable batteries placed on the market in the State.
- (2) Any producer or, as appropriate, distributor, shall be prohibited from displaying the costs of the environmentally sound management of waste batteries to any person or persons.
- (3) Subject to sub-article (1), on and from 26 September 2008, a producer shall within five working days of being requested so to do by –
- (a) a local authority or a third party acting on its behalf, collect, or arrange for the collection of, from any civic amenity facility operated by that local authority or on its behalf, any waste batteries regardless of when placed on the market and their chemical composition or, as appropriate,
 - (b) an enduser of industrial batteries or a third party acting on its behalf, collect, or arrange for the collection of, from the enduser concerned any waste industrial battery regardless of when placed on the market and its chemical composition
- relating to products of a type and brand supplied by that producer or, as appropriate, in proportion to his or her market share in respect of batteries, including industrial batteries, placed on the market in the State
- (4) Where a producer fails to comply with the requirements of sub-article (3) –
- (a) a local authority may make alternative arrangements for the environmentally sound management of any waste batteries relating to products of a type and brand supplied by that producer or, as appropriate,

Public Consultation Draft

- (b) an enduser of industrial batteries may make alternative arrangements for the environmentally sound management of any waste industrial

and may obtain from the producer in addition to the actual costs of the environmentally sound management, any other costs incurred including, but not exclusive to, administrative, logistical and storage costs, at a rate or rates as to be determined by the local authority concerned together with an agency fee not exceeding 10% of the total costs incurred.

- (5) In the event that the business of a producer is transferred in whole or in part to another person or persons, the producer shall remain responsible for the full costs of financing the environmentally sound management of batteries which he or she has placed on the market, until such time that he or she demonstrates that the person or persons to whom a transfer has been made is or are competent and in agreement to meet all the obligations of the producer in respect of any such batteries, including fulfilling the obligation of producers to finance the environmentally sound management of waste batteries, in accordance with the provisions of sub-article (1) and the requirement of producers to meet all collection and recycling targets in accordance with the provisions of sub-article (10) and article 28.
- (6) Notwithstanding sub-article (1)(b), economic operators may collect waste industrial batteries from endusers provided that –
 - (a) the waste industrial batteries concerned are –
 - (i) collected by an authorised waste collector, and
 - (ii) managed in an environmentally sound manner in accordance with the provisions of Articles 26, 27 and 28, and
 - (b) a report in respect of the previous calendar year containing at least the information set out in Part 2 of the *Second Schedule* is submitted to the agency by 28 February of each year.
- (7) Without prejudice to sub-article (1), each producer –
 - (a) of automotive and industrial batteries shall ensure that he or she, as a minimum, collects, no later than –
 - (i) 26 September 2010, 90%
 - (ii) 26 September 2012, 91%
 - (iii) 26 September 2014, 93%, and
 - (iv) 26 September 2016, 95%

of the quantity by type of battery he or she places on the market in accordance with the requirements set out in Annex I of the

Public Consultation Draft

Directive, subject to any amendment that may be made to that Annex from time to time, and

- (a) batteries other than batteries specified in paragraph (a) shall ensure that he or she, as a minimum, collects, no later than –
 - (i) 26 September 2010, 20%
 - (ii) 26 September 2012, 25%
 - (iii) 26 September 2014, 35%, and
 - (iv) 26 September 2016, 45%

of the quantity by type of battery he or she places on the market in accordance with the requirements set out in Annex I of the Directive, subject to any amendment that may be made to that Annex from time to time.

- (8) Notwithstanding sub-article (1), producers shall have no obligation in the State to finance the environmentally sound management of waste batteries that arise and are collected under any scheme set up in accordance with the Directive or Directive 2002/96/EC on waste electrical and electronic equipment in another member state or third country.

Alternative financing arrangements.

- 24 (1) Producers and users of industrial or, as appropriate, automotive batteries may conclude agreements stipulating other financing methods provided that the waste is managed in an environmentally sound manner in accordance with the requirements of these Regulations
- (2) Where producers and users of industrial or, as appropriate, automotive batteries conclude agreements stipulating other financing methods provided for in sub-article (1), the producer shall in advance of the sale of such batteries notify that user of any or all of the obligations that transfer to the enduser concerned in connection with the environmentally sound management of the waste batteries, and where appropriate, of his or her obligations to fulfil the provisions of articles 27 and 28.
- (3) Notwithstanding sub-article (1), alternative financial arrangements with users of automotive batteries arising from private or, as appropriate, non-commercial vehicles shall be prohibited.

Collection of waste batteries.

- 25. On and from 26 September 2008, –
 - (a) endusers of waste –
 - (i) portable batteries,

Public Consultation Draft

- (ii) automotive batteries from private or, as appropriate, non-commercial vehicles,

shall be entitled to deposit such waste at civic amenity facilities free of charge,

- (b) each producer of –
 - (i) portable batteries shall ensure that he or she or a third party acting on his or her behalf shall make adequate arrangements to provide for the collection of waste portable batteries from collection points and civic amenity facilities situated in the functional area of each local authority,
 - (ii) automotive batteries shall ensure that he or she or a third party acting on his or her behalf shall make adequate arrangements to provide for the collection of waste automotive batteries arising from private or, as appropriate, non-commercial vehicles from collection points and civic amenity facilities situated in the functional area of each local authority,
 - (iii) automotive batteries from vehicles other than private or, as appropriate, non-commercial vehicles shall ensure that he or she or a third party acting on his or her behalf shall make adequate arrangements to provide for the collection of waste automotive batteries from vehicles other than private or, as appropriate, non-commercial vehicles from collection points situated in the functional area of each local authority or, as appropriate,
 - (iv) industrial batteries shall ensure that he or she or a third party acting on his or her behalf shall make adequate arrangements to provide for the collection of waste industrial batteries regardless of their chemical composition, or as appropriate, origin from collection points situated in the functional area of each local authority, and
- (c) each local authority may designate any workplace or school as a collection point, subject to the agreement of the management of the workplace or school concerned and, where appropriate, an –
 - (i) obligated producer, or as appropriate,
 - (ii) approved body established in accordance with the provisions of Part V of these Regulations.

Disposal of waste batteries.

- 26. (1) On and from 26 September 2008, any person shall be prohibited from disposing waste industrial and automotive batteries in landfill or by incineration.
- (2) Notwithstanding sub-article (1), the residues or any battery may be disposed of in landfill or by incineration provided it has already

Public Consultation Draft

undergone both treatment and recycling in accordance with the provisions of articles 27 and 28.

Treatment of waste batteries.

27. (1) On and from 26 September 2009, each –
- (a) producer that is responsible for financing the environmentally sound management of any waste battery in accordance with the provisions of article 23,
 - (b) enduser of an industrial or, as appropriate, automotive –
 - (i) battery, other than an automotive battery from a private or, as appropriate, non-commercial vehicle or, as appropriate,
 - (ii) accumulator, other than an automotive accumulator from a private or, as appropriate, non-commercial vehicle,
- avails of alternative financing methods as provided for in article 24,
- (c) authorised waste collector, acting independently of any obligated producer or approved body established in accordance with the provisions of Part V of these Regulations, engaged in the collection and transport of any waste battery or, as appropriate,
 - (d) person who becomes obligated in accordance with the provisions of articles 17(5) or, as appropriate, 22(4)
- shall ensure that its treatment shall, as a minimum, meets the requirements set out in Part A of Annex III of the Directive, subject to any amendment that may be made to that Annex from time to time.
- (2) Without prejudice to sub-article (1), on and from 26 September 2008, where any waste battery is treated in another member state or a third country, the –
- (a) producer that is responsible for financing the environmentally sound management of any waste battery in accordance with the provisions of article 23,
 - (b) enduser of an industrial or, as appropriate, automotive battery, other than an automotive battery from a private or, as appropriate, non-commercial vehicle avails of alternative financing methods as provided for in article 24,
 - (c) authorised waste collector, acting independently of any obligated producer or approved body established in accordance with the provisions of Part V of these Regulations, engaged in the collection and transport of any waste industrial battery or, as appropriate,

Public Consultation Draft

- (d) person who becomes obligated in accordance with the provisions of articles 17(5) or, as appropriate, 22(4)

shall ensure it is transported in accordance with the provisions of Council Regulation (EEC) No. 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community⁷ and treated at a facility appropriately licensed or, as appropriate, permitted by the relevant authority or authorities in the member state or third country concerned, and furnish documentary evidence that the requirements of article 28 have been complied with.

- (3) Without prejudice to sub-articles (1) and (2), on and from 26 September 2008, any battery that is collected with waste electrical and electronic equipment in accordance with the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) shall be removed from the waste electrical and electronic equipment concerned prior to its environmentally sound management in accordance with the provisions of these Regulations.

Recycling of waste batteries.

- 28. (1) On and from 26 September 2011, each –
 - (a) producer that is responsible for financing the environmentally sound management of any waste battery in accordance with the provisions of article 23,
 - (b) enduser of an industrial or, as appropriate, automotive battery, other than an automotive battery from a private or, as appropriate, non-commercial vehicle avails of alternative financing methods as provided for in article 24,
 - (c) authorised waste collector, acting independently of any obligated producer or approved body established in accordance with the provisions of Part V of these Regulations, engaged in the collection and transport of any waste industrial battery or, as appropriate,
 - (d) person who becomes obligated in accordance with the provisions of articles 17(5) or, as appropriate, 22(4)

shall ensure that its recycling process shall, as a minimum, meet the recycling efficiencies set out in Part B of Annex III of the Directive, subject to any amendment that may be made to that Annex from time to time.

- (2) On and from 26 September 2008, each facility in the State engaged in the recycling of waste batteries shall be required to consider the –

⁷ O.J. No. L30, 6.2.1993, p1 as last amended by Commission Regulation (EC) No 2557/2001 (O.J. No. L349, 31.12.2001, p1.

Public Consultation Draft

- (a) introduction of certified environmental management schemes in accordance with Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community ecomanagement and audit scheme (EMAS)⁸,
 - (b) development new recycling and treatment technologies, and
 - (c) promotion of research into environmentally friendly and cost effective recycling methods for all types of batteries.
- (3) Without prejudice to sub-article (2) the Minister from time to time may issue guidance concerning new recycling technologies.

Record keeping.

29. (1) On and from 26 September 2008, –

- (a) each producer shall ensure that he or she or a third party acting on his or her behalf records the quantities, by weight or, as appropriate, by number of units, and categories of batteries in each of the categories specified in guidance which the Minister may issue from time to time he or she placed on the market in –
 - (i) each Member State of the European Union, and
 - (ii) third countries, and
- (b) each –
 - (i) producer that is responsible for financing the environmentally sound management of any waste battery in accordance with the provisions of article 23,
 - (ii) enduser of an industrial or, as appropriate, automotive battery, other than an automotive battery from a private or, as appropriate, non-commercial vehicle avails of alternative financing methods as provided for in article 24,
 - (iii) authorised waste collector, acting independently of any obligated producer or approved body established in accordance with the provisions of Part V of these Regulations, engaged in the collection and transport of any waste industrial battery or, as appropriate,
 - (iv) person who becomes obligated in accordance with the provisions of articles 17(5) or, as appropriate, 22(4)

or a third party acting on his or her behalf shall record the quantities, by weight or, as appropriate, by number of units, and categories of batteries in each of the categories specified in guidance which the Minister may issue from time to time when

⁸ O.J. No. L114, 24.4.2001, p1 as last amended by Commission Regulation (EC) No 196/2006 (O.J. No. L32, 4.2.2006, p4.

Public Consultation Draft

entering and leaving a recovery facility carrying out the treatment of waste batteries or, as appropriate, when entering a recovery facility carrying out the recycling of waste batteries.

- (2) Records kept pursuant to sub-article (1) shall be –
 - (a) retained at an address in the State by the person required to keep them for a period of at least six years, starting from the end of the year in which they were drawn up, and
 - (b) made available to the Agency, the Registration Body, a local authority or, as appropriate, an appropriate agency on request within a specified period or by a specified date.

Waste management plans and reports.

30. (1) A producer shall not later than the date on which application for registration is made in accordance with the provisions of sub-article 18(1)(a) –
 - (a) have prepared a plan specifying the steps to be taken by the said producer in order to comply with the requirements of these Regulations, including the steps which the producer intends to take to ensure the environmentally sound management of waste batteries, and
 - (b) fix and maintain, on and from 26 September 2008, in a conspicuous position at or within one metre of each entrance to each of his or her premises, other than a premises used for the distribution of batteries, a notice complying with the requirements specified in Part 1 of the *Third Schedule*.
- (2) A plan in accordance with the provisions of sub-article (1)(a) shall contain at least the information set out in Part 1 of the *Fourth Schedule*.
- (3) A producer shall, not later than the date on which application for renewal of registration is made in accordance with the provisions of sub-article 18(1)(b) –
 - (a) have prepared a report specifying the steps taken by the said producer in order to comply with the requirements of these Regulations in the relevant period, and the results of those steps, and
 - (b) fix and maintain, in a conspicuous position at or within one metre of each entrance to each of his or her premises, other than a premises used for the distribution of batteries, a notice complying with the requirements specified in Part 2 of the *Third Schedule*.

Public Consultation Draft

- (4) A report in accordance with the provisions of sub-article (3)(a) shall contain at least the information set out in Part 2 of the *Fourth Schedule*.
- (5) A producer shall at least once every three years, and not later than the date on which application for renewal of registration in that year is made in accordance with the provisions of article 18(1)(b), have prepared a new plan in accordance with the provisions of sub-article (1)(a).
- (6) A producer shall on the date on which application for –
 - (a) registration is made in accordance with the provisions of article 18(1)(a), or
 - (b) renewal of registration is made in accordance with the provisions of article 18(1)(b)submit to the Agency for its approval a copy of a plan or report prepared for the purpose of this article.
- (7) An administration fee determined by the Agency shall accompany a copy of a plan or report submitted to it in accordance with the provisions of sub-article (6).
- (8) A copy of a plan or report prepared for the purpose of this article shall be made available, free of charge, by the producer concerned to any person who so requests within 10 working days of the date of receipt of the request.
- (9) For the purpose of this article, “made available” includes sending the plan or report, as the case may be, by post, fax or electronic mail to a person who so requests.

Obligation of producers to provide information to users of batteries.

31. (1) On and from 26 September 2008 each producer shall ensure –
 - (a) that he or she or a third party acting on his or her behalf marks indelibly, visibly and legibly –
 - (i) each battery including any button cell he or she places on the market –
 - (A) with the symbol shown in the *Fifth Schedule* or, as appropriate,
 - (B) containing more than –
 - (I) 0.0005 % mercury with the chemical symbol Hg,

Public Consultation Draft

- (II) 0.002 % cadmium with the chemical symbol Cd or, as appropriate,
- (III) 0.004 % lead with the chemical symbol Pb

which shall be printed beneath the symbol shown in the *Fifth Schedule* and shall cover an area of at least one quarter the size of that symbol,

(ii) each –

- (A) portable battery or, as appropriate,
- (B) automotive accumulator

with details of the capacity of the battery concerned in accordance with the detailed rules for the implementation of this requirement, including harmonised methods for the determination of capacity and appropriate use, shall be laid down in accordance with the procedure referred to in Article 24(2) of the Directive.

(b) when supplying a new battery, that users are informed of –

- (i) the potential effects on the environment and human health of the substances used in batteries,
- (ii) the desirability of not disposing of waste batteries as unsorted municipal waste and of participating in their separate collection so as to facilitate treatment and recycling,
- (iii) their role in contributing to the recycling of waste batteries,
- (iv) the meaning of the symbol of the crossed-out wheeled bin shown in Annex II and the chemical symbols Hg, Cd and Pb,
- (v) how to safely remove a battery from an appliance where a battery is incorporated into the appliance concerned, and
- (vi) the type of any battery that is incorporated into an appliance.

(2) Without prejudice to sub-article (1), the symbol shown in the *Fifth Schedule* shall cover at least –

- (a) 3 % of the area of the largest side of any battery or, as appropriate, battery pack but excluding any cylindrical cell, or
- (b) 1.5 % of the surface area of any cylindrical cell,

up to a maximum size of 5 × 5 cm.

Public Consultation Draft

- (3) Notwithstanding sub-article (2), where the size of the battery or, as appropriate, battery pack is such that the symbol shown in the *Fifth Schedule* would be smaller than 0.5×0.5 cm –
- (a) the battery or, as appropriate, battery pack need not be marked in accordance with provisions of sub-article (1), and
 - (b) the symbol shown in the *Fifth Schedule* shall be printed on the packaging and shall measure at least 1×1 cm.
- (4) Notwithstanding sub-article (3), where the symbol shown in the *Fifth Schedule* is printed on the packaging of any battery including any button cell containing more than –
- (a) 0.0005 % mercury,
 - (b) 0.002 % cadmium or, as appropriate,
 - (c) 0.004 % lead,
- the information as prescribed in sub-article (1)(b) shall also be printed on the packaging concerned.
- (5) The obligation in sub-article –
- (a) 1(b) will be deemed to have been met if the information is provided –
 - (i) in the instructions for use
 - (ii) in leaflets issued at the point of sale, or, as appropriate,
 - (iii) through an ongoing information campaign approved by the Minister, and
 - (b) 1(b)(v) shall not apply where, for safety, performance, medical or data integrity reasons, continuity of power supply is necessary and requires a permanent connection between the appliance and the battery.

Obligation of producers to provide information to the Registration Body.

32. Each producer or a third party acting on his or her behalf shall declare, the quantities, by weight or, as appropriate, by number of units, and categories of batteries in each of the categories specified in guidance which the Minister may issue from time to time he or she placed on the market, to the registration body, or where any or all of the functions of the registration body have been devolved to a third party in accordance with the provisions of article 15(3), to the third party concerned –
- (a) by 1 August 2008, in respect of the calendar year ending 31 December 2007,
 - (b) by 31 January of each year thereafter, in respect of the previous calendar year ending 31 December, and

Public Consultation Draft

- (c) on request within a specified period or by a specified date, in respect of any specified period.

Obligation of distributors to provide information to users of batteries.

- 33. (1) On and from 26 September 2008, distributors of batteries –
 - (a) when supplying a new product, shall ensure that users are informed of the return and collection systems available to them, and
 - (b) fix and maintain, in a conspicuous position within one metre of the point of sale or, as appropriate, display of batteries a notice complying with the requirements specified in Part 3 of the *Third Schedule*.
- (2) The obligation of sub-article –
 - (a) (1)(a) will be deemed to have been met if the information is provided in the instructions for use or, as appropriate, leaflets issued at the point of sale or, as appropriate,
 - (b) (1)(b) will be deemed to have been met if a distributor of electrical and electronic equipment and batteries fixes and maintains in a conspicuous position within one metre of the point of sale or, as appropriate, display of electrical and electronic equipment and batteries or, as appropriate, accumulators a notice complying with the requirements specified in Part 4 of the *Third Schedule*.

PART V

APPROVED BODIES

Exemption from certain requirements.

- 34. Without prejudice to the responsibility of each individual producer to finance the environmentally sound management of waste batteries, waste automotive batteries or, as appropriate, waste industrial and arrange for their environmentally sound management, a producer who holds a valid certificate granted to him or her by an approved body stating that such producer is participating, in a satisfactory manner, in a scheme for the environmentally sound management of waste batteries shall be exempt from the requirements of articles 23, 25(b), 27, 28 and 30 unless and until such certification is revoked by the approved body concerned or otherwise ceases to have effect/be in force, or approval granted by the Minister to the body concerned is revoked in accordance with the provisions of article 37.

Application to the Minister for approval.

- 35. (1) A body corporate may apply to the Minister for approval for the

Public Consultation Draft

purposes of this Part.

- (2) An application for approval in accordance with the provisions of sub-article (1) shall be made in writing and shall be accompanied by the following –
- (a) a copy of the articles of association of the body corporate,
 - (b) the appropriate certificate issued by the Companies Registration Office,
 - (c) proposals relating to corporate governance,
 - (d) proposals for representation of small and medium enterprises on the board of the approved body together with the names and addresses in the State of the officers of the body corporate and its board of directors,
 - (e) a business plan in relation to the proposed scheme,
 - (f) proposals for a contingency reserve,
 - (g) proposals relating to co-operation with other approved bodies and individual producers who are not eligible for the exemptions provided for in article 34 including proposals in relation to the collection of waste batteries from collection points including civic amenity facilities, workplaces and schools in the appropriate functional areas of all local authorities,
 - (h) proposals for a scheme to be undertaken by the body corporate for the environmentally sound management of waste batteries,
 - (i) proposals for the achievement of the targets as laid down in articles 23 and 28 for the environmentally sound management of waste batteries under the proposed scheme,
 - (j) proposals for determining and verifying the level of the environmentally sound management of waste batteries under the proposed scheme,
 - (k) a copy of the rules of membership of the body corporate together with details of the membership fee structure,
 - (l) a –
 - (i) declaration that no producer applying for membership will be discriminated against on the grounds –
 - (A) of the quantity or, as appropriate, type of batteries that he or she places on the market, or, as appropriate,
 - (B) that the body concerned is only catering for or will only cater for –
 - (I) a maximum pre-determined share of waste arisings from batteries or, as appropriate,
 - (II) waste arising from batteries from a particular geographical location or locations,

Public Consultation Draft

in the State, and

- (ii) list of applications for membership -
 - (A) received,
 - (B) accepted, and
 - (C) rejected together with the grounds for rejection.
- (m) proposals for the certification of producers for the purposes of article 34,
- (n) proposals relating to green procurement,
- (o) proposals relating to the dissemination of information to the public regarding the environmentally sound management of waste batteries,
- (p) proposals detailing the nature and frequency of information (including financial accounts) to be submitted by the body concerned to the Minister or to such other person as may be specified by the Minister or, as appropriate,
- (q) such other information as may be specified in writing by the Minister for the purposes of this article.

Grant or refusal of approval.

36. (1) Subject to sub-article (3), the Minister may, by notice in writing, grant approval to a body corporate for the purposes of this Part, or may refuse to grant such approval.
- (2) Subject to article 37, an approval granted by the Minister under this article shall be for a period of not less than three years and not more than five years.
- (3) An approval in accordance with the provisions of sub-article (1) may be subject to such conditions as the Minister may specify, including conditions relating to -
- (a) the articles of association of the body corporate,
 - (b) the appropriate certificate issued by the Companies Registration Office,
 - (c) corporate governance,
 - (d) the representation of small and medium enterprises on the board of the approved body and the composition of the board of directors,
 - (e) the business plan,
 - (f) a contingency reserve,
 - (g) co-operation with other approved bodies and individual producers who are not eligible for the exemptions provided for in article 34 including the collection of waste batteries from collection including civic amenity facilities, workplaces and

Public Consultation Draft

- schools in the appropriate functional areas of all local authorities,
- (h) any aspects of the scheme to be undertaken by the body corporate for the environmentally sound management of waste batteries,
 - (i) the achievement of the targets as laid down in articles 23 and 28 for the environmentally sound management of waste batteries,
 - (j) the determination and verification of the effects of measures to be undertaken with regard to the environmentally sound management of waste batteries,
 - (k) the rules of membership of the body corporate and the membership fee structure,
 - (l) non-discrimination against any producer on the grounds –
 - (i) of the quantity or, as appropriate, type of batteries that he or she places on the market or, as appropriate,
 - (ii) that the body concerned is only catering for or will only cater for –
 - (A) a maximum pre-determined share of waste arisings from batteries or, as appropriate,
 - (B) waste arising from electrical batteries from a particular geographical location or locations,
- in the State,
- (m) the certification of producers for the purpose of article 34,
 - (n) green procurement,
 - (o) measures to be undertaken by the body concerned relating to the dissemination of information to the public regarding the environmentally sound management of waste batteries,
 - (p) the nature and frequency of information (including financial accounts) to be submitted by the body concerned to the Minister or to such other person as may be specified by the Minister or, as appropriate,
 - (q) any other matters the Minister may consider appropriate.
- (4) Without prejudice to sub-article (3), in the event that an approved body –
- (a) has its approval revoked in accordance with the provisions of article 37,
 - (b) goes into liquidation, examination or, as appropriate, receivership or, as appropriate,
 - (c) enters into a scheme of arrangement or compromise in accordance with the provisions of section 201 of the Companies Acts,

Public Consultation Draft

the contingency reserve provided for in sub-article (3)(f), shall not be used by any person or persons, including the liquidator, examiner, receiver or, as appropriate, administrator concerned for any purpose, including the discharge of liabilities to creditors, whether secured creditors, preferential creditors, creditors claiming under retention of title, creditors with claims supported by guarantees or indemnities, ordinary creditors or, as appropriate, subordinated creditors, other than for fulfilling the obligations of the producers in membership of the compliance scheme concerned as laid down in these Regulations.

- (5) The Minister may, by notice in writing, from time to time vary any condition attached to an approval granted in accordance with the provisions of this article.

Review and revocation of approval.

37. (1) Subject to sub-article (2), where it appears to the Minister that –

- (a) new targets for the environmentally sound management of waste batteries need to be met,
- (b) it is necessary to ensure equitable distribution of producer responsibility obligations, or
- (c) for some other reason it is necessary in the interests of the environmentally sound management of waste batteries,

he or she may review an approval granted in accordance with the provisions of article 36, or require the approved body to make a new application in accordance with the provisions of article 35 for a renewal of an approval.

(2) Where the Minister proposes to review an approval granted in accordance with the provisions of article 36, or require the making of a new application in accordance with the provisions of article 35, the Minister shall –

- (a) give notice in writing to the approved body of the proposal and the reasons therefor,
- (b) specify a period of not less than four weeks within which the approved body may make a submission to the Minister in relation to a review, or make a new application in accordance with the provisions of article 35, as the case may be, and
- (c) consider any submission, or application so made.

(3) Following the consideration of any submission or application in accordance with sub-article (2), the Minister may issue a revised approval, varying any condition attaching to the approval or attach any additional conditions which he or she considers appropriate, or grant a new approval in accordance with the provisions of article 36, as the case may be.

Public Consultation Draft

- (4) Where an approval granted in accordance with the provisions of article 36 is due to expire, the approved body concerned shall –
 - (a) not later than six months before the expiry of the approval, notify the Minister whether or not it intends to continue or cease operating as an approved body, or
 - (b) if intending to continue to operate as an approved body, shall not later than two months before the expiry of the approval, make an application to the Minister in accordance with the provisions of said article 35.
- (5) Subject to sub-article (6), where it appears to the Minister that an approved body is not complying with conditions attached to such approval, or that relevant targets for the environmentally sound management of waste batteries have not been or are not being met, the Minister may review or, as appropriate, revoke an approval granted in accordance article 36.
- (6) Where the Minister proposes to revoke an approval granted in accordance with the provisions of article 36, the Minister shall -
 - (a) give notice in writing to the approved body of the proposed decision and the reasons therefor,
 - (b) specify a period of not less than four weeks within which the approved body may make a submission to the Minister in relation to the proposed decision, and
 - (c) consider any submission so made.

Use of logo adopted by an approved body.

38. No person shall, other than with the written consent of an approved body, display –
 - (a) at any premises or, as appropriate,
 - (b) on or in, any –
 - (i) vehicle,
 - (ii) product,
 - (iii) packaging,
 - (iv) advertisement or, as appropriate,
 - (v) notice,

any logo or other mark or symbol designed and adopted by that approved body for use by producers or, as appropriate, distributors certified by that approved body for the purposes of article 34.

Notifications to local authorities and the Registration Body.

39. An approved body shall, not later than the 7th day of each month, notify –

Public Consultation Draft

- (a) each local authority of any producer situated within the functional area of the authority, and
- (b) the registration body or, as appropriate, a third party acting on its behalf,

of any producer in respect of which a certificate for the purposes of article 34 has been granted or revoked within the preceding calendar month.

PART VI

FUNCTIONS OF THE AGENCY AND LOCAL AUTHORITIES

Enforcement.

- 40. (1) The Agency shall be responsible for the enforcement of the provisions of articles 5, 7, 9, 15, 16, 17, 18, 19, 20, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34, 38, 39, 45 and 46 of these Regulations within the State and shall take such steps as are necessary for this purpose.
- (2) Each local authority shall be responsible for the enforcement of the provisions of articles 21, 22, 33, 42 and 44 of these Regulations within their functional areas and shall take such steps as are necessary for this purpose.
- (3) The Agency or, as appropriate, the Authority or, as appropriate, the relevant local authority, shall be responsible for the enforcement of the provisions of articles 25, 26 and 43 of these Regulations within the State and shall take such steps as are necessary for this purpose.

Authorised Officers.

- 41. (1) The Board or, as appropriate, an Authorised Officer of the Board may appoint such persons as it considers appropriate to be Authorised Officers for the purposes of Part II of these Regulations.
- (2) Such Authorised Officers shall have the powers and obligations conferred on them by the Act or, as appropriate, the Environmental Protection Agency Acts 1992 and 2003 or such other legislation as may be enacted from time to time.

Registration of Distributors.

- 42. (1) On a date not later than 1 July 2008, each local authority shall cause to be established and maintained a register (hereafter in this Part referred to as 'the register') of distributors within its functional area, who transport or, as appropriate, store waste batteries that have been accepted free of charge in accordance with the provisions of article 21.

Public Consultation Draft

- (2) Each local authority shall be required to provide for the maintenance of the register, and the inspection of each premises registered therein.
- (3) A distributor shall, in respect of each premises from which he or she, distributes batteries or, as appropriate, uses for the storage of batteries prior to their distribution –
 - (a) apply for registration, not later than 1 August 2008, or the date of commencement of business, whichever is the later, and
 - (b) apply for renewal of such registration, not later than 31 January in each year following initial registration, subject only that a distributor or, as appropriate, a producer shall not be required to make such application within –
 - (i) six months of initial registration, or
 - (ii) seven months of initial registration in respect of applications received prior to 1 August 2008,

to the local authority in the functional area in which each premises at which he or she stores waste batteries accepted free of charge in accordance with the provisions of article 21 of these Regulations, is situated.

- (4) An application for registration, or renewal of registration, in accordance with the provisions of sub-article (3) shall be made in writing, shall contain at least the information set out in the *Sixth Schedule* and shall be accompanied by a –
 - (a) declaration from the applicant that transport and storage of waste batteries shall be in accordance with the provisions of –
 - (i) sections 34(1) and 39(1) of the Act, or, as appropriate,
 - (ii) articles 43 and 44 of these Regulations, and
 - (b) fee as prescribed in article 37(4)(b) of the Waste Management (Waste Electrical and Electronic) Regulations (S.I. No. 340 of 2005).
- (5) Without prejudice to sub-article (3), any distributor who is registered in accordance with the provisions of article 37 of the Waste Management (Waste Electrical and Electronic) Regulations (S.I. No. 340 of 2005) shall be deemed to be registered in accordance with the provisions of this article.

[IN ORDER TO SIMPLIFY THE PROCESS OF REGISTERING RETAILERS, THE FOLLOWING OR ALTERNATIVE TEXT ALLOWING FOR OTHER OPTIONS COULD BE INSERTED INTO THE REGULATIONS FOLLOWING DISCUSSIONS WITH TRADE / REPRESENTATIVE ASSOCIATIONS DURING THE CONSULTATION PERIOD. COMMENTS ON THIS PROPOSAL ARE INVITED]

Public Consultation Draft

- (6) Without prejudice to sub-article (1), an association or body corporate representing distributors may, subject to sub-article (7) maintain a register for the purposes of this article.
- (7) An approval in accordance with the provisions of sub-article (6) shall be subject to such conditions as the Minister may specify, including but not exclusively –
 - (a) the period of approval,
 - (b) variance in the terms and conditions of approval,
 - (c) revocation of approval, and
 - (d) the nature of information to be recorded and maintained by the body concerned.
- (8) The Minister may, by notice in writing, from time to time vary any condition attached to an approval granted in accordance with the provisions of this article.
- (9) Any association or body corporate representing distributors that is approved in accordance with the provisions of sub-article (7) -
 - (a) will be responsible for the effective carrying out of its functions, and
 - (b) shall ensure that its financial costs are borne from its own resources.
- (10) Subject to sub-article (11), where it appears to the Minister that an association or body corporate representing distributors that is approved in accordance with the provisions of sub-article (7) is not complying with conditions attached to such approval, he or she may revoke the approval.
- (11) Where the Minister proposes to revoke an approval granted in accordance with the provisions of sub-article (7), the Minister shall –
 - (a) give notice in writing to the association or body corporate concerned of the proposed decision and the reasons therefor,
 - (b) specify a period of not less than four weeks within which the association or body corporate concerned may make a submission to the Minister in relation to the proposed decision, and
 - (c) consider any submission so made.
- (12) Once an approval in accordance with the provisions of sub-article (7) –
 - (a) is revoked by the Minister, or
 - (b) expires,

Public Consultation Draft

association or body corporate concerned shall immediately transfer to each appropriate local authority, all records, documentation and data in written and in electronic form, relating to the registrar provided for in sub-article (6), including the requisite software and programmes.

- (13) A distributor shall fulfil the obligation in sub-article (3) if he or she applies, to an association or body corporate representing distributors that is approved in accordance with the provisions of sub-article (7), for the registration of each premises from which he or she, distributes batteries or, as appropriate, uses for the storage of batteries prior to their distribution.
- (14) Any distributor who registers each premises from which he or she, distributes batteries or, as appropriate, uses for the storage of batteries prior to their distribution in accordance with the provisions of sub-article (13) shall be deemed to have fulfilled the obligations provided for in sub-articles (3) and (4).

PART VII

MISCELLANEOUS

Non-application of section 34(1)(a) of the Act.

43. (1) Without prejudice to article 21(1)(b)(ii), on and from 26 September 2008, section 34(1)(a) of the Act shall not apply in respect of the transport of waste batteries undertaken by a –
- (a) distributor, registered in accordance with the provisions of article 42 –
- (i) taking back waste batteries or, as appropriate,
- (ii) depositing waste batteries at a collection point,
- that was accepted free of charge in accordance with the provisions of article 21 and is disposed of in accordance with the provisions of article 22, or
- (b) person or persons, acting on behalf of a body, which has been granted charitable recognition by the Revenue Commissioners, and issued with a Charity (CHY) Number provided that the activity is confined to the transport of waste batteries,
- provided that the waste batteries are transported in or on a vehicle registered in accordance with the provisions of section 131 of the Finance Act 1992 (No. 9 of 1992), other than a vehicle designed for the carriage of a skip or other demountable container.
- (2) the exemptions provided for in sub-article (1) shall not apply –

Public Consultation Draft

- (a) to contaminated waste batteries that present a health and safety risk, and
- (b) unless the waste batteries will be eventually–
 - (i) treated at an appropriate facility in accordance with the requirements set out in Part A, and
 - (ii) recycled at an appropriate facility in accordance with the requirements set out in Part B

of Annex III of the Directive, subject to any amendment that may be made to that Annex from time to time.

Non-application of section 39(1) of the Act.

44. (1) Without prejudice to article 21(1)(b)(ii), on and from 26 September 2008, section 39(1) of the Act shall not apply in respect of the temporary storage of waste batteries at a –
- (a) place where batteries are distributed, or a facility used by a distributor for the storage of batteries prior to their distribution, and where the quantities of waste batteries being stored at any one time does not exceed –
 - (i) 90 cubic metres of waste batteries other than waste specified in paragraph (ii) or, as appropriate,
 - (ii) 0.450 cubic metres of waste portable batteriesprovided they were accepted free of charge in accordance with the provisions of article 21, are disposed of in accordance with the provisions of article 22, and that such a place is registered and inspected in accordance with the provisions of article 42,
 - (b) place owned or occupied by a body, which has been granted charitable recognition by the Revenue Commissioners, and issued with a Charity (CHY) Number and where the quantities being stored at any one time does not exceed –
 - (i) 45 cubic metres of waste batteries, other than waste specified in paragraph (ii) or, as appropriate,
 - (ii) 0.225 cubic metres of waste portable batteries, or
 - (c) workplace or school designated as a collection point by a local authority in accordance with the provisions of article 25(c) and where the quantities being stored at any one time does not exceed 0.05 cubic metres of waste portable batteries.
- (2) the exemptions provided for in sub-article (1) shall not apply –
- (a) to contaminated waste batteries that presents a health and safety risk, and
 - (b) unless the waste batteries will be eventually–

Public Consultation Draft

- (i) treated at an appropriate facility in accordance with the requirements set out in Part A, and
- (ii) recycled at an appropriate facility in accordance with the requirements set out in Part B

of Annex III of the Directive, subject to any amendment that may be made to that Annex from time to time.

- (3) On and from 26 September 2008, waste batteries deposited by endusers or accepted free of charge by distributors in accordance with the provisions of article 21 through deliveries by commercial vehicles, may be accepted and stored at a collection point pending onward transport to an authorised treatment facility, or a temporary facility established with the approval of, or designated by, the appropriate local authority, to which members of the public have access for the deposit of waste batteries, where –
 - (a) the quantities of waste batteries being stored at any one time do not exceed –
 - (i) 180 cubic metres of waste batteries, other than waste specified in paragraph (ii) or, as appropriate,
 - (ii) 45 cubic metres of waste portable batteries, and
 - (b) where the waste batteries shall be stored for a period not exceeding 30 days.
- (4) Sub-article 3 shall only apply where –
 - (a) the restrictions imposed on the sources, maximum quantities and duration of storage of waste batteries are not exceeded at any time, and
 - (b) a –
 - (i) licensed, or, as appropriate, permitted facility has notified the Agency, or, as appropriate, the relevant local authority of its intentions to accept waste batteries that will be deposited by endusers or accepted free of charge by distributors in accordance with the provisions of article 21 through deliveries by commercial vehicles and has received written approval from the Agency, or, as appropriate, the relevant local authority to this request, or
 - (ii) registration certificate has been granted under sub-article 5 by the Agency, or, as appropriate, the relevant local authority in relation to the reception waste batteries that will be deposited by endusers or accepted free of charge by distributors in accordance with the

Public Consultation Draft

provisions of article 21 through deliveries by commercial vehicles at the facility, and

- (c) the activity is being carried on in accordance with the technical requirements specified in the rules specified in the *Seventh Schedule* and complies with the general requirements laid down in Article 4 of Directive 75/442/EEC.
- (5)
- (a) On and from 26 September 2008, a person may accept and store waste batteries, deposited by endusers or accepted free of charge by distributors in accordance with the provisions of article 21, at a collection point through deliveries by commercial vehicles pending onward transport to an authorised treatment facility, where a registration certificate has been granted in lieu of a waste permit in relation to the carrying on of the said activity at that facility.
 - (b) The Agency or, as appropriate, a local authority may, on application being made to it in accordance with these Regulations, grant a registration certificate (with or without conditions) or refuse to grant such a certificate, in relation to the carrying on at a facility of the said activity.
 - (c) An application for a registration certificate shall be made –
 - (i) in the case of an activity carried on by, or on behalf of, a local authority, to the Agency,
 - (ii) in the case of an activity carried on by a person other than a local authority, to a local authority in whose functional area the relevant facility is located.
 - (d) An application for a registration certificate must be made in writing and shall contain the information specified in the *Eighth Schedule*, where appropriate.
 - (e) On and from 2 January 2009, a fee of €300 shall accompany an application for a registration certificate.
 - (f) A local authority or, as appropriate, the Agency shall decide on an application for a registration certificate within four weeks from the date of submission of a valid application.
 - (g) Notwithstanding paragraph (f), where an applicant demonstrates that he or she has applied for a registration certificate to the Agency, or, as appropriate, the relevant local authority in respect of a collection point prior to 2 January 2009, such a collection point shall, in the period before a registration certificate is granted or refused, be deemed to be registered in accordance with the terms of paragraph (a).

Public Consultation Draft

Increased environmental performance.

- 45 (1) On and from 26 September 2009, each producer in the State engaged in the manufacture of batteries shall be required to consider the –
- (a) promotion of research and encourage improvements in the overall environmental performance of batteries throughout their entire life cycle, and
 - (b) development and marketing of batteries which contain smaller quantities of dangerous substances or which contain less polluting substances, in particular as substitutes for mercury, cadmium and lead.
- (2) Without prejudice to sub-article (1) the Minister from time to time may issue guidance concerning the design of and production of batteries.

Removal of waste batteries.

46. (1) On and from 26 September 2008, each producer in the State engaged in the manufacture of appliances containing batteries shall be required to design the appliances concerned in such a way that waste batteries can be readily removed, except where, for safety, performance, medical or data integrity reasons, continuity of power supply is necessary and requires a permanent connection between the appliance and the battery.
- (2) Without prejudice to sub-article (1) the Minister from time to time may issue guidance concerning the design of and production of appliances containing batteries.

Offences.

47. (1) Any person who contravenes or fails to comply with a provision, or provisions, of these Regulations or who provides information which is false or to his or her knowledge misleading in a material way, or who obstructs or interferes with an authorised person or an inspector in the exercise of a power conferred by these Regulations shall be guilty of an offence which may be prosecuted on indictment.
- (2) Notwithstanding, sub-article (1), where an offence under these Regulations is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been facilitated by any neglect on the part of any director, manager, secretary or any other officer of such body, such person shall be guilty of an offence.

Penalties

48. (1) A person guilty of an offence under the Act shall be liable –

Public Consultation Draft

- (a) on summary conviction, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months, or to both such fine and such imprisonment, or
 - (b) on conviction on indictment, to a fine not exceeding €15,000,000 or to imprisonment for a term not exceeding 10 years, or to both such fine and such imprisonment.
- (2) A person guilty of an offence under the European Communities Acts 1972 to 2007 shall be liable –
- (a) on summary conviction, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months, or to both such fine and such imprisonment, or
 - (b) on conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 3 years, or to both such fine and such imprisonment.

Revocation.

49. The European Communities (Batteries) Regulations 1994 (S.I. No. 262 of 1994) are revoked with effect from 26 September 2008.

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FIRST SCHEDULE

INFORMATION TO BE COMPILED AND PROVIDED WHEN APPLYING FOR REGISTRATION OR RENEWAL OF REGISTRATION IN ACCORDANCE WITH ARTICLE 18

PART 1 Information to be provided for the purpose of registration.

1. Name, address(es), telephone, electronic mail address and fax number of the registered office of the producer where that producer is a company registered under the Companies Acts, or, the principal place of business of the producer where that producer is any other body corporate or unincorporated body.

Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

2. Name(s) and address(es) of owner(s).
3. Location(s) of premises at or from batteries are or will be supplied by the producer.
4. The quantities, where applicable, by weight or, as appropriate, by number of units, of batteries that were placed on the market in the calendar year prior to the date of application and substantiated estimates of the projected average life of the batteries concerned in each of in each of the categories specified in guidance which the Minister may issue from time to time.

PART 2 Information to be provided for the purpose of renewal of registration

1. Name, address(es), telephone, electronic mail address and fax number of the registered office of the producer where that producer is a company registered under the Companies Acts, or, the principal place of business of the producer where that producer is any other body corporate or unincorporated body.

Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

2. Name(s) and address(es) of owner(s).

Public Consultation Draft

3. Location(s) of premises at or from which batteries are or will be supplied by the producer.
4. The quantities, by weight or, as appropriate, by number of units, of batteries that were placed on the market in the State in the calendar year prior to the date of application for renewal and substantiated estimates of the projected average life of the batteries concerned in each of in each of the categories specified in guidance which the Minister may issue from time to time.

Public Consultation Draft

SECOND SCHEDULE

INFORMATION TO BE PROVIDED IN REPORTS IN ACCORDANCE WITH ARTICLES 22 AND 23

PART 1 Information to be provided in a report in accordance with the provisions of article 22(4).

1. Name, address(es), telephone, electronic mail address and fax number of the registered office of the distributor where that distributor is a company registered under the Companies Acts, or, the principal place of business of the producer where that producer is any other body corporate or unincorporated body.

Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

2. Name(s) and address(es) of owner(s).
3. The location of premises where waste batteries were taken back from endusers and the quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries that were collected from each premises concerned during the relevant period in each of in each of the categories specified in guidance which the Minister may issue from time to time.
4. The total quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries taken back from endusers during the relevant period in each of in each of the categories specified in guidance which the Minister may issue from time to time.
6. The names, addresses and permit numbers of authorised waste collectors or, as appropriate, recovery operators used for the collection, treatment and recycling of waste batteries during the relevant period.
7. The quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries –
 - (a) recovered by or on behalf of the distributor, and
 - (b) accepted by recovery operators,

in the relevant period, in each of in each of the categories specified in guidance which the Minister may issue from time to time

Public Consultation Draft

8. The quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries disposed of or consigned for disposal by the distributor in each of in each of the categories specified in guidance which the Minister may issue from time to time during the relevant period, and the nature of the disposal operations involved.

PART 2 Information to be provided in a report in accordance with the provisions of article 23(6).

1. Name, address(es), telephone, electronic mail address and fax number of the registered office of the economic operator where that economic operator is a company registered under the Companies Acts, or, the principal place of business of the producer where that producer is any other body corporate or unincorporated body.

Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

2. Name(s) and address(es) of owner(s).
3. The location of premises from which waste industrial batteries were collected from endusers and the quantities, where applicable, by weight or, as appropriate, by number of units of waste industrial batteries that were collected from each premises concerned during the relevant period in each of in each of the categories specified in guidance which the Minister may issue from time to time.
4. The total quantities, where applicable, by weight or, as appropriate, by number of units of waste industrial batteries arising from batteries that were collected from endusers during the relevant period in each of in each of the categories specified in guidance which the Minister may issue from time to time.
6. The names, addresses and permit numbers of authorised waste collectors or, as appropriate, recovery operators used for the collection, treatment and recycling of waste industrial batteries during the relevant period.
7. The quantities, where applicable, by weight or, as appropriate, by number of units of waste industrial batteries –
- (a) recovered by or on behalf of the economic operator, and
 - (b) accepted by recovery operators,

Public Consultation Draft

in the relevant period, in each of in each of the categories specified in guidance which the Minister may issue from time to time

8. The quantities, where applicable, by weight or, as appropriate, by number of units of waste industrial batteries disposed of or consigned for disposal by the economic operator in each of in each of the categories specified in guidance which the Minister may issue from time to time during the relevant period, and the nature of the disposal operations involved.

Public Consultation Draft

THIRD SCHEDULE

REQUIREMENTS REGARDING NOTICES IN ACCORDANCE WITH ARTICLES 30 AND 33

PART 1 Requirements regarding a notice in accordance with the provisions of article 30(2).

A notice for the purpose of article 30(2) shall –

- (a) be not less in dimension than 42 centimetres in height and 29.7 centimetres in width or 29.7 centimetres in height and 42 centimetres in width,
- (b) be so printed in black indelible ink with a times new roman font size of at least 32 or equivalent and line space of at least 1.5 lines on a white background and affixed, on a durable material, so as to be easily visible and legible,
- (c) not be obscured or concealed at any time, and
- (d) state the following –

“ WASTE MANAGEMENT ACT 1996

A plan specifying the steps to be taken by [name of producer] for the purpose of recovering waste batteries is available at these premises or, if so requested, will be sent by post, fax or electronic mail. ”

and

- (e) be affixed until the preparation of a subsequent report in accordance with the provisions of article 30(4).

PART 2 Requirements regarding a notice in accordance with the provisions of article 30(4).

A notice for the purpose of article 30(4) shall –

- (a) be not less in dimension than 42 centimetres in height and 29.7 centimetres in width or 29.7 centimetres in height and 42 centimetres in width,
- (b) be so printed in black indelible ink with a times new roman font size of at least 32 or equivalent and line space of at least 1.5 lines on a white background and affixed, on a durable material, so as to be easily visible and legible,
- (c) not be obscured or concealed at any time, and

Public Consultation Draft

(d) state the following –

“ WASTE MANAGEMENT ACT 1996

A report specifying the steps taken by [name of producer] for the purpose of recovering waste batteries is available at these premises and, if so requested, will be sent by post, fax or electronic mail. ”

PART 3 Requirements regarding a notice in accordance with the provisions of article 33(1)(b).

A notice for the purpose of article 33(1)(b) shall –

- (a) be not less in dimension than 29.7 centimetres in height and 21 centimetres in width or 21 centimetres in height and 29.7 centimetres in width,
- (b) be so printed in black indelible ink with a times new roman font size of at least 24 or equivalent and line space of at least 1.5 lines on a white background and affixed, on a durable material, so as to be easily visible and legible,
- (c) not be obscured or concealed at any time, and
- (d) bear the following wording –

“ WASTE MANAGEMENT ACT 1996

Waste batteries including rechargeable batteries are taken back free of charge in this store.

There is no obligation to purchase when returning an old battery here.

All household waste batteries can be deposited free of charge at local authority recycling facilities.

All waste batteries must be recycled and should not be placed in a bin with your household rubbish.”

PART 4 Requirements regarding a notice in accordance with the provisions of article 33(2)(b).

A notice for the purpose of article 33(2)(b) shall –

- (a) be not less in dimension than 29.7 centimetres in height and 21 centimetres in width or 21 centimetres in height and 29.7 centimetres in width,
- (b) be so printed in black indelible ink with a times new roman font size of at least 20 or equivalent and line space of at least 1.5

Public Consultation Draft

lines on a white background and affixed, on a durable material, so as to be easily visible and legible,

- (c) not be obscured or concealed at any time, and
- (d) bear the following wording “–

“WASTE MANAGEMENT ACT 1996

Waste Electrical and Electronic Equipment (WEEE) is taken back free of charge in this store on a one-for-one, like-for-like basis.

Waste batteries including rechargeable batteries are taken back free of charge in this store.

There is no obligation to purchase when returning an old battery here.

All household WEEE and waste batteries can be deposited free of charge at local authority recycling facilities.

All WEEE and waste batteries must be recycled and should not be placed in a bin with your household rubbish.”

Public Consultation Draft

FOURTH SCHEDULE

INFORMATION TO BE PROVIDED IN PLANS AND REPORTS IN ACCORDANCE WITH ARTICLE 30

PART 1 Information to be provided in a plan in accordance with the provisions of article 30(2).

1. Name, address(es), telephone, electronic mail address and fax number of the registered office of the producer where that producer is a company registered under the Companies Acts, or, the principal place of business of the producer where that producer is any other body corporate or unincorporated body.

Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

2. Name(s) and address(es) of owner(s).
3. The location of premises at which batteries are placed on the market in the State by the producer.
4. The projected quantities, where applicable, by weight or, as appropriate, by number of units of batteries that will be placed on the market in the State in the relevant period in each of in each of the categories specified in guidance which the Minister may issue from time to time.
5. The projected quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries that will arise from batteries placed on the market in the State by the producer in the relevant period in each of in each of the categories specified in guidance which the Minister may issue from time to time.
6. The names, addresses and permit numbers of proposed authorised waste collectors or, as appropriate, recovery operators to be used for the collection, treatment and recycling of waste batteries during the relevant period during the relevant period.
7. The projected quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries that will be –
 - (a) recovered by or on behalf of the producer, and
 - (b) accepted by recovery operators,

Public Consultation Draft

in the relevant period, in each of in each of the categories specified in guidance which the Minister may issue from time to time.

8. The projected quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries that will be disposed of or consigned for disposal by the producer in each of in each of the categories specified in guidance which the Minister may issue from time to time during the relevant period, and the proposed nature of the disposal operations involved.

PART 2 Information to be provided in a report in accordance with the provisions of article 30(4).

1. Name, address(es), telephone, electronic mail address and fax number of the registered office of the producer where that producer is a company registered under the Companies Acts, or, the principal place of business of the producer where that producer is any other body corporate or unincorporated body.

Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

2. Name(s) and address(es) of owner(s).
3. The location of premises at which batteries are placed on the market in the State by the producer.
4. The quantities, where applicable, by weight or, as appropriate, by number of units of batteries placed on the market in the State in the relevant period in each of in each of the categories specified in guidance which the Minister may issue from time to time.
5. The quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries arising from batteries placed on the market in the State by the producer in the relevant period in each of in each of the categories specified in guidance which the Minister may issue from time to time.
6. The names, addresses and permit numbers of authorised waste collectors or, as appropriate, recovery operators used for the collection, treatment and recycling of waste batteries during the relevant period during the relevant period.

Public Consultation Draft

7. The quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries –
 - (a) recovered by or on behalf of the producer, and
 - (b) accepted by recovery operators,

in the relevant period, in each of in each of the categories specified in guidance which the Minister may issue from time to time
8. The quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries disposed of or consigned for disposal by the producer in each of in each of the categories specified in guidance which the Minister may issue from time to time during the relevant period, and the nature of the disposal operations involved.

Public Consultation Draft

FIFTH SCHEDULE

SYMBOL FOR THE MARKING OF BATTERIES INDICATING SEPARATE COLLECTION IN ACCORDANCE WITH ARTICLE 31

The symbol indicating separate collection for batteries consists of the crossed-out wheeled bin, as shown below. The symbol must be printed visibly, legibly and indelibly and conform to any such standard that may be promoted by the Commission.



Public Consultation Draft

SIXTH SCHEDULE

INFORMATION TO BE PROVIDED WHEN APPLYING FOR REGISTRATION OR RENEWAL OF REGISTRATION IN ACCORDANCE WITH ARTICLE 42

Information to be provided for the purpose of registration.

1. Name, address(es), telephone, electronic mail address and fax number of the registered office or, if not a company, the principal place of business, of the distributor.

Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

2. Location(s) of premises at or from which waste batteries are or will be stored.

Public Consultation Draft

SEVENTH SCHEDULE

RULES IN RESPECT OF REGISTERED ACTIVITIES IN ACCORDANCE WITH ARTICLE 44

- (a) Any emissions from the activity concerned shall not result in contravention of any relevant standard, including any standard for an environmental medium, or any relevant emission limit value, prescribed under any enactment.
- (b) Waste shall only be accepted at the site between 0800 and 1800 hours, Monday to Friday both inclusive, and between 0800 and 1400 hours on Saturdays unless otherwise approved in writing by, as the case may be the relevant local authority or the Agency.
- (c) The operator shall put in place appropriate procedures relating to acceptance and supervision of the activity.
- (d) The operator shall take all necessary measures relating to prevention of unauthorised waste activities and entry to the facility.
- (e) The operator shall take preventative measures to ensure that the activity is carried out in a manner which does not have any adverse effect on drainage of lands, watercourses, shallow wells, bored wells, raw water intakes or other sources of water supply, public and private roads or footways.
- (f) The operator shall take preventative measures to ensure that the registered activity does not result in undue noise, dust, grit and other nuisances, which would result in the impairment of, or significant interference with, the amenities or the environment beyond the site boundary.
- (g) The operator, if requested by the Agency or relevant local authority, shall provide detailed written reports on investigations and monitoring of the activities and related ancillary matters.
- (h) The operator shall maintain a register, which shall be available for inspection by the local authority, which details –
 - (i) The dates, time of arrivals and quantities of waste (by EWC code) delivered,
 - (ii) Names of the carriers, including vehicle registration details,
 - (iii) Origin of waste delivered, and
 - (iv) Quantities and composition of wastes not accepted at the facility.
- (i) The operator shall immediately notify the relevant local authority of any incident arising from the activity, which –
 - (i) Has the potential for contamination of surface or ground water, or
 - (ii) Poses an environmental threat to air or land.

Public Consultation Draft

- (j) As part of the notification process, the operator shall include, within the 24 hours of any such incident occurring, details as to –
 - (i) The date and time of the incident,
 - (ii) Details of the incident,
 - (iii) Evaluation of the pollution caused, and
 - (iv) Remedial corrective measures undertaken or to be undertaken, including details of preventative measures.

Public Consultation Draft

EIGHTH SCHEDULE

INFORMATION TO BE PROVIDED IN APPLICATIONS FOR REGISTRATION CERTIFICATES IN ACCORDANCE WITH ARTICLE 44

An application for a registration certificate shall –

- (a) give the name, address and, where applicable, any telephone number and telefax number of the applicant and, if different, any address to which correspondence relating to the application should be sent and, if the applicant is a body corporate, the address of its registered or principal office,
- (b) give the location or postal address of the facility to which the application relates,
- (c) describe the nature of the facility concerned,
- (d) specify the class or classes of activity concerned, in accordance with the Third and Fifth Schedules of the Act,
- (e) specify the quantity of waste (in tonnes) and nature of the waste or wastes, which will be recovered or disposed of, as the case may be.
- (f) specify the code according to the European Waste List (Decision 2001/118) or subsequent amendments,
- (g) identify monitoring and sampling points and indicates proposed arrangements for the monitoring of emissions and the environmental consequences of any such emissions,
- (h) describe any proposed arrangements for the off-site treatment or disposal of wastes,
- (i) describe the existing or proposed measures, including emergency procedures, to prevent unauthorised or unexpected emissions and minimise the impact on the environment of any such emissions,
- (j) describe the expected lifetime of the facility or activity
- (k) planning permission number (if applicable),
- (l) details of any proposed on-site traffic management system and the control procedures to be adopted to ensure the orderly movement of vehicles without creation of unreasonable nuisance and without detriment to the environment.

Given under my Official Seal

XX XXXX 2008

Public Consultation Draft

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations are designed to promote the recovery of waste batteries. They will facilitate in particular the achievement of the targets for the collection, treatment, recycling and disposal of waste batteries in an environmentally sound manner established by European Parliament and Council Directive 2006/66/EC on batteries and waste batteries and repealing Directive 91/157/EC.

The Regulations impose obligations on persons who supply batteries to the Irish market, whether as retailers, importers or manufacturers. An exemption from these obligations is available to persons who participate in a scheme for the collection, treatment, recovery and disposal of waste batteries in an environmentally sound manner operated by an approved body.