



STATUTORY INSTRUMENTS

S.I. No. 113 of 2008



WASTE MANAGEMENT (REGISTRATION OF BROKERS AND
DEALERS) REGULATIONS 2008

(Prn. A8/0524)

WASTE MANAGEMENT (REGISTRATION OF BROKERS AND
DEALERS) REGULATIONS 2008

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SCHEDULE 1

STATUTORY DECLARATION

SCHEDULE 2

OFFENCES TO BE DISCLOSED

WASTE MANAGEMENT (REGISTRATION OF BROKERS AND DEALERS) REGULATIONS 2008

WHEREAS, I, JOHN GORMLEY, Minister for the Environment, Heritage and Local Government, having regard to section 3(3) of the European Communities Act, 1972 (No. 27 of 1972) (as inserted by section 2 of the European Communities Act 2007) (No. 18 of 2007), consider it necessary for the purpose of giving effect to the provisions of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006¹ and for the purpose of giving further effect to Regulation (EC) No. 1013 of the European Parliament and of the Council of 14 June 2006², Council Directive 1999/31/EC of 26 April 1999³ and Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003⁴ to make provision for offences under the following regulations to be prosecuted on indictment:

AND WHEREAS, I consider that it is necessary, having further regard to section 3(3) of the European Communities Act, 1972 (No. 27 of 1972) (as inserted by section 2 of the European Communities Act 2007) (No. 18 of 2007), for the purpose of ensuring that penalties in respect of an offence prosecuted in that manner under the following regulations are effective, proportionate and have a deterrent effect, having regard to the acts or omissions of which the offence consists, to make such provision in the following regulations:

NOW THEREFORE, I, JOHN GORMLEY, Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on me by section 7 of the Waste Management Act, 1996 (No. 10 of 1996) and section 3 of the European Communities Act, 1972 (No. 27 of 1972), as amended by section 2 of the European Communities Act 2007 (No. 18 of 2007), and for the purpose of giving effect to Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006¹ and for the purpose of giving further effect to Regulation (EC) No. 1013 of the European Parliament and of the Council of 14 June 2006², Council Directive 1999/31/EC of 26 April 1999³ and Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003⁴ hereby makes the following Regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Waste Management (Registration of Brokers and Dealers) Regulations 2008.

(2) These Regulations shall come into effect on 1 July 2008.

¹OJ L 114, 27.4.2006,p.9

²OJ L 190, 12.7.2006, p.1

³OJ L 182, 16.7.1999, p.3

⁴OJ L 156, 25.6.2003, p.17

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 25th April, 2008.*

Purpose of Regulations

2. The purposes for which these Regulations are made include the purpose of giving effect to provisions of:

(1) Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste¹,

(2) Regulation (EC) No. 1013 of the European Parliament and of the Council of 14 June 2006 on shipments of waste² (in these Regulations referred to as the TFS Regulation),

(3) Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste³,

(4) Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC⁴.

Interpretation generally

3. (1) A word or expression that is used in these Regulations and is also used in the TFS Regulation has, unless the contrary intention appears, the meaning in these Regulations that it has in the TFS Regulation.

(2) In these Regulations—

(a) any reference to a Regulation, Schedule or paragraph, which is not otherwise identified, is a reference to a Regulation or Schedule of these Regulations or to a paragraph of the provision in which the reference occurs;

(b) “Act” means 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 (Environmental Levy) (Plastic Bag) Order 2007 (S.I. No. 62 of 2007);

(c) “Agency” means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Act, 1992;

(d) “broker” means any person arranging the recovery or disposal of waste on behalf of others and includes those brokers who do not take physical possession of the waste;

(e) “competent authority” means that body designated as such pursuant to Regulation 4;

¹OJ L 114, 27.4.2006, p.13

²OJ L 190, 12.7.2006, p.1

³OJ L 182, 16.7.1999, p.3

⁴OJ L 156, 25.6.2003, p.17

- (f) “dealer” means anyone who acts in the role of principal to purchase and subsequently sell waste and includes those dealers who do not take physical possession of the waste.

Designation of competent authority

4. (1) Dublin City Council is designated as the competent authority under Article 6 of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste¹ (hereafter referred to as the competent authority) for the purposes of Article 12 of that Directive. It shall be responsible for the registration of dealers and brokers pursuant to these Regulations and for such purposes shall operate both within and outside its functional area.

(2) The powers and functions conferred on the competent authority pursuant to these Regulations may be performed on its behalf by any authorised officer duly appointed in writing pursuant to Regulation 4(3).

(3) For the purposes of these Regulations, “authorised officer” means a person appointed in writing by either:—

(a) the competent authority, or,

(b) the Commissioner of An Garda Síochána (or a member of An Garda Síochána nominated by that Commissioner for the purposes of appointing authorised officers under these Regulations)

to be an authorised officer for the purposes of these Regulations.

(4) Without prejudice to the powers conferred on the competent authority or its authorised officers by these Regulations, it is declared that the provisions of section 14 of the Act, subject to any modifications or adaptations as may be required, shall apply in relation to these Regulations.

Register of brokers and dealers

5. (1) The competent authority shall enter particulars of all brokers and dealers registered by it pursuant to these Regulations in the register established and maintained by it (in its capacity as a local authority) pursuant to section 19 of the Act.

(2) For the purposes of Regulation 5(1), the competent authority may prescribe the information to be entered therein, and the form and manner in which such information shall be entered and maintained, which information shall include, but not necessarily be limited to, the name and address of the broker or dealer to whom a certificate of registration has issued.

(3) All entries and additions made by the competent authority to the register referred to in Regulation 5(1) for the purposes of these Regulations are prescribed for the purposes of section 19 of the Act.

¹OJ L 114, 27.4.2006, p.11

Duty of brokers and dealers to register with the competent authority

6. Subject to the provisions of Regulation 7, each broker or dealer shall apply for registration to the competent authority not later than 30 June 2008 or the date of commencement of business whichever is the later.

Contents of an application for a certificate of registration

7. (1) Without prejudice to Regulation 7(2), an application for registration under Regulation 6 shall be made in writing in such form as may be determined by the competent authority and shall require from each broker or dealer (hereafter referred to as the applicant) such information or material or both as may be prescribed by the competent authority which may *inter alia* include:—

- (a) the full name of the applicant,
 - (b) all business names used or proposed to be used by the applicant in the course of any business, trade or occupation carried out by him,
 - (c) the address of the applicant's principal place of business and, where applicable, the applicant's telephone number, telefax number and e-mail address,
 - (d) if the applicant is a partnership, the name and address of each partner,
 - (e) if the applicant is a body corporate, the address of its registered office and the name and address of any person who is a director, manager, company secretary or other similar officer of the body corporate,
 - (f) if the applicant is resident outside of the State, the address of the applicant's principal place of business within the State,
 - (g) details of all waste customarily dealt with by the applicant,
 - (h) details of any offence of which the applicant has been convicted contrary to those enactments listed in Schedule 2 within the period of ten years prior to the date of any application pursuant to this Regulation, including details of the court that imposed the conviction together with details of all penalties and sanctions incurred,
 - (i) details of any requirement imposed on the applicant by order of a court pursuant to sections 57 or 58 of the Act.
- (2) (a) Where the applicant is a body corporate, the information to be provided pursuant to Regulation 7(1)(f) and 7(1)(i) shall include such information in relation to both the applicant and:—
- (i) each director, manager, company secretary or other similar officer of the applicant, and
 - (ii) if applicable, each body corporate in which any director, manager, company secretary or other similar officer of the applicant is or has been at any time during the period of ten years prior to the

date of any application pursuant to this Regulation, a director, manager, company secretary or other similar officer.

- (b) Where the applicant is a natural person or a partnership, the information to be provided pursuant to Regulation 7(1)(f) and 7(1)(i) shall include such information in relation to both the applicant and any body corporate, if applicable, in which the applicant or any partner of the applicant, as the case may be, is, or has been, at any time during the period of ten years prior to the date of any application pursuant to this Regulation, a director, manager, company secretary or other similar officer.

(3) An application pursuant to Regulation 7(1) shall be accompanied by such information or material or both as may be prescribed by the competent authority, which may *inter alia* include:—

- (a) a statutory declaration, in the form as set out in Schedule 1, signed by the applicant or, where the applicant is a partnership, each partner, or where the applicant is a body corporate, a director, manager, company secretary or other similar officer of the applicant,
- (b) where the applicant is a body corporate, a copy of the applicant's certificate of incorporation, certified by the Registrar of Companies under section 370(1)(b) of the Companies Act, 1963 (No. 33 of 1963) or where the applicant is incorporated outside the State, the equivalent certificate from the appropriate authority of that State,
- (c) where the applicant carries on business under a name other than that of the applicant, a copy of a certificate of registration under the Registration of Business Names Act, 1963 (No. 30 of 1963) certified in accordance with section 16(1)(b) of that Act,
- (d) where the applicant's principal place of business is outside of this State, confirmation from the competent authority or authorities of that State (who have been designated as such under Article 53 of the TFS Regulation or from any equivalent authority if the applicant's principal place of business is outside the European Community) of the applicant's registration or authorisation under the relevant legislation in that State,
- (e) the appropriate fee as prescribed by the competent authority.

(4) Any applicant who makes any false or misleading statement in any application under this Regulation or in any document required thereunder or who otherwise provides false or misleading information to the competent authority is guilty of an offence.

Determination of an application for certificate of registration

8. (1) Subject to Regulations 8(2), 8(3) and 9, the competent authority shall issue to each broker or dealer a certificate of registration in such form and manner and containing such information as it may prescribe which shall be valid

for such period as may be specified by it but which shall not exceed five years and shall enter particulars of that broker or dealer in the register referred to in Regulation 5(1).

(2) The competent authority shall refuse an application for registration or for renewal of registration, as the case may be, of any broker or dealer where:—

- (a) the broker or dealer has failed to provide all information or material, or both, required for the purposes of an application for registration or for renewal of registration pursuant to these Regulations,
- (b) it is satisfied that the broker or dealer is not a fit and proper person, or
- (c) in its opinion, based on the information at its disposal, the broker or dealer is likely to cause environmental pollution or to contravene either the TFS Regulation or these Regulations.

(3) For the purposes of this Regulation, a broker or dealer shall be regarded as a fit and proper person if—

- (a) neither the broker or dealer has been convicted of an offence under the Act, the Environmental Protection Agency Acts 1992 and 2003, the Local Government (Water Pollution) Acts 1977 and 1990, the Air Pollution Act, 1987 or any enactment specified in Schedule 2,
- (b) in the opinion of the competent authority, either the broker or dealer or any person or persons employed by him has the requisite knowledge or qualifications to carry on the activity to which a certificate of registration will relate,
- (c) in the opinion of the competent authority, the broker or dealer is likely to be in a position to meet any financial commitments or liabilities that the competent authority reasonably considers may arise, in particular any take back obligations of waste either under Chapter 4 of the TFS Regulation or otherwise.

(4) The competent authority may, if it considers it proper to do so in any particular case, regard any broker or dealer as a fit and proper person for the purposes of these Regulations, notwithstanding that the broker or dealer concerned is not a person to whom Regulation 8(3) applies.

Competent authority may impose conditions

9. The competent authority shall attach to each certificate of registration issued by it pursuant to Regulation 8(1) or Regulation 10(3), as the case may be, such conditions as it deems necessary to:—

- (1) give effect to the provisions of the Community Acts specified in Regulation 2,
- (2) ensure the protection of the environment or in order to prevent an illegal shipment or both,

- (3) require the maintenance of adequate records by the broker or dealer, and,
- (4) ensure the provision of data from the broker or dealer to the competent authority for waste movement data collection or the monitoring of such waste movements by it.

Renewal of certificate of registration

10. (1) A certificate of registration shall be valid from the date of registration to such date as may be specified by the competent authority pursuant to Regulation 8(1).

(2) An application for renewal of registration shall be made in writing before the expiration of the period of validity of registration in such form as may be determined by the competent authority and shall require from each broker or dealer such information or material, or both, as may be prescribed by the competent authority which shall include *inter alia* such information or material, or both, prescribed for the purposes of an application for registration pursuant to Regulation 7.

(3) Subject to Regulations 8(2), 8(3) and 9, the competent authority shall issue to each broker or dealer a renewed certificate of registration in such form and manner and containing such information as it may prescribe which shall be valid for such period as may be specified by it but which shall not exceed five years and shall enter or add, as necessary, particulars of that broker or dealer in the register referred to in Regulation 5(1).

(4) Where a broker or dealer fails to apply for renewal of registration in accordance with this Regulation, the competent authority shall, upon the expiration of the applicable registration period, inform that person, by notice in writing, that the broker or dealer shall be removed from the register within one month from the date of such notice unless an application is received for renewal of registration pursuant to this Regulation.

(5) Where a broker or dealer fails to apply for renewal of registration in accordance with Regulation 10(4), the competent authority shall remove the broker's particulars from the register referred to in Regulation 5.

Revocation of a certificate of registration

11. (1) The competent authority may revoke a certificate of registration and remove particulars of that broker or dealer from the register referred to in Regulation 5(1) if, in the opinion of the competent authority:—

- (a) the broker or dealer is no longer a fit and proper person,
- (b) the broker or dealer is in contravention of the conditions of the certificate of registration granted by the competent authority,
- (c) the broker or dealer is likely, by a continuation of his, her or its activities, to cause environmental pollution,

- (d) the broker or dealer is participating in, or facilitating, a shipment of waste which is contrary to either or both the provisions of the TFS Regulation and these Regulations, or
- (e) the broker or dealer has failed to comply with any obligation or duty imposed upon him, her or it pursuant to either these Regulations, the TFS Regulation or any other enactment.

(2) Where the competent authority proposes to revoke a certificate of registration pursuant to Regulation 11(1) or to refuse an application for registration or for renewal of registration pursuant to Regulation 8(2) the competent authority shall:—

- (a) notify all persons concerned in writing of the proposal and of the reasons therefor,
- (b) notify that person in writing that he, she or it, or a person acting on his, her or its behalf, may make representations to the competent authority in relation to the proposal within 14 days of the issue of the notification, and
- (c) consider any such representations duly made before deciding whether or not to proceed with the proposal.

(3) Where the competent authority decides to proceed with the proposal and to revoke a certificate of registration or to refuse an application for registration or for renewal of registration, as the case may be, it shall, as soon as may be after making a decision to revoke any certificate of registration or to refuse an application for registration or for renewal of registration, give notice in writing of the decision and the reasons for the decision to the holder of the certificate of registration or to any person concerned by the decision, as the case may be, together with any local authority concerned and where the activity involves the collection of hazardous waste, to the Agency.

(4) Where the competent authority decides to refuse an application for registration or for renewal of registration or to revoke a certificate of registration previously granted by it pursuant to these Regulations, either the applicant for such certificate of registration or the former holder of any certificate of registration as the case may be, may within 30 working days of notification of the decision, appeal to the judge of the District Court in whose District Court area the applicant carries on business.

(5) On the hearing of an appeal under Regulation 11(4), the Court may either confirm or vary the decision or allow the appeal.

Transfer of certificate of registration

12. (1) A certificate of registration (hereafter referred to as ‘the certificate’) may be transferred from a broker or dealer to another person in accordance with this Regulation.

(2) Where a broker or dealer wishes to transfer the certificate to another person (hereafter referred to as 'the proposed transferee'), both the broker or dealer and the proposed transferee shall jointly make an application to the competent authority requesting that such a transfer be effected by it.

(3) An application under Regulation 12(2) shall be made in such form and manner and include such information as may be prescribed by the competent authority.

(4) The competent authority may require the provision of further information from either the broker or dealer or the proposed transferee as it considers appropriate for the purposes of considering an application pursuant to this Regulation.

(5) If, on consideration of an application under Regulation 12(2), and any relevant information provided in respect thereof, the competent authority is satisfied—

- (a) that the proposed transferee would, if he or she were an applicant for registration pursuant to these Regulations, be regarded by it as a fit and proper person pursuant to Regulation 8(3) and,
- (b) that the proposed transferee has complied with any requirements as may be prescribed by the competent authority,

it shall effect a transfer of the certificate to the proposed transferee in such manner as may be prescribed by it.

Duties of brokers and dealers

13. (1) Each broker and dealer who has been registered by the competent authority pursuant to these Regulations shall:—

- (a) compile and maintain records of the types and quantities of waste dealt with in the course of business, the origin and final destination of such waste, the treatment, recovery or disposal activities to which the waste is subject and, the person by whom such waste is collected,
- (b) notify the competent authority when convicted of an offence contrary to the provisions of those enactments specified in Schedule 2,
- (c) make available to the competent authority, within ten working days, records as required under paragraph (a),
- (d) furnish such information in relation to the collection and movement of waste in such form and at such frequency as may be specified by the competent authority.

(2) The records referred to in Regulation 13(1) shall be retained for a period of not less than five years.

Powers of the competent authority in relation to registered dealers and brokers

14. (1) The competent authority shall carry out appropriate periodic inspections of registered brokers and dealers.

(2) The competent authority shall provide such information on registered brokers and dealers as required by the Agency.

(3) Information provided to the competent authority under either article 18 of the TFS Regulation, these Regulations or the Waste Management (Shipments of Waste) Regulations 2007 (S.I. No. 419 of 2007) shall, where the competent authority considers it appropriate in the interests of business confidentiality, be treated as confidential. In such circumstances the competent authority may specify the information to be made available to the authority (which shall be treated as confidential) and the non-confidential information to be included in Annex VII of the TFS Regulation when accompanying shipments.

(4) For the purposes of this Regulation, “registered brokers and dealers” means any broker or dealer who has been issued with a certificate of registration by the competent authority pursuant to Regulation 8(1) or Regulation 10(3) as the case may be.

Duty to use only registered brokers and dealers

15. Any person who arranges the shipment of waste the subject of the TFS Regulation, these Regulations or the Waste Management (Shipments of Waste) Regulations 2007 (S.I. No. 419 of 2007) or who facilitates the movement or transfer of waste within the State is required to make such arrangements or facilitate such movements or transfers of waste with only those brokers or dealers who may produce on demand being made to them a valid certificate of registration.

Offences

16. (1) Any person who contravenes any provision of these Regulations shall be guilty of an offence.

(2) Any person who fails to comply with a requirement, obligation or condition imposed by the competent authority in a certificate of registration issued under these Regulations shall be guilty of an offence.

Legal proceedings

17. Copies of all notification and movement documents, consents, certificates, or contracts required by the TFS Regulations and these Regulations and purporting to be certified by an officer of the competent authority to be true copies without proof of signature of the person purporting so to certify shall be received in evidence in any legal proceedings, and be admissible in evidence and shall, until the contrary is proved, be deemed to be a true copy of the entry and to be evidence of the terms of the entry and in particular that information contained in those documents shall be admissible in any criminal proceedings as evidence of any fact therein of which direct oral evidence would be admissible.

Prosecutions and penalties

18. (1) A prosecution for a summary offence under these Regulations may be taken by the competent authority.

(2) A person guilty of an offence under these Regulations is liable—

(a) on summary conviction, to a fine not exceeding €3,000, or imprisonment for a term not exceeding 3 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €500,000, or imprisonment for a term not exceeding 3 years, or both.

Amendments to the Waste Management Act

19. The Act shall have effect with the following specified modifications:

(1) in section 2

(a) by inserting the following in the Table to that section:—

“Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste¹”.

(b) by substituting in the Table to that section “Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste²” for “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 Community⁵”.

(2) in section 5

(a) by substituting the following for the definition of “broker”:

“ ‘broker’ means a person arranging the recovery or disposal of waste on behalf of others and includes those brokers who do not take physical possession of the waste,”.

(b) by substituting the following for the definition of “dealer”:

“ ‘dealer’ means a person who acts in the role of principal to purchase and subsequently sell waste and includes those dealers who do not take physical possession of the waste,”.

(c) by deleting from the definition “environmental pollution”,

“, to a significant extent, ”

(d) by substituting the following for the definition of “holder”:

¹OJ L 114, 27.4.2006, p.1

²OJ L 190, 12.7.2006, p.1

⁵OJ L 30, 6.2.1993, p.1

“ ‘holder’ means the producer of the waste or the natural or legal person who is in possession of it.”.

(3) by the addition in section 22 of subsection 8 bis

“8 bis. There shall be included in a waste management plan sufficient information, in the form of criteria for site identification, to enable the Environmental Protection Agency (when considering an application for a waste licence) or a local authority (when considering an application for a waste permit), to decide whether to grant to the applicant a waste licence or a waste permit or refuse to grant to the applicant such a licence or permit, for future waste recovery or disposal facilities.”.

Amendments to Waste Licensing Regulations

20. The Waste Management (Licensing) Regulations 2004 (S.I. No 395 of 2004) are amended as follows:

(1) In Article 4(3) by the substitution of the following for the definition of “inert waste”:—

“ ‘inert waste’ means waste that does not undergo any significant physical, chemical or biological transformations. Inert waste will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm human health. The total leachability and pollutant content of the waste and the ecotoxicity of the leachate must be insignificant, and in particular not endanger the quality of surface water and/or groundwater.”.

(2) In article 12 (1) by inserting after paragraph (t) the following paragraph:—

“(t bis) describe in outline the main alternatives, if any, to the proposals contained in the application which were studied by the applicant.”.

(3) In article 34(3), by the substituting of the following paragraph for paragraph (3):

“(3) A notification under sub-articles (1) and (2) shall be accompanied by;—

- (a) the content of the decision referred to, including a copy of the waste licence and of any conditions and any subsequent updates. Where subsequent updates are for the purposes of correcting any clerical errors or otherwise as set out in section 42B of the Act, a notification may be made by the Agency through a notice published in a newspaper circulating in the area or areas in which the activity is or will be carried on; and
- (b) having examined the concerns and opinions expressed by the public concerned under article 15, the reasons and considerations on which

the decision is based, including information on the public participation process.”.

Amendments to Waste Management (Movement of Hazardous Waste) Regulations

21. The Waste Management (Movement of Hazardous Waste) Regulations, 1998 (S.I. No. 147 of 1998) are amended as follows:

(1) In article 2 by the substitution of the following paragraph for paragraph (b):

“(b) Regulation (EC) No. 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste”,

(2) In article 6(2) by the substitution of the following paragraph for paragraph (a):

“(a) in relation to which there is in force a certificate issued under Regulation 7 of the Waste Management (Shipments of Waste) Regulations 2007 (S.I. No. 419 of 2007);”.

Amendments to Waste Management (Shipments of Waste) Regulations

22. The Waste Management (Shipments of Waste) Regulations 2007 (S.I. No. 419 of 2007) are amended as follows:—

(1) In Regulation 4, by substituting the following for Regulation 4(2):—

“(2) For the purposes of these Regulations, ‘authorised officer’ means a person who is appointed in writing by either:—

(a) the competent authority, or,

(b) the Commissioner of An Garda Síochána (or a member of An Garda Síochána nominated by that Commissioner for the purposes of appointing authorised persons under these Regulations)

to be an authorised officer for the purposes of these Regulations.”.

(2) In Regulation 5(2), by deleting “by it”, and,

(3) by inserting the following Regulation after Regulation 8:—

“Prohibition/restriction on the movement of waste

8bis. Waste which is prohibited from being imported or exported or is subject to any restriction on importation or exportation or otherwise restricted to prior written notification pursuant to either these Regulations, the TFS Regulation or any other enactment is deemed to be so prohibited or restricted for the purposes of the Customs Consolidation Act, 1876, the Customs Act, 1956 and the Customs and Excise (Miscellaneous Provisions) Act, 1988.”.

SCHEDULE 1

STATUTORY DECLARATION

I declare that the information given in the application by _____ for the purpose of obtaining a certificate of registration is correct, and that no information, which is required to be included in the said application, has been omitted.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations, Act, 1938.

I authorise Dublin City Council to make any enquiries from official sources as it may consider necessary for the purpose of determining this application and, pursuant to section 8 of the Data Protection Act, 1988, I consent to the disclosure of details of convictions for relevant offences specified under Schedule 2 of the Waste Management (Registration of Brokers and Dealers) Regulations 2008.

Signature:

Name (block capitals)

Declared before me at _____ this _____ day of _____, 20____.#

#To be completed by a Solicitor/Commissioner of Oaths/Notary Public/Peace Commissioner/Garda Síochána.

Signature of Witness

Occupation

Date_____

WARNING Any person who gives false or misleading information for the purpose of obtaining a certificate of registration renders themselves liable to severe penalties.

SCHEDULE 2

OFFENCES TO BE DISCLOSED

The following offences shall be disclosed in the application by a broker or a dealer for a certificate of registration:

(1) a contravention of the Waste Management (Movement of Hazardous Waste) Regulations, 1998 (S.I. No. 147 of 1998), subject to any amendment that may be made to those Regulations from time to time, but if those regulations should be revoked, shall be subject to such regulations corresponding to those regulations as may be for the time being in force,

(2) an offence under sections 14(6), 18(2), 18(8), 32(6), 34(1), 36(3), 39(9), 53C(4), 53F, 53H(4), 53I(6), 53J(6), 53K(5), 53L(5) or 53M(5) of the Act, or as appropriate, any appropriate section or Part, concerning producer responsibility obligations, that may be inserted into the Act from time to time,

(3) an offence under articles 18 and 26 of the Waste Management (End of Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006), subject to any amendment that may be made to those Regulations from time to time, but if those regulations should be revoked, shall be subject to such regulations corresponding to those regulations as may be for the time being in force, or as appropriate,

(4) an offence under article 9 of the European Communities (Batteries and Accumulators) Regulations, 1994 (S.I. No. 262 of 1994) those Regulations, from time to time, but if those regulations should be revoked, shall be subject to such regulations corresponding to those regulations as may be for the time being in force,

(5) an offence under Regulation 9 of the Waste Management (Shipments of Waste) Regulations 2007 (S.I. No. 419 of 2007),

(6) an offence under waste legislation in any other jurisdiction.



GIVEN under my Official Seal,
18 April 2008

JOHN GORMLEY
Minister for the Environment, Heritage and Local Government

EXPLANATORY NOTE

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

The purpose of these Regulations is to provide for a registration system of waste brokers and dealers who arrange for the shipment of waste to and from Ireland and also the passage of waste through the State. The regulations are necessary in order to comply with the provisions of Regulation (EC) No. 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste and Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste..

The Regulations also make a number of minor amendments to waste legislation and a brief summary of those changes are outlined below.

Amendments to Waste Legislation Included in the Waste Management (Registration of Brokers and Dealers) Regulations 2008

Article of Broker Regulations	Act/S.I. Amended	Amendment	Reason for Amendment
Reg. 19(1)	Section 2 Waste Management Acts 1996-2007	Insertion of reference to Directive 2006/12/EC on waste	Update Act to reflect new Directive on waste
Reg. 19(1)	Section 2 Waste Management Acts 1996-2007	Deletion of Ref to Council Reg. 259/93 and replacement with EU Reg 1013/2006	Update Act to reflect new EU Regulations on shipment of waste
Reg. 19(2)(a) and (b)	Section 5 Waste Management Acts 1996-2007	Insertion of new definitions for “broker” and “dealer”	To make the definitions the same in both national and EU law
Reg. 19(2)(c)	Section 5 Waste Management Acts 1996-2007	Deletion of the words “to a significant extent” in the definition of “environmental pollution”	In order to transpose correctly Art 4 of EU Directive 2006/12/EC on waste
Reg. 19(2)(d)	Section 5 Waste Management Acts 1996-2007	The deletion of the definition of “holder” and its replacement by new wording	In order to correctly transpose Article 1 of EU Directive 2006/12/EC on waste
Reg 19(3)	Section 22 of the Waste Management Acts 1996-2007	Insertion of new sub-section 8bis re inclusion of waste disposal/recovery site identification criteria in waste management plans	To comply with Article 7 of EU Directive 2006/12/EC on waste, as interpreted by ECJ case C-53-02
Reg 20(1)	Article 4(3) Waste Management (Licensing) Regulations 2004	Replacement of the definition of “inert waste” with new wording	In order to correctly transpose article 2(e) of the Landfill Directive 1999/31/EC
Reg. 20(2)	Article 12(1) Waste Management (Licensing) Regulations 2004	Insertion of wording re alternatives to the proposals the subject of the waste licence application	In order to transpose the Public Participation Directive — 2003/35/EC

Article of Broker Regulations	Act/S.I. Amended	Amendment	Reason for Amendment
Reg. 20(3)	Article 34(3) Waste Management (Licensing) Regulations 2004	Deletion of wording relating to the decision and its replacement by more details on the decision	In order to transpose the Public Participation Directive - 2003/35/EC
Reg. 21(1)	Article 2(b) of Waste Management (Movement of Hazardous Waste) Regulations 1998	Deletion of Ref to Council Reg. 259/93 and replacement with EU Reg 1013/2006	Update Act to reflect new EU Regulations on shipment of waste
Reg. 21(2)	Article 6(2)(a) of Waste Management (Movement of Hazardous Waste) Regulations 1998	Deletion of reference to Art 8 of the 1998 Regs, and replacement by Regulation 7 of the 2007 Regs	To reflect repeal of 1998 Regs and the new position as detailed in Reg 7 of Waste Management (Shipments of Waste) Regulations 2007
Reg. 22(1)	Regulation 4(2) of Waste Management (Shipments of Waste) Regulations 2007	Amendment to allow authorised officers to be appointed by an Garda Síochána	To ensure that Gardaí have powers to act under the waste shipment regulations
Reg. 22(2)	Regulation 5(2) of Waste Management (Shipments of Waste) Regulations 2007	Deletion of wording indicating that the competent authority is the sole authority to appoint authorised officers	To reflect the amendment made to Reg. 22(1) on Garda appointed authorised officers
Reg. 22(3)	Insert a new Article 8 bis to the Waste Management (Shipments of Waste) Regulations 2007	Insertion of new wording on waste prohibitions	To allow Revenue a function in detaining waste which is prohibited for import or export

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