



STATUTORY INSTRUMENTS.

**S.I. No. 268 of 2008**



WASTE MANAGEMENT (BATTERIES AND ACCUMULATORS)  
REGULATIONS 2008

**(Prn. A8/1048)**

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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 European Parliament and Council Directive 2006/66/EC<sup>1</sup> on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC<sup>2</sup> 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 sections 7, 14, 15, 16, 18, 19, 27, 28, 29, 32, 34, 35, 36 and 39 of the Waste Management Acts 1996 to 2008, section 53 of the Environmental Protection Agency Acts 1992 and 2003, and section 3 of the European Communities Acts 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 the provisions of European Parliament and Council Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC 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—

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

<sup>2</sup>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).

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 18th July, 2008.*

- (a) the purpose of giving effect to the provisions of European Parliament and Council Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators (hereafter in these Regulations referred to as ‘the Directive’) and having regard to the environmental impact of transport, to take necessary measures to maximise the separate collection of waste batteries and accumulators and to minimise the disposal of batteries and accumulators as mixed municipal waste in order to achieve a high level of recycling for all waste batteries and accumulators,
- (b) ensuring that batteries or accumulators—
  - (i) that do not meet the requirements of the Directive are not placed on the market on and from 26 September 2008 onwards or, as appropriate,
  - (ii) placed on the market on and from 26 September 2008 onwards that do not meet the requirements of the Directive are withdrawn from it,
- (c) exempting collection points in receipt of waste portable batteries and accumulators from the registration or permit requirements of Directive 2006/12/EC<sup>3</sup> or Council Directive 91/689/EEC of 12 December 1991 on hazardous waste<sup>4</sup>, and
- (d) enabling the submission of National Implementation Reports, concerning measures taken to encourage developments affecting the impact of batteries and accumulators on the environment, in particular—
  - (i) developments, including voluntary steps taken by producers, reducing quantities of heavy metals and other hazardous substances contained in batteries and accumulators,
  - (ii) new recycling and treatment techniques,
  - (iii) economic operators' participation in environmental management schemes, and
  - (iv) measures taken to promote waste prevention,

every three years in accordance with the provisions of article 22 of the Directive.

### *Interpretation of Regulations*

3. (1) In these Regulations, any reference to a—

<sup>3</sup>O.J. No. L114, 27.4.2006, p.9.

<sup>4</sup>O.J. No. L377, 31.12.1991, p. 20 as last amended by European Parliament and Council Regulation (EC) 166/2006 of 18 January 2006 (O.J. No L33, 4.2.2006, p.1).

- (a) Part, schedule or article, which is not otherwise identified, is a reference to a Part, schedule or article of these Regulations, and
- (b) sub-article or paragraph, which is not otherwise identified, is a reference to a sub-article or paragraph of the provision in which the reference occurs.

(2) In these Regulations, save where the context otherwise requires—

“the Act” means the Waste Management Acts 1996 to 2008;

“the Waste Management Acts 1996 to 2008” 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), the Waste Management (Environment Levy) (Plastic Bag) Order 2007 (S.I. No. 62 of 2007), the Waste Management (Registration of Brokers and Dealers) Regulations 2008 (S.I. No. 113 of 2008) and the Waste Management (Landfill Levy) Order 2008 (S. I. No 168 of 2008);

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;

“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/EC<sup>5</sup>, which is fully or partly powered by batteries or accumulators or is capable of being so;

“appropriate agency” means a—

- (i) body (including a Department of State but not including a non-government organisation) wholly or partly funded out of the Central Fund or out of moneys provided by the Oireachtas or moneys raised by local taxation or charges, or
- (ii) body established by an Act or by arrangement of the Government, a Minister of the Government or a Minister of State for a non-commercial public service or purpose;

<sup>5</sup>O.J. No. L37, 13.2.2003, 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).

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

“authorised person” has the meaning assigned to it under section 5 of the Act;

“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;

“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 end-user 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” shall include a civic amenity site and a recycling centre and means a 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 or, as appropriate, accumulators and which is appropriately licensed, permitted or registered under Regulations made pursuant to Section 39 of the Act;

“collection point” means—

- (i) any civic amenity facility,
- (ii) any premises where batteries or, as appropriate, accumulators are stored following acceptance in accordance with the provisions of article 21(2),
- (iii) any premises where batteries or, as appropriate, accumulators are stored prior to their distribution, including any distribution centre,
- (iv) any premises where the user takes possession of industrial batteries or, as appropriate, accumulators,
- (v) any educational establishment or workplace, or
- (vi) other facility for the receipt, storage (including temporary storage), segregation, sorting or repackaging of waste batteries or, as appropriate, accumulators pending their onward transport to a recycling facility,

subject to such a facility, other than a premises where industrial batteries or, as appropriate, accumulators are used, educational establishment or workplace, 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;

“Central Statistics Office” means the Office established under section 8(1) of the Statistics Act 1993 (No. 21 of 1993);

“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 accumulators that producers either sell directly to end-users or deliver to third parties in order to sell them to end-users 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;

“equivalent type as the batteries supplied” means either—

- (i) portable batteries and accumulators, including button cells,
- (ii) industrial batteries or accumulators or, as appropriate,
- (iii) automotive batteries or accumulators

that are similar in size, weight, volume or, as appropriate, dimensions as the batteries supplied;

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

“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;

“distance communication” is as defined in Article 2(4) of 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 contracts<sup>6</sup> or, as appropriate, means sales and marketing services by electronic communication, voice telephony services, including telesales and telemarketing or non-electronic direct marketing services, including mail order;

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

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

“educational establishment” means a primary or post-primary school, an institution providing adult, continuing or further education, or a university or any other third-level or higher-level institution, whether or not supported by public funds;

“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, together with the treatment, recycling 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—

<sup>6</sup>O.J. No. L144, 4.6.1997, p. 19 as last amended by Directive 2005/29/EC (O.J. No. L149, 11.6.2005, p. 22).

- (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 contracts<sup>7</sup>, 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;

“recycling facility” means a facility for the deposit, storage, refurbishment, treatment or recycling 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;

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

“registration certificate” means a certificate granted by the Agency or, as appropriate, a local authority under article 37 of the Waste Management (Facility Permit and Registration) Regulations 2007 (S.I. No. 821 of 2007) as amended by the Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008 (S.I. No 86 of 2008) subject to any amendment that may be made to those regulations from time to time and article 44 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;

“waste collection permit” means a waste collection permit for the purposes of section 34 of the Act;

“waste facility permit” means a permit for the purposes of section 39(4) of the Act.

(4) In these Regulations any reference, hereafter, to a—

<sup>7</sup>O.J. No. L144, 4.6.1997, p. 19 as last amended by Directive 2005/29/EC (O.J. No. L149, 11.6.2005, p. 22).

- (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 European Parliament and Council Directives—
  - (i) 2000/53/EC of 18 September 2000 on End-of-Life Vehicles<sup>8</sup>, and
  - (ii) 2002/96/EC of 27 January 2003 on Waste Electrical and Electronic Equipment.

(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,

<sup>8</sup>O.J. No. L269, 21.10.2000, p. 34 as last amended by Council Decision 2005/673/EC (O.J. No. L254, 30.9.2005, p. 69).

(b) designed to be sent into space.

## PART II

### PROHIBITION ON MARKETING OF BATTERIES CONTAINING SPECIFIED HAZARDOUS SUBSTANCES AND INAPPROPRIATELY LABELLED BATTERIES

*Prohibition of specified hazardous substances and inappropriately labelled batteries*

5. Subject to article 6, on and from—

- (a) 26 September 2008, any person shall be prohibited from placing on the market or, as appropriate, distributors shall be prohibited from distributing—
- (i) all batteries that contain more than 0.0005% of mercury by weight,
  - (ii) portable batteries that contain more than 0.002% of cadmium by weight or, as appropriate,
  - (iii) any battery or, as appropriate, battery pack—
    - (A) that is not marked in accordance with the provisions of articles 31(1)(a) and 31(2) or, as appropriate,
    - (B) whose size is such that the symbol shown in the Fifth Schedule would be smaller than  $0.5 \times 0.5$  cm and whose packaging is not marked in accordance with the provisions of articles 31(2) and 31(3) or, as appropriate,
- (b) 26 September 2009, any person shall be prohibited from placing on the market or, as appropriate, distributors shall be prohibited from distributing any battery placed on the market on or from 26 September 2009 that does not display the capacity of the battery concerned in accordance with the provisions of article 31(6) unless exempted in accordance with the provisions of article 31(7).

*Exemptions*

6. (1) The prohibition in—

- (a) article 5(a)(i) shall not apply to button cells with a mercury content of no more than 2% by weight,
- (b) 5(a)(ii) shall not apply to portable batteries intended for use in—
  - (A) emergency and alarm systems, including emergency lighting,
  - (B) medical equipment, or
  - (C) cordless power tools.

(2) The provisions of this Part shall not apply to batteries placed on the market prior to 26 September 2008 in compliance with Council Directive 91/157/EEC 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—

(a) where a producer or, as appropriate, 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—

(i) information enabling a precise identification of the product or batch of products in question,

(ii) where appropriate,—

(A) a full description of the prohibited hazardous substances or, as appropriate,

(B) full details of any battery, including any battery pack,—

(I) that is not marked in accordance with the provisions of articles 31(1)(a) and 31(2),

(II) whose size is such that the symbol shown in the Fifth Schedule would be smaller than  $0.5 \times 0.5$  cm and whose packaging is not marked in compliance with the provisions of articles 31(2) and 31(3) or, as appropriate,

(III) does not display the capacity of the battery or battery pack concerned in compliance with the provisions of article 31(6) unless exempted in compliance with the provisions of article 31(7), and

(iii) all available information relevant for tracing the product.

(b) a producer shall ensure that he or she or a third party acting on his or her behalf has access at all times, at an address in the State, to records of certification of—

(i) compliance by manufacturers and, as appropriate, any person or persons in the supply chain or, as appropriate,

(ii) laboratory testing, where such testing has been commissioned by the manufacturer, any person or persons in the supply chain and, as appropriate, the producer concerned,

in order to verify that any battery placed on the market by the producer concerned complies with the requirements of article 5 and that such records be maintained for a period of six years, starting from the end of the year in which the battery was placed on the market.

(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.

(3) Notwithstanding sub-article (2), a producer or, as appropriate, distributor shall supply any information requested by the Agency in the format and within the timeframe specified by the Agency.

#### *Functions of the Agency*

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 Agency shall 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—

(A) material composition or, as appropriate,

(B) labelling 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 Agency, 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—

(i) pending the carrying out of the safety evaluations, checks and controls necessary to establish that it does not contain prohibited hazardous substances or, as appropriate,

(ii) including any battery pack—

(A) that is not marked in accordance with the provisions of articles 31(1)(a) and 31(2)

- (B) whose size is such that the symbol shown in the Fifth Schedule would be smaller than  $0.5 \times 0.5$  cm and whose packaging is not marked in accordance with the provisions of articles 31(2) and 31(3), or, as appropriate,
  - (C) does not display the capacity of the battery or battery pack concerned in accordance with the provisions of article 31(6) unless exempted in accordance with the provisions of article 31(7) or, as appropriate,
- (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
  - (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 end-users, and its environmentally sound management in accordance with the provisions of Articles 26, 27 and 28, and
    - (B) that, where appropriate, end-users 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 Agency*

9. (1) Where it is feasible, the Agency shall give—

- (a) an opportunity to any person, to whom the Agency is considering issuing a direction to under these Regulations, to submit his or her views on the proposed direction to the Agency before the adoption of any measure in the proposed direction, or
- (b) if an opportunity is not given to any person, to whom the Agency 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 Agency 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 Agency under these Regulations shall be in writing, shall state the 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 Agency 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) in any manner prescribed in section 16 of the Act, or
- (b) by leaving it at the address at which that person carries on business, or
- (c) by sending it by prepaid registered post to the person at the address at which he or she carries on business, and
- (d) in any case where the Agency 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 Agency 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) The person to whom a direction has been issued under these Regulations to—

- (a) recall any battery from the marketplace or, as appropriate, from end-users, and
- (b) where appropriate, notify end-users 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
- (b) one page of a tabloid newspaper.

*Appeals against Directions of the Agency*

10. (1) Any person aggrieved by a direction made by the Agency 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 Agency under these Regulations, the Agency 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.

(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 or, as appropriate, Committee of Management,
  - (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.

*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—

- (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 September 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,
- (f) obtain from each producer the quantity, by weight or, as appropriate, by number of units, of portable batteries placed on the market in the State, excluding any portable batteries that left the State, prior to being sold to end-users, and
- (g) 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,

having regard to the same procedural requirements for registration in each Member State established in accordance with the procedure referred to in Article 24(2) of the Directive, and 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 in the State by a producer excluding any batteries that left the State prior to being sold to end-users, and
  - (ii) market data including the quantities, by weight or, as appropriate, by number of units, of batteries placed on the market in the State 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 batteries 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—

- (a) concerning the quantity of collected waste batteries 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—

- (a) 19 September 2008, each producer that has placed or is about to place batteries on the market shall be obliged to—
  - (i) 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, and
  - (ii) pay the fees as may be determined by the registration body or, as appropriate, a third party acting on its behalf, and
- (b) 26 September 2008, each producer that has placed or is about to place batteries on the market shall be obliged to 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.

(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 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 prohibited from displaying any registration

number issued by the registration body on any documentation, website or at any place.

(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 compliant 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 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 5 September 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 or, where appropriate, electronically, shall be in compliance with the procedural requirements for registration in each Member State established in accordance with the procedure referred to in Article 24(2) of the Directive, shall contain at least the information set out in Part 1 of the First Schedule, or
  - (b) renewal of registration in accordance with the provisions of sub-article (1) shall be made in writing or, where appropriate, electronically, shall be in compliance with the procedural requirements for registration in each Member State established in accordance with the procedure referred to in Article 24(2) of the Directive, 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.

(6) Without prejudice to sub-articles (1) and (2), the Minister from time to time may issue guidance to the registration body concerning the acceptance of applications for registration or, as appropriate, renewal of registration.

*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) Without prejudice to sub-article (1), 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—

- (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 22 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 two weeks of the date of receipt of an application on or before 5 September 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. (1) 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,
  - (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 customers of the distance seller concerned at collection points in any of the Member States of the European Union where the end-users 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 involved.

(2) For the avoidance of doubt, it is hereby declared that a portable battery distributed by means of distance communication to an end-user outside the State shall be regarded as having left the State prior to being sold to the end-user concerned.

## PART IV

## MANAGEMENT OF WASTE 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 in the State 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—

- (a) providing conveniently located appropriate facilities for the collection of waste batteries, and
- (b) accepting a waste battery at all reasonable times

at 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 any reduction or discount on the retail price for any portable battery for the purposes of avoiding 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 to end-users he or she shall—

- (a) place a visible and legible notice at each point—
  - (i) on his or her website or, as appropriate,
  - (ii) in each of his or her catalogues, brochures or, as appropriate, mail-shots,

where batteries being distributed are displayed 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 final end-users when distributing any battery by voice telephony services, including telesales and telemarketing, that he or she will take back waste batteries free of charge as long any waste battery 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, and

(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 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 in the State 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.

(6) Without prejudice to sub-article (4), the Minister from time to time may issue guidance concerning the placing of notices on websites or the notification of final end-users.

(7) Notwithstanding sub-article (2) a distributor shall not be obligated to accept—

(a) waste portable batteries that exceed a total of five kilogrammes (Kg) in weight from any one person at any one time or, as appropriate,

- (b) any waste portable battery leaking any of its constituent materials.

*Management of waste batteries by distributors*

22. (1) On or from 26 September 2008, each distributor of batteries—

- (a) shall be 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 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 authorised in accordance with the provisions of section 34 of the Act,

- (b) shall be entitled to deposit waste portable batteries free of charge at a civic amenity facility provided he or she has fulfilled the obligations in articles 21 and is compliant with the provisions of article 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 deposit waste portable batteries free of charge at a distribution centre where he or she obtains portable batteries provided he or she has fulfilled the obligations in articles 21 and is compliant with the provisions of article 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 or exempted from registration 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 that 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)(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 authorised 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 to the Agency by 28 February of each year.

(4) The prohibition in sub-article (1)(a) shall not apply in respect of any battery—

- (a) incorporated into electrical and electronic equipment or, as appropriate,
- (b) returned to or accepted by a distributor under the provisions of the Sale of Goods and Supply of Services Act, 1980 (No. 16 of 1980) and which is subsequently returned to the producer.

*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 end-users 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 proportion to the quantity of portable batteries placed on the market in the State by him or her excluding any portable batteries that left the State prior to being sold to end-users.

(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—

- (a) 20 working days of being requested so to do by the operator of a collection point for portable waste batteries, including waste button cells, or a third party acting on its behalf, collect, or arrange for the collection of, from the collection point concerned, any waste batteries or, as appropriate, waste button cells regardless of when placed on the market and their chemical composition or, as appropriate,
- (b) 30 working days of being requested so to do by the operator of a collection point for waste automotive or, as appropriate, waste industrial batteries or a third party acting on its behalf, collect, or arrange for the collection of, from the collection point concerned any waste automotive or, as appropriate, 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 the quantity of batteries placed on the market in the

State by him or her excluding any batteries that left the State prior to being sold to end-users.

(4) Where a producer fails to comply with the requirements of sub-article (3) the operator of a collection point for waste batteries 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 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 in the State, excluding any batteries that left the State prior to being sold to end-users, until such time that he or she demonstrates to the Agency 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 (7) and article 28.

(6) Notwithstanding sub-article (1)(b), economic operators may collect waste industrial batteries from end-users 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 of portable batteries shall ensure that he or she, as a minimum, collects, no later than—

(i) 26 September 2012, 25%, and

(ii) 26 September 2016, 45%

of the quantity by weight of portable batteries placed on the market in the State by him or her excluding any portable batteries that left the State prior to being sold to end-users 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.

(9) Notwithstanding sub-article (7) the quantity of portable batteries placed on the market in the State by a producer excluding any portable batteries that left the State prior to being sold to end-users shall, without prejudice to Directive 2002/96/EC of 27 January 2003 on Waste Electrical and Electronic Equipment, include batteries incorporated into appliances.

*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), each—

- (a) producer shall in advance of the sale of such batteries notify that user in writing of any or all of the obligations that transfer to the end-user 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.
- (b) end-user shall by the 31 January of each year, in respect of the previous calendar year, provide each producer concerned with adequate information to demonstrate that all waste batteries were—
  - (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) Notwithstanding sub-article (1), alternative financial arrangements with users of—

- (a) industrial batteries or, as appropriate, automotive batteries may be limited to the user and the producer mutually agreeing that waste industrial batteries or, as appropriate, waste automotive batteries may

be deposited by the user concerned at a collection point designated by the producer, and

- (b) 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) end-users of waste—

- (i) portable batteries,

- (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—

(i) designate any—

(A) workplace or educational establishment, or

(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

as a collection point, subject to the agreement of the management of the workplace or educational establishment or body in possession of a valid CHY number, and

(ii) allow waste batteries that have been collected at a number of collection points to be bulked at one such collection point, subject to the agreement of the operators of the collection points concerned

and, where appropriate, an obligated producer, or as appropriate, approved body established in accordance with the provisions of Part V.

*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 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) end-user of an industrial or, as appropriate, automotive battery, other than an automotive battery from a private or, as appropriate, non-commercial vehicle who 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(3)

shall ensure that waste batteries are treated and recycled using best available techniques in terms of the protection of health and the environment, shall ensure such treatment and recycling 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 and, as a minimum, shall ensure such treatment and recycling complies with Community legislation as regards health, safety and waste management, and shall regularly evaluate and adapt best available techniques in relation to recycling efficiencies.

(2) Without prejudice to sub-article (1), on and from 26 September 2008, where any waste battery is to be 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) end-user 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(3)

shall ensure it is transported in accordance with the provisions of Council Regulation (EC) No. 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste<sup>9</sup> Council Regulation (EC) No 1420/1999 of 29 April 1999 establishing common rules and procedures to apply to shipments to certain non-OECD countries of certain types of waste<sup>10</sup> and Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply<sup>11</sup>, shall ensure it is treated and recycled at a facility appropriately authorised by the relevant competent authority or authorities in the member state or third country concerned and, when treated and recycled, shall furnish documentary evidence that the requirements of sub-article (1) and article 28(1) have been complied with.

<sup>9</sup>O.J. No. L 190, 12.7.2006, p 1 as last amended by Commission Regulation (EC) No 1379/2007 (O.J. No. L 309, 27.11.2007, p 7).

<sup>10</sup>O.J. No. L166, 1.7.1999, p. 6 as last amended by Commission Regulation (EC) No 105/2005 (O.J. L 20, 22.1.2005, p. 9).

<sup>11</sup>O.J. No. L 316, 4.12.2007, p 6.

(3) Without prejudice to sub-article (1), on and from 26 September 2008, any holder of, as the case may be, a waste facility permit, a registration certificate or waste collection permit shall furnish to the Agency such information in relation to waste batteries collected, accepted, sorted, transferred, recycled, disposed of, brokered, or otherwise managed or treated within a specified period, in such form and at such frequency as may be specified by the Agency.

(4) Without prejudice to sub-article (2), on and from 26 September 2008, any person exporting waste batteries to any third country, shall—

- (a) ensure that they are treated in accordance with article 15 of the Directive and any detailed rules for the implementation of Article 15 as laid down in accordance with the procedure referred to in Article 24(2) of the Directive, and
- (b) demonstrate to the satisfaction of the Agency that all the waste batteries concerned were—
  - (i) treated at an appropriate facility in accordance with the requirements of sub-article (1), and
  - (ii) recycled at an appropriate facility in accordance with the requirements of article 28(1)

before claiming fulfilment of the obligations and efficiencies laid down in Annex III of the Directive, subject to any amendment that may be made to that Annex from time to time.

(5) 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), subject to any amendment that may be made to those regulations from time to time, 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) end-user 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(3)

shall ensure that recycling processes, 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, the operator of each facility in the State engaged in the recycling of waste batteries shall be required to consider the—

- (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)<sup>12</sup>,
- (b) development of new recycling and treatment technologies, and
- (c) promotion of research into environmentally friendly and cost effective recycling methods

for all types of batteries.

(3) Notwithstanding sub-article (2), the Agency or, as appropriate, a local authority, shall encourage an applicant seeking a facility permit or a facility licence or the renewal of a permit or a licence, to operate a facility for the recycling of waste batteries, in accordance with the provisions of section 39(1) of the Act to set out his or her proposals for the—

- (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),
- (b) development of new recycling and treatment technologies, and
- (c) promotion of research into environmentally friendly and cost effective recycling methods

for all types of batteries before considering such an application.

(4) Without prejudice to sub-article (2) the Minister from time to time may issue guidance concerning new recycling technologies.

<sup>12</sup>O.J. No. L114, 24.4.2001, p. 1 as last amended by Commission Regulation (EC) No. 196/2006 (O.J. No. L32, 4.2.2006, p. 4.

*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) end-user 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(3)

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

(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.

(10) Notwithstanding article 23, the Agency shall in determining the adequacy of a plan submitted in accordance the provisions of sub-article (6) consult with the Minister with regard to any condition which the Minister may wish to apply including conditions—

- (a) for the achievement of interim collection targets which may be set by the Minister or, as appropriate,
- (b) requiring co-operation with any approved body established in accordance with the provisions of Part V of these Regulations and other individual producers who are not eligible for the exemptions provided for in article 34 including appropriate financial arrangements to enable the collection of waste batteries from collection points, including civic amenity facilities, workplaces and educational establishments in the appropriate functional areas of all local authorities.

*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 each battery including any button cell he or she places on the market—
  - (i) with the symbol shown in the Fifth Schedule and, as appropriate,
  - (ii) containing more than—
    - (A) 0.0005% mercury with the chemical symbol Hg,
    - (B) 0.002% cadmium with the chemical symbol Cd or, as appropriate,
    - (C) 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, and

- (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 the Fifth Schedule 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) where appropriate, 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  $5 \times 5$  cm.

(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  $0.5 \times 0.5$  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  $1 \times 1$  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)(a) 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.

(6) On and from 26 September 2009 each producer shall ensure that he or she or a third party acting on his or her behalf marks indelibly, visibly and legibly each—

(a) portable battery or, as appropriate,

(b) automotive battery

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, laid down in accordance with the procedure referred to in Article 24(2) of the Directive.

(7) A producer shall be exempt from the requirements of sub-article (6) where exemptions from the labelling requirements of Article 21 of the Directive have been granted in accordance with the procedure referred to in Article 24(2) of the Directive.

*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 in the State excluding any batteries that left the State prior to being sold to end-users, 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 September 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

(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 a notice complying with the requirements specified in Part 4 of the Third Schedule.
- (3) Notwithstanding sub-article (1), any person advertising batteries will be required, in any advertisement, to include the following text “Waste batteries must never be placed in your waste disposal or recycling bins. There is a bin for small batteries in your local store. Battery recycling is free”.

## PART V

## APPROVED BODIES

*Exemption from certain requirements*

34. (1) Notwithstanding 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(1), 23(3), 23(4), 23(5), 23(6), 23(7), 23(8), 23(9), 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.

(2) Notwithstanding sub-article (1) an approved body shall be responsible for the achievement of the targets specified in article 23(7) in proportion to the total quantity of batteries placed on the market in the State, excluding any batteries that left the State prior to being sold to end-users, by producers participating in the approved body concerned.

*Application to the Minister for approval*

35. (1) A body corporate may apply to the Minister for approval for the 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 appropriate financial arrangements to enable to the collection of waste batteries from collection points including civic amenity facilities, workplaces and educational establishments 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 in the State excluding any batteries that left the State prior to being sold to end-users 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,

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 and the engagement of authorised waste collectors demonstrating competence to comply with regulations made under the Carriage of Dangerous Goods by Road Act 1998 (No. 43 of 1998),

(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 appropriate financial arrangements enable the collection of waste batteries from collection points including civic amenity facilities, workplaces and educational establishments 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—
  - (i) the targets as laid down in articles 23 and 28 and, where appropriate,
  - (ii) interim collection targets which may be prescribed in conditions applied by the Minister under this article
 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 in the State excluding any batteries that left the State prior to being sold to end-users 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 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 and the engagement of authorised waste collectors demonstrating competence to comply with regulations made under the Carriage of Dangerous Goods by Road Act 1998 (No. 43 of 1998),

(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,

(q) the achievement of interim collection targets which may be set by the Minister or, as appropriate,

(r) 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,

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.

(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 and provision of information to the Agency and the Central Statistics Office*

39. An approved body shall,—

- (a) not later than the 7th day of each month, notify—
  - (i) each local authority of any producer situated within the functional area of the local authority concerned,

(ii) the registration body or, as appropriate, a third party acting on its behalf, and

(iii) the Agency

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, and

(b) furnish such information, in such form and at such frequency as may be specified by the Agency or the Central Statistics Office, in relation to activities carried out by producers or recycling operators registered with that body, for the purposes of complying with these Regulations.

## 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, 21(1)(a), 21(4), 21(5), 23, 24, 27, 28, 29, 30, 31, 32, 33(3), 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(1)(b), 21(2), 21(3), 21(6), 21(7), 22, 33(1), 33(2) and 42 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 relevant local authority, shall be responsible for the enforcement of the provisions of articles 25, 26, 43 and 44 of these Regulations within the State and shall take such steps as are necessary for this purpose.

(4) The Agency or a local authority may, for the purpose of determining compliance with these Regulations, by the service of a notice in writing on any producer or distributor, require the producer or distributor concerned to furnish in writing to the Agency or a local authority, as the case may be, within such period (being not less than 14 days after the date of the service of the notice) and, if appropriate, thereafter at such frequency as may be specified in the notice, such records including, but not exclusively, invoices, credit notes, dispatch or, as appropriate, delivery dockets as may be so specified.

(5) Information obtained under sub-article (4) by—

(a) a local authority, or any summary or compilation of, or any report based on, such information may, and shall if the Minister or the Agency so requests, be furnished to the Minister or the Agency or, as appropriate

- (b) the Agency, or any summary or compilation of, or any report based on, such information may, and shall if the Minister or an appropriate local authority so requests, be furnished to the Minister or the appropriate local authority,

as the case may be.

*Authorised Persons*

41. An authorised person for the purpose of the Act shall also be an authorised person for the purpose of these Regulations.

*Registration of Distributors*

42. (1) On a date not later than 1 September 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.

(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 15 September 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 six months of initial registration

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 Equipment) Regulations (S.I. No. 340 of

2005) subject to any amendment that may be made to those regulations from time to time.

(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 Equipment) Regulations (S.I. No. 340 of 2005), subject to any amendment that may be made to those regulations from time to time, shall be deemed to be registered in accordance with the provisions of this article.

(6) Without prejudice to sub-article (1), an association or body corporate representing distributors or an approved body established in accordance with the provisions of Part V of these Regulations 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 or approved body established in accordance with the provisions of Part V of these Regulations 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 or an approved body established in accordance with the provisions of Part V of these Regulations 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 or the approved body established in accordance with the provisions of Part

V of these Regulations 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,

the association or body corporate concerned or approved body established in accordance with the provisions of Part V of these Regulations 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 or an approved body established in accordance with the provisions of Part V of these Regulations 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).

(15) The provisions of this article shall not apply in respect of collection points—

(a) where waste portable batteries are stored following acceptance in accordance with the provisions of article 21(2) provided that the storage thresholds provided for in article 44(1)(a)(ii) are not exceeded, or

(b) designated in accordance with the provisions of article—

(i) 25(c)(i)(A) provided that the storage thresholds provided for in article 44(1)(b), or

(ii) 25(c)(i)(B) provided that the storage thresholds provided for in article 44(1)(c)(ii),

are not exceeded.

## 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 or exempted from registration 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 managed in accordance with the provisions of article 22,

(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, or

(c) person or persons, acting on behalf of a workplace or educational establishment designated as a collection point by a local authority in accordance with the provisions of article 25(c)

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—

(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) 2,500 kg of waste batteries other than waste specified in paragraph (ii) or, as appropriate,

(ii) 250 kg of waste portable batteries

provided they were accepted free of charge in accordance with the provisions of article 21, are managed in accordance with the provisions of article 22, and that such a place is registered and inspected or exempted from registration in accordance with the provisions of article 42,

(b) workplace or educational establishment designated as a collection point by a local authority in accordance with the provisions of article 25(c)(i)(A) and where the quantities being stored at any one time does not exceed 250 kg of waste portable batteries, or

(c) place owned or occupied by a body, which has been granted charitable recognition by the Revenue Commissioners and issued with a Charity (CHY) Number, designated as a collection point by a local authority in accordance with the provisions of article 25(c)(i)(B) and where the quantities being stored at any one time does not exceed—

(i) 500 kg of waste batteries, other than waste specified in paragraph (ii) or, as appropriate,

(ii) 50 kg 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—

(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 end-users 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) 10 tonnes of waste batteries, other than waste specified in paragraph (ii) or, as appropriate,

(ii) 1,000 kg 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, authorised facility has notified the Agency, or, as appropriate, the relevant local authority of its intentions to accept waste batteries that will be deposited by end-users 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 of waste batteries that will be deposited by end-users or accepted free of charge by distributors in accordance with the provisions of article 21 through deliveries by commercial vehicles at the facility, and

(c) the activity is being carried on in accordance with the rules specified in—

(i) Part I of the Fourth Schedule of the Waste Management (Facility Permit and Registration) Regulations 2007 (S.I. No. 821 of 2007) as amended by the Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008 (S.I. No 86 of

2008) subject to any amendment that may be made to those regulations from time to time, and

(ii) the Seventh Schedule of these Regulations

and complies with the general requirements laid down in Article 4 of Directive 2006/12/EC.

- (5) (a) On and from 26 September 2008, a person may accept and store waste batteries, deposited by end-users 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).

- (h) All records at a facility registered in accordance with the terms of paragraph (a) shall be maintained for a period of six years, starting from the end of the year in which the record was created.

*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) Notwithstanding sub-article (1), any undertaking supported by public funds that assists or intends to assist in any way a manufacturer of batteries shall consult with the Minister concerning the manufacture's proposals for 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.

before considering the granting or continued granting of such assistance.

(3) 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,—

- (a) each person in the State engaged in the manufacture of appliances into which batteries are incorporated 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 or, as appropriate,
- (b) any producer or distributor of appliances into which batteries have been incorporated shall ensure that each appliance concerned is accompanied by instructions showing how they can be removed safely and, where appropriate, informing the end-user of the type of the incorporated batteries.

(2) Without prejudice to sub-article (1)(a) the Minister from time to time may issue guidance concerning the design of and production of appliances containing batteries.

(3) Without prejudice to sub-article (1)(b) each distributor shall ensure that instructions, showing how batteries can be removed safely and, where appropriate, informing the end-user of the type of the incorporated batteries, are provided to each customer purchasing any appliance into which a battery or batteries have been incorporated.

#### *Offences*

47. (1) Any person who—

- (a) contravenes or fails to comply with a provision, or provisions, of these Regulations, or
- (b) provides information which is false or to his or her knowledge misleading in a material way, or
- (c) obstructs or interferes with an authorised person in the exercise of a power conferred by these Regulations

shall be guilty of an offence.

(2) 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 a person, being a director, manager, secretary or other officer of that body, or a person who was purporting to act in any such capacity, that person shall also be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

#### *Prosecutions and penalties*

48. (1) A prosecution for a summary offence under these Regulations may be taken by the Agency or relevant local authority, as appropriate.

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

- (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 12 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.

#### *Revocation*

49. The European Communities (Batteries) Regulations 1994 (S.I. No. 262 of 1994) and Part III of the Waste Management (Hazardous Waste) Regulations 1998 (S.I. No. 163 of 1998) are revoked with effect from 26 September 2008.

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.

Registered Name:  
Address of Registered Office:  
Telephone No.:  
Fax No.:  
E-mail:

Trading Name:  
Address for Correspondence:  
Name of the contact person in the company responsible for  
compliance with the Regulations:  
Contact Person's Telephone No.:  
Contact Person's Fax No.:  
Contact Person's 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 State excluding any batteries that left the State prior to being sold to end-users in the calendar year prior to the date of application 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.

Registered Name:  
Address of Registered Office:  
Telephone No.:  
Fax No.:  
E-mail:

Trading Name:  
Address for Correspondence:  
Name of the contact person in the company responsible for compliance with the Regulations:  
Contact Person's Telephone No.:  
Contact Person's Fax No.:  
Contact Person's E-mail:

2. Name(s) and address(es) of owner(s).
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 State excluding any batteries that left the State prior to being sold to end-users in the calendar year prior to the date of application for renewal in each of the categories specified in guidance which the Minister may issue from time to time.

## 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(3).

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.

Registered Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

Trading Name:

Address for Correspondence:

Name of the contact person in the company responsible for compliance with the Regulations:

Contact Person's Telephone No.:

Contact Person's Fax No.:

Contact Person's E-mail:

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

3. The location of premises where waste batteries were taken back from end-users 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 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 end-users during the relevant period in each of the categories specified in guidance which the Minister may issue from time to time.

5. The names, addresses and permit numbers of authorised waste collectors or, as appropriate, recycling operators used for the collection, treatment and recycling of waste batteries during the relevant period.

6. The quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries—

(a) recycled by or on behalf of the distributor, and

(b) accepted by recycling operators,

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

7. 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 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.

Registered Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

Trading Name:

Address for Correspondence:

Name of the contact person in the company responsible for compliance with the Regulations:

Contact Person's Telephone No.:

Contact Person's Fax No.:

Contact Person's E-mail:

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

3. The location of premises from which waste industrial batteries were collected from end-users 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 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 end-users during the relevant period in each of the categories specified in guidance which the Minister may issue from time to time.

5. The names, addresses and permit numbers of authorised waste collectors or, as appropriate, recycling operators used for the collection, treatment and recycling of waste industrial batteries during the relevant period.

6. The quantities, where applicable, by weight or, as appropriate, by number of units of waste industrial batteries—

(a) recycled by or on behalf of the economic operator, and

(b) accepted by recycling operators,

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

7. 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 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.

## 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(1)(b).

A notice for the purpose of article 30(1)(b) 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 recycling 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(3)(b).

A notice for the purpose of article 30(3)(b) 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 report specifying the steps taken by [name of producer] for the purpose of recycling 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 bold type in black indelible ink with a times new roman font size of at least 24 or equivalent and line space of at least 1.25 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—

“FREE RECYCLING

WASTE MANAGEMENT ACT 1996

Waste batteries including rechargeable batteries (of a type sold here) are taken back free of charge in this store.

You are not obliged to make any purchase when returning old batteries here.

Each local authority must also accept small batteries free of charge at its recycling facilities.

All waste batteries must be recycled and should not be placed in your waste disposal or recycling bins.

Make sure you always recycle all your old batteries.”.

## 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 bold type in black indelible ink with a times new roman font size of at least 20 or equivalent and line space of at least 1.25 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—

## “FREE RECYCLING

## 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 (of a type sold here) are taken back free of charge in this store.

You are not obliged to make any purchase when returning old batteries here.

Each local authority must also accept household WEEE and small batteries free of charge at its recycling facilities.

All WEEE and waste batteries must be recycled and should not be placed in your waste disposal or recycling bins.

Make sure you always recycle all your old electrical goods and batteries.”.

## 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.

Registered Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

Trading Name:

Address for Correspondence:

Name of the contact person in the company responsible for compliance with the Regulations:

Contact Person's Telephone No.:

Contact Person's Fax No.:

Contact Person's 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 excluding any batteries that will leave the State prior to being sold to end-users in the relevant period in each of the categories specified in guidance which the Minister may issue from time to time, or an undertaking to comply with the obligation to report, as required or requested, to the "registration body" in accordance with the provisions of article 32.
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 excluding any batteries that will leave the State prior to being sold to end-users by the producer in the relevant period 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, recycling operators to be used for the collection, treatment and recycling of waste batteries during the relevant period.

7. An undertaking that that only authorised waste collectors who demonstrate competence to comply with regulations made under the Carriage of Dangerous Goods by Road Act 1998 (No. 43 of 1998) will be engaged.

8. The projected quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries that will be—

(a) recycled by or on behalf of the producer, and

(b) accepted by recycling operators,

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

9. 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 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.

Registered Name:

Address of Registered Office:

Telephone No.:

Fax No.:

E-mail:

Trading Name:

Address for Correspondence:

Name of the contact person in the company responsible for compliance with the Regulations:

Contact Person's Telephone No.:

Contact Person's Fax No.:

Contact Person's 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 excluding any batteries

that left the State prior to being sold to end-users in the relevant period in each of the categories specified in guidance which the Minister may issue from time to time, or demonstrate compliance with the obligation to report, as required or requested, to the “registration body” in accordance with the provisions of article 32.

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 excluding any batteries that left the State prior to being sold to end-users by the producer in the relevant period 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, recycling operators used for the collection, treatment and recycling of waste batteries during the relevant period.

7. A demonstration that each of the authorised waste collectors used for the collection of waste batteries during the relevant period complied with regulations made under the Carriage of Dangerous Goods by Road Act 1998 (No. 43 of 1998).

8. The quantities, where applicable, by weight or, as appropriate, by number of units of waste batteries—

(a) recycled by or on behalf of the producer, and

(b) accepted by recycling operators,

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

9. 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 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.

## 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.



## 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.

## SEVENTH SCHEDULE

ADDITIONAL RULES TO THOSE SPECIFIED IN PART I OF THE FOURTH SCHEDULE OF THE WASTE MANAGEMENT (FACILITY PERMIT AND REGISTRATION) REGULATIONS 2007 (S.I. NO. 821 OF 2007) AS AMENDED BY THE WASTE MANAGEMENT (FACILITY PERMIT AND REGISTRATION) (AMENDMENT) REGULATIONS 2008 (S.I. NO 86 OF 2008) IN RESPECT OF REGISTERED ACTIVITIES IN ACCORDANCE WITH ARTICLE 44

- (a) The register prescribed in paragraph 15 of Part I of the *Fourth Schedule* of the Waste Management (Facility Permit and Registration) Regulations 2007 (S.I. No. 821 of 2007) as amended by the Waste Management (Facility Permit) (Amendment) Regulations 2008 (S.I. No. 86 of 2008) subject to any amendment that may be made to those Regulations from time to time, which shall also be available on request or, as appropriate, for inspection by the local authority or, as appropriate, the Agency, shall also detail—
- (i) The dates, time of collections and quantities of each waste consignment (by European Waste Catalogue code(s) and description(s) pursuant to Commission Decision 2001/118/EC of 16 January 2001 or subsequent amendments) collected from the facility,
  - (ii) Names of the carriers, including vehicle registration details in respect of waste collected from the facility, and
  - (iii) Origin of waste rejected from the facility.
- (b) The registration holder shall establish the provenance of waste batteries deposited (e.g. deposited on behalf of an approved body, a self complying producer of batteries, a business end user etc.).
- (c) The registration holder shall forward details of the source of waste batteries deposited at a waste facility on behalf of a person (other than an approved body or a self complying producer of batteries or a householder depositing a quantity of waste batteries not exceeding the quantity prescribed in article 21(7)(a)), together with details of the person depositing the waste batteries to the local authorities in the functional area or areas where the—
- (i) waste facility is located,
  - (ii) person depositing the waste batteries has his or her place of business and if not a business his or her place of residence, and
  - (iii) source of the waste batteries concerned has his or her place of business and if not a business his or her place of residence.

## 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 recycled 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 indicate 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,  
16 July 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.)*

These Regulations are designed to promote the recycling 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/EEC.

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, recycling and disposal of waste batteries in an environmentally sound manner operated by an approved body.

BAILE ÁTHA CLIATH  
 ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
 Le ceannach díreach ón  
 OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
 TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
 nó tríd an bpost ó  
 FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
 AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
 CONTAE MHAIGH EO,  
 (Teil: 01 - 6476834/37 nó 1890 213434; Fax: 01 - 6476843 nó 094 - 9378964)  
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