STATUTORY RULES OF NORTHERN IRELAND

2009 No. 159

ENVIRONMENTAL PROTECTION

The Waste Batteries and Accumulators (Treatment and Disposal) Regulations (Northern Ireland) 2009

Made - - - -	*8th April 2009*
Coming into operation	*20th May 2009*

The Department of the Environment was designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in respect of measures relating to the prevention, reduction and elimination of pollution caused by waste, in relation to batteries and accumulators, and in relation to the environment.

The Department makes the following Regulations in exercise of the powers conferred on it by section 2(2) of the European Communities Act 1972 and conferred on it by Articles 2(8), 4(3), 6(6) and 30 of the Waste and Contaminated Land (Northern Ireland) Order 1997(**3**) and by Article 4 of the Environment (Northern Ireland) Order 2002(**4**).

In accordance with Article 4(4) of the Environment (Northern Ireland) Order 2002, the Department has consulted district councils and such bodies or persons appearing to it to be representative of the interests of district councils as it considers appropriate, such bodies or persons appearing to it to be representative of the interests of industry, agriculture and business as it considers appropriate and such other bodies or persons as it considers appropriate.

Citation, commencement and interpretation

1. These Regulations may be cited as the Waste Batteries and Accumulators (Treatment and Disposal) Regulations (Northern Ireland) 2009 and shall come into operation on 20th May 2009.

2.—(1) In these Regulations—

"the 1997 Order" means the Waste and Contaminated Land (Northern Ireland) Order 1997;

(**1**) S.I. 1992/2870, S.I. 2007/3471 and S.I. 2008 No. 301
(**2**) 1972 c. 68
(**3**) S.I. 1997/ 2778 (N.I. 19) as amended by S.I. 1998/2795 (N.I. 18), S.I. 1999/662 (N.I. 6), S.I. 2002/3153 (N.I. 7), S.R. 2003 No. 46, S.R. 2004 No. 277, S.R. 2005 No. 300, S.R. 2006 No. 280, S.R. 2006 No. 425, S.I. 2006/3336 (N.I. 21), S.I. 2007/611 (N.I. 3) and S.I. 2007/1711
(**4**) S.I. 2002/3153 (N.I. 7) as amended by S.I. 2006/3336 (N.I. 21)

"the 2003 Regulations" means the Waste Management Licensing Regulations (Northern Ireland) 2003(**5**);

"the Batteries Directive" means Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC(**6**);

"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 (non-rechargeable) or consisting of one or more secondary battery cells (rechargeable);

"disposal" means any of the applicable operations provided for in Annex IIA to Directive 2006/12/EC of the European Parliament and of the Council on waste(**7**);

"exempt activity" has the meaning given by regulation 1(3) of the 2003 Regulations;

"licence" has the meaning given by Article 2(2) of the 1997 Order;

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

"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 of the European Parliament and of the Council on waste.

(2) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Waste Management Licensing Regulations (Northern Ireland) 2003

3.—(1) In regulation 1(3) (Citation, commencement and interpretation) of the Waste Management Licensing Regulations (Northern Ireland) 2003(**9**)—

(a) there shall be inserted in the appropriate place—

""the Batteries Directive" means Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC(**10**);

"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 (non-rechargeable) or consisting of one or more secondary battery cells (rechargeable);

"battery pack" means any set of batteries or accumulators that are connected together or encapsulated within an outer casing so as to form a complete unit that the end-user is not intended to split up or open;

"distributor" means any person that provides batteries or accumulators on a professional basis to an end-user;

(**5**) S.R. 2003 No. 493 as amended by S.R. 2003 No. 496, S.R. 2005 No. 300, S.R. 2006 No. 280, S.R. 2006 No. 489, S.R. 2006 No. 519, S.R. 2007 No. 258, S.R. 2008 No. 18 and S.R. 2009 No. 76
(**6**) O.J. No. L266, 26.9.2006, p. 1
(**7**) O.J. No. L114, 27.4.2006, p. 9
(**8**) 1954 c. 33 (N.I.)
(**9**) S.R. 2003 No. 493 as amended by S.R. 2003 No. 496, S.R. 2005 No. 300, S.R. 2006 No. 280, S.R. 2006 No. 489, S.R. 2006 No. 519, S.R. 2007 No. 258, S.R. 2008 No. 18 and S.R. 2009 No. 76
(**10**) O.J. No. L266, 26.9.2006, p. 1

"electric vehicle" means a vehicle which uses electricity as a source of power for propulsion and includes a vehicle which in addition uses, or is capable of using, other sources of power for this purpose;

"industrial battery or accumulator" means any battery, accumulator or battery pack which is—

(a) designed exclusively for industrial or professional uses;

(b) used as a source of power for propulsion in an electric vehicle;

(c) unsealed but is not an automotive battery or accumulator; or

(d) sealed but is not a portable battery or accumulator;

"portable battery or accumulator" means any battery, accumulator or battery pack which—

(a) is sealed;

(b) can be hand-carried by an average natural person without difficulty; and

(c) is neither an automotive battery or accumulator nor an industrial battery or accumulator;

"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 of the European Parliament and of the Council on waste(**11**);";

(b) for the definition of "recycling"(**12**) there shall be substituted—

""recycling"—

(a) in relation to WEEE, has the meaning given by Article 3(e) of the WEEE Directive;

(b) in relation to waste batteries or accumulators, means the reprocessing in a production process of waste materials for their original purpose or for other purposes, but excluding energy recovery;";

(c) for the definition of "treatment"(**13**) there shall be substituted—

""treatment"—

(a) in relation to WEEE, has the meaning given by Article 3(h) of the WEEE Directive;

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

(2) After regulation 11A (Conditions of site licences: WEEE)(**14**) there shall be inserted the following regulation—

"**Conditions of waste management licences: waste batteries and accumulators**

11B. The Department shall ensure that any waste management licence granted or varied on or after 20th May 2009 authorising an establishment or undertaking to carry out treatment of waste batteries or accumulators contains such conditions as it considers necessary to give effect to Article 12(2) and Annex III, Part A of the Batteries Directive.".

(**11**) O.J. No. L114, 27.4.2006, p. 9
(**12**) S.R. 2006 No. 519
(**13**) S.R. 2006 No. 519
(**14**) S.R. 2006 No. 519

(3) After regulation 16 (Exclusion of activities under other control regimes from waste management licensing) there shall be inserted the following regulation—

"**Exclusion from waste management licensing: waste batteries and accumulators**

16A. Article 4(1)(a), (b) and (c) of the 1997 Order shall not apply in relation to the storage of waste portable batteries or accumulators at a collection point where " collection point" means a place where end-users are able to deposit waste portable batteries or accumulators at the premises of a distributor fulfilling its duty to take back such waste portable batteries or accumulators under Article 8(1)(b) of the Batteries Directive.".

(4) In regulation 17 (Exemptions from waste management licensing) in paragraph (3A)(**15**) after "WEEE" there shall be inserted "or waste batteries or accumulators".

(5) In regulation 18(12)(c)(**16**) (Registration in connection with exempt activities) for "49, 50 and 51" there shall be substituted "49, 50, 51 and 52".

(6) In Part I of Schedule 2 (Activities exempt from waste management licensing)—

(a) in paragraph 40(1), after "the temporary storage of WEEE"(**17**) there shall be inserted "or waste batteries or accumulators";

(b) in paragraph 41(1) for "(including WEEE)" there shall be substituted "(including WEEE or waste batteries or accumulators)";

(c) after paragraph 51(**18**) there shall be inserted the following paragraph—

"**52.** The secure storage at a place other than the place of production, pending its recovery, of waste batteries or accumulators of a kind described in Table 11E, if—

(a) the total quantity of waste batteries or accumulators stored at the site at any one time does not exceed the maximum quantity specified in Table 11E;

(b) the total duration that the waste batteries or accumulators are stored for does not exceed the maximum duration specified in Table 11E;

(c) the waste batteries or accumulators are stored in a container separate from other wastes; and

(d) the storage site has sealed drainage.

Table 11E

EWC codes	*Kind of waste*	*Maximum quantity*	*Maximum duration*
160601*, 160602*, 160604, 200133*, 200134	batteries and accumulators	5 tonnes for automotive batteries and accumulators, 10 tonnes for portable batteries and accumulators	6 months"

(7) In paragraph 13 of Part I of Schedule 3 (Duty to carry out appropriate periodic inspections)—

(**15**) S.R. 2006 No. 519
(**16**) S.R. 2006 No. 519
(**17**) S.R. 2006 No. 519
(**18**) S.R. 2006 No. 519

(a) in sub-paragraph (4A)(**19**) for "49, 50 and 51" there shall be substituted "49, 50, 51 and 52";

(b) in Table 14 in the first column for "11, 13, 19, 45, 46" there shall be substituted "11, 13, 19, 45, 46, 52".

Transitional arrangements relating to the Waste Management Licensing Regulations (Northern Ireland) 2003

4.—(1) Any waste management licence authorising an establishment or undertaking to carry out treatment of waste batteries or accumulators on 20th May 2009 ("an existing waste management licence") shall be read as containing the following condition—

"The operator shall carry out any treatment of waste batteries or accumulators in accordance with Article 12(2) and Annex III, Part A of the Batteries Directive.".

(2) Where an existing waste management licence authorises an activity falling within paragraph 52 in Part I of Schedule 2 to the 2003 Regulations, the licence shall be treated as revoked (so far as it relates to that activity) from the determination date.

(3) In any other case, an existing waste management licence shall cease to authorise an establishment or undertaking to carry out treatment of waste batteries or accumulators unless the licence is modified to authorise treatment in accordance with the Batteries Directive.

(4) An establishment or undertaking carrying out an exempt activity involving the storage of waste batteries or accumulators at any place immediately before 20th May 2009 may continue to carry on that activity at that place in accordance with the 2003 Regulations, as they were in operation immediately before 20th May 2009, until the determination date.

(5) In this regulation the "determination date" is—

(a) where an application for a modification to a waste management licence is duly made in accordance with Article 8 of the 1997 Order in relation to the treatment of waste batteries or accumulators before 20th May 2009, the date on which the application is granted or if the application is (or is deemed to be) rejected, the date on which the period for appealing against that rejection expires without an appeal being made or on which any appeal is withdrawn or finally determined;

(b) where an application for a waste management licence is duly made in accordance with Article 8 of the 1997 Order in relation to the treatment of waste batteries or accumulators before 20th May 2009, the date on which the application is granted or, if the application is (or is deemed to be) rejected, the date on which the period for appealing against that rejection expires without an appeal being made or on which any appeal is withdrawn or finally determined;

(c) where notice is given in accordance with regulation 18 of the 2003 Regulations by an establishment or undertaking in relation to an exempt activity involving the storage of waste batteries or accumulators before 20th May 2009, the date on which the Department of the Environment enters the relevant particulars in the register or, if it refuses to do so, the date on which it notifies the establishment or undertaking of its decision; or

(d) in any other case 20th May 2009.

Amendment of the Hazardous Waste Regulations (Northern Ireland) 2005

5.—(1) In regulation 2(1) (General interpretation) of the Hazardous Waste Regulations (Northern Ireland) 2005(**20**) there shall be inserted in the appropriate place—

(**19**) S.R. 2006 No. 519
(**20**) S.R. 2005 No. 300 as amended by S.R. 2005 No. 461 and S.R. 2006 No. 280