Status: *This version of this Rule contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) Regulations (Northern Ireland) 2000. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2000 No. 232

ENVIRONMENTAL PROTECTION EUROPEAN COMMUNITIES

The Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) Regulations (Northern Ireland) 2000

Made - - - - 14th July 2000
Coming into operation in accordance with regulation 1(2) and (3)

The Department of the Environment, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to restrictions on the marketing and use of certain dangerous substances and preparations and measures relating to the prevention, reduction and elimination of pollution caused by waste, in exercise of the powers conferred on it by that section and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) Regulations (Northern Ireland) 2000.

(2) Except as provided by paragraph (3) these Regulations shall come into operation on 7th August 2000.

(3) Regulation 13 shall come into operation on 1st April 2001.

Commencement Information
I1 Reg. 1 in operation at 7.8.2000, see **reg. 1(2)**

Interpretation

2.—(1) In these Regulations—

(**1**) S.I.1992/1711, 2870
(**2**) 1972 c. 68

"the 1997 Order" means the Waste and Contaminated Land (Northern Ireland) Order 1997(**3**);

"applicant" means a person who applies for registration under regulation 6;

"contaminated equipment" means any equipment (including any transformer, capacitor or receptacle containing residual stocks) which—

(a) contains PCBs; or

(b) having contained PCBs, has not been decontaminated,

other than one which contains a total volume of PCBs not exceeding 5 dm^3;

and for the purposes of this definition—

(i) the PCB volume of a power capacitor shall be measured by reference to all of the separate elements of a combined set, and

(ii) anything of a type that may contain PCBs shall be treated as containing PCBs, unless it is reasonable to assume the contrary;

"decontamination" means all operations which enable equipment, objects, materials or fluids contaminated by PCBs to be reused, recycled or disposed of under safe conditions, and which may include replacement, meaning all operations in which PCBs are replaced by suitable fluids not containing PCBs;

"the Department" means the Department of the Environment;

"the Directive" means Council Directive 96/59/EC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)(**4**);

"disposal" means any of the operations D8, D9, D10, D12 (only in safe, deep, underground storage in dry rock formations and only for equipment containing PCBs or used PCBs which cannot be decontaminated) and D15 provided for in Annex IIA of Directive 75/442/EEC, as amended(**5**), and set out in Schedule 1 to these Regulations;

"holder" means the person who is in possession of PCBs, including any used PCBs, or of any equipment;

"PCBs" means any of the following substances—

polychlorinated biphenyls,

polychlorinated terphenyls,

monomethyl-dibromo-diphenyl methane,

monomethyl-dichloro-diphenyl methane,

monomethyl-tetrachlorodiphenyl methane,

and, except in regulations 4(3) and (4), 5(3), 6(2) and 9(3), includes any mixture containing any of those substances in a total of more than 0.005% by weight;

"registered holder" means a person registered with the Department in accordance with regulation 6, and a registered holder is a registered holder in relation to particular equipment if a description of that equipment, including its location, has been furnished to the Department;

"transformer" includes ancillary equipment, that is to say, equipment that is an integral part of the site of which the transformer is part, including radiators, bushings, through-wall bushings, and capacitors on air blast circuit breakers;

(**3**) S.I. 1997/2778 (N.I. 19)
(**4**) O.J. No. L243, 24.9.96, p. 31
(**5**) Council Directive 75/442/EEC on waste (O.J. No. L194, 25.7.75, p. 39), amended by Council Directive 91/156/EEC (O.J. No. L078, 26.3.1991, p. 32), Council Directive 91/692/EEC (O.J. No. L377, 31.12.1991, p. 48), and Commission Decision 94/3/EC (O.J. No. L5, 7.1.1994, p. 15)

"used PCBs" means any PCBs which are waste within the meaning of Directive 75/442/EEC(**6**).

(2) Other expressions used in these Regulations and in the Directive shall have the same meaning as they have in the Directive.

(3) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Commencement Information
I2 Reg. 2 in operation at 7.8.2000, see **reg. 1(2)**

Prohibition

3.—(1) Subject to paragraphs (2) to (4), no person shall hold any contaminated equipment after 31st October 2000 unless he is a registered holder of that equipment.

(2) A person may hold contaminated equipment, notwithstanding that he is not a registered holder, for the purposes of, or in the course of, any business, manufacturing process or trade concerned with the decontamination or disposal of such equipment.

(3) A person who applies for registration in accordance with regulation 6(1) and (2), no later than 28 days after the coming into operation of these Regulations but whose application has not been finally determined by 31st October 2000 shall be treated as being a registered holder until 14 days after his application is finally determined.

(4) A person who first holds contaminated equipment on or after the date on which these Regulations come into operation shall be treated as being a registered holder from the date on which he first holds such equipment until 14 days after his application for registration is finally determined, if he applies for registration in accordance with regulation 6(1) and (2), no later than 28 days after the date on which he becomes the holder of contaminated equipment.

(5) For the purposes of this regulation an application is finally determined—

(a) where it is granted under regulation 6(3), on the date on which it is granted;

(b) where it is refused under regulation 6(3), on the date on which the Department gives notice under regulation 6(5);

(c) where it is deemed by regulation 6(6) to be refused—

(i) where the period allowed for appealing against that refusal expires without an appeal being brought, on the expiry of that period,

(ii) where an appeal is brought within that period, on the expiry of the period of 14 days beginning with the date of the determination or earlier withdrawal of the appeal.

Commencement Information
I3 Reg. 3 in operation at 7.8.2000, see **reg. 1(2)**

Prohibition on holding irrespective of registration

4.—(1) Subject to paragraphs (2), (3), (5), and (8), no person shall, after 31st March 2001, hold—

(a) any PCBs, including any used PCBs; or

(**6**) *See* the definition of "waste" in Article 1 of Directive 75/442/EEC
(**7**) 1954 c. 33 (N.I.)

(b) any equipment (whether or not that equipment is contaminated equipment)—

(i) which contains PCBs; or

(ii) which, having contained PCBs, has not been decontaminated.

(2) A person may hold—

(a) PCBs, including any used PCBs, or equipment for the purposes of, or in the course of any business, manufacturing process or trade concerned with the decontamination or disposal of PCBs or such equipment;

(b) PCBs, including any used PCBs, which are manufactured, supplied or used solely for the purposes of analysis, or of research connected with the properties and effects of PCBs, and any equipment used as a receptacle for those PCBs, provided that any such PCBs and equipment are disposed of as soon as possible after the PCBs are no longer required for those purposes.

(3) A transformer in respect of which it is reasonable to assume that the fluids contain 0.05% by weight, or less, of PCBs—

(a) may be held until the end of its useful life; and

(b) shall then, unless decontaminated in accordance with paragraph (4)(*b*) to (*d*), be disposed of as soon as possible.

(4) A transformer in respect of which it is reasonable to assume that the fluids contain more than 0.05% by weight of PCBs shall be decontaminated under the following conditions—

(a) the objective of the decontamination must be to reduce the content of PCBs in the fluid to less than 0.05% by weight and, if possible, to no more than 0.005% by weight;

(b) the replacement fluid not containing PCBs must entail markedly lesser risks;

(c) the replacement of the fluid must not compromise the subsequent disposal of the PCBs; and

(d) the labelling of the transformer after its decontamination must be replaced by the labelling specified in Schedule 2 to these Regulations.

(5) (a) The Department may, on an application in writing made by a holder and if it is satisfied as to the matters specified in paragraph (6), by a direction in writing given to the holder before 31st March 2001, provide that paragraph (1) shall not apply in relation to such equipment as is specified in the direction until such date, being after 31st March 2001 but before 1st January 2008 as shall be specified in the direction.

(b) The application under paragraph (*a*) shall be accompanied by the fee specified in Schedule 3 to these Regulations.

(6) The matters referred to in paragraph (5) are—

(a) that the equipment will be replaced as part of a major programme for the replacement of an installation or plant of which the equipment is part ("the programme");

(b) that the programme was approved by the owners or other persons in control of the operation of the installation or plant before the date on which these Regulations are made;

(c) that the equipment will be disposed of by the date to be specified in the direction;

(d) that to require the disposal of the equipment before that date would disrupt the programme to a significant extent; and

(e) that all reasonable precautions have been taken to secure that PCBs cannot escape from the equipment pending its disposal.

(7) Equipment in respect of which a direction is given under paragraph (5) shall, unless decontaminated or disposed of before the date specified in the direction, be disposed of on that date.

(8) Any equipment containing PCBs—

(a) which is equipment to which none of paragraphs (2), (3) and (5) apply;

(b) which is not contaminated equipment; and

(c) which is part of another piece of equipment which is also not contaminated equipment,

may be held until that other piece of equipment is taken out of use, recycled or disposed of; and shall then, where reasonably practicable, be removed and collected separately from that other equipment.

Commencement Information

I4 Reg. 4 in operation at 7.8.2000, see **reg. 1(2)**

Labelling of contaminated equipment

5.—(1) The registered holder of any contaminated equipment in respect of which an inventory is to be, or has been, made under regulation 9 shall affix to that equipment and the doors of premises where such equipment is located, an indelible sign and, subject to regulation 4(4)(*d*), shall take reasonable steps to secure that the sign remains so affixed while that equipment remains at that location.

(2) Subject to paragraph (3), the sign shall record that the equipment is, or the premises contains equipment that is, contaminated by PCBs.

(3) Equipment in respect of which it is reasonable to assume that the content of PCBs in the fluid is between 0.05% and 0.005% by weight may be labelled as "PCBs contaminated <0.05%".

Commencement Information

I5 Reg. 5 in operation at 7.8.2000, see **reg. 1(2)**

Registration

6.—(1) Subject to paragraph (2), an application for registration—

(a) shall be made in writing on a form provided by the Department;

(b) shall contain the following particulars—

(i) the name and address of the applicant,

(ii) a description of the contaminated equipment, identifying its location or intended location,

(iii) a description of the PCBs which are or were contained in the equipment, so far as can reasonably be identified without excessive cost,

(iv) so far as can reasonably be ascertained without excessive cost, the quantity of such of those PCBs as have been identified, and

(v) every date on which treatment or replacement was carried out or is envisaged, specifying in each case the nature of the treatment or replacement; and

(c) shall be accompanied by the appropriate fee specified in Schedule 3 to these Regulations.

(2) Information of the descriptions—

(a) in paragraph (1)(*b*)(ii) to (v) may be provided in an electronic form acceptable to the Department;