

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(a) for the purposes of section 2(2) of the European Communities Act 1972(b) 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(c) and by Article 4 of the Environment (Northern Ireland) Order 2002(d).

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;

“the 2003 Regulations” means the Waste Management Licensing Regulations (Northern Ireland) 2003(e);

(a) S.I. 1992/2870, S.I. 2007/3471 and S.I. 2008 No. 301

(b) 1972 c. 68

(c) 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

(d) S.I. 2002/3153 (N.I. 7) as amended by S.I. 2006/3336 (N.I. 21)

(e) 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

“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(a);

“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(b);

“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(c) 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(d)—

(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(e);

“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;

“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;

(a) O.J. No. L266, 26.9.2006, p. 1

(b) O.J. No. L114, 27.4.2006, p. 9

(c) 1954 c. 33 (N.I.)

(d) 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

(e) O.J. No. L266, 26.9.2006, p. 1

- (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(a);”;

- (b) for the definition of “recycling”(b) 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”(c) 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)(d) 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.”.

- (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)(e) after “WEEE” there shall be inserted “or waste batteries or accumulators”.

(a) O.J. No. L114, 27.4.2006, p. 9
(b) S.R. 2006 No. 519
(c) S.R. 2006 No. 519
(d) S.R. 2006 No. 519
(e) S.R. 2006 No. 519

(5) In regulation 18(12)(c)(a) (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”(b) 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(c) 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

<i>EWC codes</i>	<i>Kind of waste</i>	<i>Maximum quantity</i>	<i>Maximum duration</i>
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)—

- (a) in sub-paragraph (4A)(d) 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.

(a) S.R. 2006 No. 519
 (b) S.R. 2006 No. 519
 (c) S.R. 2006 No. 519
 (d) S.R. 2006 No. 519

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

““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;

“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

(a) S.R. 2005 No. 300 as amended by S.R. 2005 No. 461 and S.R. 2006 No. 280

(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(a);”.

(2) For regulation 19 (Prohibition on mixing hazardous waste without a permit) there shall be substituted—

“Prohibition on mixing hazardous waste without a permit

19.—(1) Subject to paragraphs (2) to (4), no establishment or undertaking which carries out the disposal or recovery of hazardous waste, or which produces, collects or transports hazardous waste, shall mix any hazardous waste.

(2) The prohibition in paragraph (1) shall not apply so as to prohibit a process by which waste is produced and which results in the production of mixed wastes, being a process other than one which mixes a waste with any other waste substance or material, resulting in—

- (a) a change in the nature or composition of that waste; or
- (b) the production of another waste.

(3) Paragraph (1) above shall not apply to the extent that the mixing is authorised by and is in compliance with the conditions of a permit.

(4) Paragraph (1) above shall not apply to the extent that the mixing occurs 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 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(b).”.

Amendment of the Landfill Regulations (Northern Ireland) 2003

6.—(1) In regulation 2(1) (Interpretation) of the Landfill Regulations (Northern Ireland) 2003(c)—

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

““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;

(a) O.J. No. L114, 27.4.2006, p. 9

(b) O.J. No. L266, 26.9.2006, p. 1

(c) S.R. 2003 No. 496 as amended by S.R. 2004 No. 297, S.R. 2005 No. 300, S.R. 2006 No. 280, S.R. 2007 No. 179 and S.R. 2007 No. 258

“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;

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

“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(a);”;

- (b) for the definition of “treatment” there shall be substituted—

““treatment”—

- (a) 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;
- (b) in relation to any other type of waste, means physical, thermal, chemical or biological processes (including sorting) that changes the characteristics of waste in order to reduce its volume or hazardous nature, facilitate its handling or enhance recovery;”.

- (2) In regulation 9 (Prohibition of acceptance of certain wastes at landfills)—

- (a) in paragraph (1)(f)(ii) for “1400mm; and” there shall be substituted “1400mm;”;
- (b) in paragraph (1)(g) for “criteria.” there shall be substituted “criteria; and”;
- (c) after paragraph (1)(g) there shall be inserted—

“(h) as from 1 January 2010, waste industrial and automotive batteries or accumulators (except for residues of any waste industrial and automotive batteries or accumulators that have undergone both treatment and recycling).”.

- (3) In paragraph 1 of Schedule 4 (Existing landfills: transitional provisions) after sub-paragraph (11A)(b) there shall be inserted—

“(11B) From 1st January 2010 any relevant authorisation shall be read as containing the additional condition that waste types listed in regulation 9(1)(h) shall not be accepted.”.

(a) O.J. No. L114, 27.4.2006, p. 9
(b) S.R. 2007 No. 258

Amendment of the Pollution Prevention and Control Regulations (Northern Ireland) 2003

7. After regulation 12A(a) (Conditions of permits: solvents) of the Pollution Prevention and Control Regulations (Northern Ireland) 2003(b) there shall be inserted—

“Conditions of permits: waste batteries and accumulators

12B. A permit which on or after 1st January 2010 authorises the operation of a waste incineration installation shall contain such conditions as the enforcing authority considers necessary to give effect to Article 14 of 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(c).”.

Sealed with the Official Seal of the Department of the Environment on 8th April 2009



Wesley Shannon
A senior officer of the
Department of the Environment

(a) S.R. 2004 No. 36
(b) S.R. 2003 No. 46 as amended by S.R. 2003 No. 390, S.R. 2003 No. 496, S.I. 2003/3311, S.R. 2004 No. 36, S.R. 2004 No. 297, S.R. 2004 No. 507, S.R. 2005 No. 285, S.R. 2005 No. 300, S.R. 2005 No. 454, S.R. 2006 No. 98 and S.R. 2007 No. 245
(c) O.J. No. L266, 26.9.2006, p. 1

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transpose Article 8(1) tailpiece, Article 12(2), Article 14 and Annex III, Part A of 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 (“the Batteries Directive”).

These Regulations amend the Waste Management Licensing Regulations (Northern Ireland) 2003 to provide for exemptions from waste management licensing for storage of waste batteries and accumulators, and for specific licence conditions for waste batteries and accumulators, for which there are transitional arrangements.

The Regulations amend the Hazardous Waste Regulations (Northern Ireland) 2005 to allow for the mixing of types of waste portable batteries and accumulators at distributors’ premises.

The Regulations amend the Landfill Regulations (Northern Ireland) 2003 and the Pollution Prevention and Control Regulations (Northern Ireland) 2003 to prevent the disposal of waste automotive and industrial batteries in landfill or incineration.

© Crown Copyright 2009

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty’s Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print the Acts of the Northern Ireland Assembly.

2009 No. 159

ENVIRONMENTAL PROTECTION

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