

L.N. 55 of 2010**ENVIRONMENT PROTECTION ACT
(CAP. 435)****Waste Management (Waste Batteries and Accumulators)
Regulations, 2010**

IN exercise of the powers conferred by articles 9, 11(1)(b) and 28 of the Environment Protection Act, the Prime Minister, after consultation with the Malta Environment and Planning Authority, has made the following regulations:-

Title and commencement.

1. (1) The title of these regulations is the Waste Management (Waste Batteries and Accumulators) Regulations, 2010.

(2) These regulations shall come into force on such date as the Minister responsible for the environment may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes of these regulations.

Scope.

2. (1) These regulations bring into effect the provisions of Directive 2006/66/EC¹ of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC², as amended by Directive 2008/12/EC³ of the European Parliament and of the Council of 11 March 2008, as regards the implementing powers conferred on the Commission.

(2) The objective of the Directive, having regard to the environmental impact of transport, is to maximise the separate collection of waste batteries and accumulators and to minimise the disposal of waste batteries and accumulators as mixed municipal waste in order to achieve a high level of recycling for all waste batteries and accumulators. It also seeks to improve the environmental performance of batteries and accumulators and of the activities of all economic operators involved in the life cycle of batteries and accumulators, such as producers, distributors and end-users and, in particular, those operators directly involved in the treatment and recycling of waste batteries and accumulators.

¹ OJ L 266, 26.9.2006, p. 1.

² OJ L 78, 26.3.1991, p. 38.

³ OJ L 76, 19.3.2008, p. 39.

(3) These regulations provide additional measures, procedures and guidance to those in the Waste Management (Permit and Control) Regulations, 2001, which aim at establishing specific rules for the collection, treatment, recycling and disposal of waste batteries and accumulators to promote a high level of collection and recycling of waste batteries and accumulators. L.N. 337 of 2001.

3. (1) In these regulations, unless the context otherwise requires: Interpretation.

“the Act” means the Environment Protection Act; Cap. 435.

“agreement” means the formal agreement concluded between the Competent Authority and the economic operators concerned, which has to be open to all partners who wish to meet the conditions of the agreement with a view to working towards the objectives of these regulations;

“appliance” means any electrical or electronic equipment, as defined by the Waste Management (Electrical and Electronic Equipment) Regulations, 2007, which is fully or partly powered by batteries or accumulators or is capable of being so; L.N. 63 of 2007.

“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 and, 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;

“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;

“category of battery or accumulator” means any of the following types of batteries or accumulators:

- (a) automotive batteries or accumulators;
- (b) industrial batteries or accumulators; and
- (c) portable batteries or accumulators;

“collection rate” means, in a given calendar year, the percentage obtained by dividing the weight of waste portable batteries and accumulators collected in accordance with sub-regulations (1) and (2) of regulation 5 of these regulations or with the Waste Management (Electrical and Electronic Equipment) Regulations, 2007, 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 Malta during that calendar year and the preceding two calendar years.

“the Community” means the European Community;

“the Competent Authority” means the Malta Environment and Planning Authority and such other body or person as the Minister may by order in the Gazette, prescribe and different bodies or persons may be designated as the competent authority for different provisions and different purposes of these regulations;

“disposal” means any of the applicable operations provided for in Schedule 4 to the Waste Management (Permit and Control) Regulations, 2001;

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

“economic operators” means producers, distributors, collectors, recoverers, recyclers or other treatment operators of waste batteries and accumulators;

“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 responsible for the environment;

“portable battery or accumulator” means any battery, button cell, battery pack or accumulator that:

(a) is sealed; and

(b) can be hand-carried; and

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

“producer” means any person in Malta who, irrespective of the selling technique used, including by means of distance communication as defined in the Distance Selling Regulations, 2001, places batteries or accumulators, including those incorporated into appliances or vehicles, on the market for the first time within the territory of Malta on a professional basis;

L.N. 186 of 2001.

“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” in addition to what is said in the Environment Protection Act, means any thing, substance, product or object, whether in solid or liquid form, whether hazardous or otherwise, which the holder discards, or intends, or is required to discard, or any other which is deemed to be waste by the competent authority nominated by the Minister responsible for the environment under article 6 of the Environment Protection Act;

“waste battery or accumulator” means any battery or accumulator which is waste.

(2) All other terms shall have the same meaning as that assigned to them in regulation 2 of the Waste Management (Permit and Control) Regulations, 2001.

Applicability.

4. (1) These regulations shall apply to all types of batteries and accumulators, regardless of their shape, volume, weight, material composition or use.

L.N. 99 of 2004.

Provided that these regulations shall apply without prejudice to the Waste Management (End of Life Vehicles) Regulations, 2004, and the Waste Management (Electrical and Electronic Equipment) Regulations, 2007.

L.N. 311 of 2007.

(2) These regulations shall apply without prejudice to existing provisions, such as product safety requirements and specific legislation, in particular the Batteries and Accumulators Regulations, 2007.

(3) These regulations shall not apply to batteries and accumulators used in:

(a) equipment connected with the protection of Malta's essential security interests, arms, munitions and war material, with the exclusion of products that are not intended for specifically military purposes; and

(b) equipment designed to be sent into space.

Separate collection.

5. (1) Producers of portable batteries and accumulators, or third parties acting on their behalf, shall use existing collection systems or set up collection systems, individually or collectively, or both, in accordance with any existing laws and regulations, to provide for the collection of waste portable batteries and accumulators.

(2) Such collection systems:

L.N. 106 of 2007.

(a) shall enable end-users to discard waste portable batteries or accumulators at an accessible collection point in their vicinity, having regard to population density, provided that such a collection point shall not be subject to the registration or permit requirements of the Waste Management (Permit and Control) Regulations, 2001, or the Waste Management (Activity Registration) Regulations, 2007;

(b) shall require distributors to take back waste portable batteries or accumulators at no charge when supplying portable batteries or accumulators, unless an assessment shows that alternative existing collection systems

are at least as effective in attaining the environmental aims of these regulations, provided that such an assessment shall be made public;

(c) shall not involve any charge to end-users when discarding waste portable batteries or accumulators, nor any obligation to buy a new battery or accumulator; and

(d) may be run in conjunction with the collection systems referred to in sub-regulation (2) of regulation 6 of the Waste Management (Electrical and Electronic Equipment) Regulations, 2007:

Provided that all economic operators and all competent public authorities may participate in these collection systems:

Provided further that these collection systems shall also apply to batteries and accumulators imported from third countries under non-discriminatory conditions and shall be designed to avoid barriers to trade or distortions of competition.

(3) Producers of industrial batteries and accumulators, or third parties acting on their behalf, shall not refuse to take back waste industrial batteries and accumulators from end-users, regardless of chemical composition and origin.

Provided that:

(a) independent third parties may also collect waste industrial batteries and accumulators;

(b) all economic operators and all competent public authorities may participate in these collection systems; and

(c) these collection systems shall also apply to batteries and accumulators imported from third countries under non-discriminatory conditions and shall be designed to avoid barriers to trade or distortions of competition.

(4) Producers of automotive batteries and accumulators, or third parties acting on their behalf, shall use existing collection systems or set up collection systems, individually or collectively, or both, in accordance with any existing laws and regulations, to provide for the collection of waste

automotive batteries and accumulators from end-users or from an accessible collection point in their vicinity, where collection is not carried out under the collection systems referred to in sub-regulation (1) of regulation 5 of the Waste Management (End of Life Vehicles) Regulations, 2004.

Provided that:

(a) in the case of automotive batteries and accumulators from private, non-commercial vehicles, such collection systems shall not involve any charge to end-users when discarding waste batteries or accumulators, or any obligation to buy a new battery or accumulator;

(b) all economic operators and all competent public authorities may participate in these collection systems; and

(c) these collection systems shall also apply to batteries and accumulators imported from third countries under non-discriminatory conditions and shall be designed to avoid barriers to trade or distortions of competition.

Economic instruments.

6. Economic instruments may be used to promote the use of batteries and accumulators containing less polluting substances, or promote the collection of waste batteries and accumulators, for instance by adopting differential tax rates.

Collection rates and targets.

7. (1) The Competent Authority shall calculate the collection rate for the first time in respect of the fifth full calendar year following the coming into force of these regulations.

Provided that:

(a) without prejudice to the Waste Management (Electrical and Electronic Equipment) Regulations, 2007, annual collection and sales figures shall include batteries and accumulators incorporated into appliances;

(b) the annual sales of portable batteries and accumulators to end-users in a given year, shall be calculated as the weight of portable batteries and accumulators placed on the market for the first time within Malta in the year

concerned, excluding any portable batteries and accumulators that have left Malta in that year before being sold to the end-users;

(c) the placing on the market for the first time within Malta of each battery shall be counted once; and

(d) the calculation provided for therein shall be based on collected data or statistically significant estimates based on collected data.

(2) Producers, or third parties acting on their behalf, shall take the necessary measures to achieve the following minimum collection targets:

- (a) 25 % by 26th September 2012;
- (b) 30 % by 26th September 2013;
- (c) 35 % by 26th September 2014;
- (d) 40 % by 26th September 2015; and
- (e) 45 % by 26th September 2016.

(3) The Competent Authority shall monitor compliance with such collection targets on a yearly basis as set out in Schedule 1 to these regulations.

8. Manufacturers shall design appliances in such a way that waste batteries and accumulators can be readily removed:

Removal of waste batteries and accumulators.

Provided that appliances into which batteries and accumulators are incorporated shall be accompanied by instructions showing how they can be removed safely and, where appropriate, informing the end-user of the type of the incorporated batteries and accumulators:

Provided further that this regulation 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 or accumulator.

9. (1) Not later than 26th September 2009:

Treatment and recycling.

(a) producers, or third parties acting on their behalf, shall use existing treatment and recycling systems or set up treatment and recycling systems, individually or collectively, or both, in accordance with any existing laws and regulations, to provide for the treatment and recycling of waste batteries and accumulators, using best available techniques, in terms of the protection of health and the environment; and

(b) all identifiable waste batteries and accumulators collected in accordance with regulation 5 of these regulations or with the Waste Management (Electrical and Electronic Equipment) Regulations, 2007, shall undergo treatment and recycling through treatment and recycling systems that comply, as a minimum, with national legislation, in particular as regards health, safety and waste management:

Provided that:

(i) collected portable batteries or accumulators containing cadmium, mercury or lead may be disposed of in landfills or underground storage when no viable end market is available or as part of a strategy to phase out heavy metals which, on the basis of a detailed assessment of the environmental, economic, and social impacts, shows that this disposal option should be preferred over recycling;

(ii) such an assessment shall be made public;

(iii) all economic operators and all competent public authorities may participate in these treatment and recycling systems; and

(iv) these treatment and recycling systems shall also apply to batteries and accumulators imported from third countries under non-discriminatory conditions and shall be designed to avoid barriers to trade or distortions of competition.

(2) Treatment shall meet the minimum requirements set out in Part A of Schedule 2 to these regulations.

(3) Where batteries or accumulators are collected together with waste electrical and electronic equipment on the basis of the Waste Management (Electrical and Electronic Equipment)

Regulations, 2007, batteries or accumulators shall be removed from the collected waste electrical and electronic equipment.

(4) Recycling processes shall, not later than 26th September 2011, meet the recycling efficiencies and associated provisions set out in Part B of Schedule 2 to these regulations.

10. (1) The development of new recycling and treatment technologies all types of waste batteries and accumulators shall be encouraged. New recycling technologies.

(2) Research into environmentally friendly and cost-effective recycling methods for all types of waste batteries and accumulators shall be promoted.

(3) Treatment facilities shall be encouraged to introduce certified environmental management schemes in accordance with Regulation (EC) No 761/2001⁴ of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).

11. The disposal in landfills or by incineration of waste industrial and automotive batteries and accumulators shall be prohibited. Disposal.

Provided that residues of any waste batteries and accumulators that have undergone both treatment and recycling in accordance with sub-regulation (1) of regulation 9 of these regulations may be disposed of in landfills or by incineration.

12. (1) Treatment and recycling may be undertaken outside Malta or outside the Community, provided that the shipment of waste batteries and accumulators shall be in compliance with Regulation (EC) No 1013/2006⁵ of the European Parliament and of the Council of 14 June 2006 on shipments of waste. Exports.

(2) Waste batteries and accumulators exported out of the Community in accordance with Regulation (EC) No 1013/2006⁶ of the European Parliament and of the Council of 14 June 2006 on shipments of waste, and Council Regulation (EC) No 1418/2007⁷ 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

⁴ OJ L 114, 24.4.2001, p. 1.

⁵ OJ L 190, 12.7.2006, p. 1.

⁶ OJ L 190, 12.7.2006, p. 1.

⁷ OJ L 316, 4.12.2007, p. 6.

transboundary movements of wastes does not apply, shall count towards the fulfilment of the obligations and recycling efficiencies laid down in Schedule 2 to these regulations only if there is sound evidence that the recycling operation took place under conditions equivalent to the requirements of these regulations.

Financing.

13. (1) Producers, or third parties acting on their behalf, shall finance any net costs arising from:

(a) the collection, treatment and recycling of all waste portable batteries and accumulators collected in accordance with sub-regulations (1) and (2) of regulation 5 of these regulations; and

(b) the collection, treatment and recycling of all waste industrial and automotive batteries and accumulators collected in accordance with sub-regulations (3) and (4) of regulation 5 of these regulations:

Provided that any double charging of producers in the case of batteries or accumulators collected under treatment and recycling systems set up in accordance with the Waste Management (End of Life Vehicles) Regulations, 2004, or the Waste Management (Electrical and Electronic Equipment) Regulations, 2007, shall be avoided.

Provided further that producers which, relative to the size of the market, place very small quantities of batteries or accumulators on the market for the first time within Malta, may be exempted on the condition that this does not impede the proper functioning of the collection systems set up on the basis of regulation 5 of these regulations and the treatment and recycling systems set up on the basis of regulation 9 of these regulations.

(2) Producers, or third parties acting on their behalf, shall finance any net costs arising from public information campaigns on the collection, treatment and recycling of all waste portable batteries and accumulators.

(3) The costs of collection, treatment and recycling shall not be shown separately to end-users at the time of sale of new portable batteries and accumulators.

(4) Producers and users of industrial and automotive batteries and accumulators may conclude agreements stipulating financing arrangements other than the ones referred to in sub-regulation (1) of this regulation.

(5) This regulation shall apply to all waste batteries and accumulators, irrespective of the date of their placing on the market for the first time within Malta.

(6) Producers supplying batteries and accumulators by means of distance communication shall also comply with the requirements set out in this regulation for the batteries and accumulators supplied in the Member State where the purchaser of that equipment resides.

14. (1) Economic operators shall ensure, in particular through information campaigns, that end-users are fully informed of:

Information for end-users.

(a) the potential effects on the environment and human health of the substances used in batteries and accumulators;

(b) the desirability of not disposing of waste batteries and accumulators as unsorted municipal waste and of participating in their separate collection so as to facilitate treatment and recycling;

(c) the collection systems and treatment and recycling systems available to them;

(d) their role in contributing to the recycling of waste batteries and accumulators;

(e) the meaning of the symbol of the crossed-out wheeled bin shown in Schedule 3 to these regulations and the chemical symbols Hg, Cd and Pb in accordance with the Batteries and Accumulators Regulations, 2007:

Provided that, where distributors are required to take back waste portable batteries and accumulators pursuant to regulation 5 of these regulations, such distributors shall inform end-users about the possibility of discarding waste portable batteries or accumulators at their sales points.

Duties of end-users of batteries and accumulators.

15. End-users of batteries and accumulators and the holders of waste batteries and accumulators shall co-operate with, and participate in, any system set up for the collection of waste batteries and accumulators and facilitate the process of treatment and recycling. Accordingly, they shall segregate, deposit and return waste batteries and accumulators as required by the collection system.

Register of producers.

16. (1) The Competent Authority shall maintain and make available in accordance with this regulation a register relating to the producers who register in accordance with regulation 17 of these regulations and containing information relating to the producer registration as prescribed in Schedule 5 to these regulations.

(2) The Competent Authority shall:

(a) ensure that the register is open for inspection at its principal office by members of the public free of charge at all reasonable hours; and

(b) permit members of the public to obtain copies of entries in the register on payment of a fee as may be prescribed in Schedule 8 to the Waste Management (Permit and Control) Regulations, 2001.

(3) The register may be kept in any form but shall be indexed and arranged so that members of the public can readily trace information contained in it.

(4) The Competent Authority shall amend the relevant entry in the register to record any change to the information entered and shall note the date on which the amendment is made.

(5) For the avoidance of doubt, nothing in this regulation shall require a register maintained by the Competent Authority to contain information relating to any criminal proceedings (including prospective proceedings) or to anything which is the subject matter of such proceedings, at any time before those proceedings are finally disposed of.

(6) Nothing in this regulation shall require a register maintained by the Competent Authority to contain any information which has been superseded by later information after four years have elapsed from that later information being entered in the register.

17. (1) By 30 June 2009 each producer shall apply to the Competent Authority for registration, and from 1 January 2010 each producer shall register with the Competent Authority by 31 January 2010, and each producer shall register with the Competent Authority by 31 January each year thereafter. Registration.

(2) Where a producer ceases to place batteries and accumulators on the market for the first time within Malta he shall inform the Competent Authority within twenty working days of his ceasing to do so.

(3) An application by a producer to register shall:

(a) be made in writing;

(b) contain at least the information in Schedule 4 to these regulations; and

(c) be accompanied by a fee as may be prescribed in Schedule 8 of the Waste Management (Permit and Control) Regulations, 2001.

(4) The details provided by a producer in compliance with the obligations referred to in sub-regulations (1), (2) and (3) of this regulation shall be included in the Register of Producers to be maintained by the Competent Authority under regulation 16 of these regulations.

(5) The Competent Authority shall confirm receipt of a producer's application for registration in writing within twenty working days of receipt and shall process that application within twenty working days of confirming receipt.

18. (1) By 30 June 2009 each producer who applies for registration under sub-regulation (1) of regulation 17 of these regulations shall provide to the Competent Authority the following information for the year 2008: Information and reporting.

(a) the categories of batteries or accumulators which he has placed on the market for the first time within Malta; and

(b) the quantities and weight of batteries and accumulators which he has placed on the market for the first time within Malta.

(2) By 31 January 2010 each producer shall provide to the Competent Authority the information referred to in sub-regulation (1) of this regulation, in respect of batteries and accumulators placed on the market for the first time within Malta between 1 January 2009 and 31 December 2009, and thereafter the information shall be provided by 31 January each year in respect of the batteries and accumulators which have been placed on the market for the first time within Malta during the immediately preceding year.

(3) The information referred to in sub-regulation (1) of this regulation shall be provided in writing.

(4) The Competent Authority may specify the format in which such information shall be made available.

(5) The Competent Authority shall make this information available in accordance with the Freedom of Access to Information on the Environment Regulations, 2005.

L.N. 116 of 2005.

(6) Producers supplying batteries and accumulators by means of distance communication shall provide the Competent Authority with information on the compliance with the requirements of sub-regulation (6) of regulation 13 of these regulations and with the information referred to in sub-regulation (1) of this regulation, relating to the quantities and categories of batteries or accumulators placed on the market for the first time in the Member State where the purchaser of that battery or accumulator resides.

Distance sellers.

19. Where a producer supplies batteries and accumulators by means of distance communication he shall:

(a) register in accordance with regulation 17 of these regulations;

(b) notify the Competent Authority at the time of registration that he supplies batteries and accumulators by means of distance communication and that this regulation applies; and

(c) upon a request from the Competent Authority undertake to provide it with information that demonstrates he has complied with his obligation to provide financing for the collection, treatment, recycling and environmentally sound

disposal of waste batteries and accumulators deposited at collection points in the Member State where the purchaser of the battery or accumulator resides.

20. (1) Where the business of a producer is transferred in whole or in part to another person, the producer shall be treated as remaining responsible for batteries and accumulators in respect of which he has made an application to register under regulation 17 of these regulations, unless he is able to demonstrate to the Competent Authority that the person to whom the transfer has been made has agreed to meet the producer's obligations in respect of any such batteries and accumulators under these regulations.

Transfer of a producer's business to another.

(2) Where sub-regulation (1) of these regulations applies, the person to whom the whole or part of a business is transferred is a producer for the purposes of these regulations, and that person shall:

(a) apply to the Competent Authority for registration under regulation 17 of these regulations; and

(b) undertake to meet the collection targets in regulation 7 of these regulations.

21. (1) For the purposes of achieving the objectives, and satisfying the provisions of these regulations, economic operators may be parties to agreements with the Competent Authority.

Agreements.

(2) Such agreements shall specify the detailed rules of implementation of these regulations. Moreover, these agreements:

(a) shall be enforceable at law;

(b) shall specify the objectives with the corresponding deadlines;

(c) shall be published in the Gazette;

(d) shall have the results achieved under them monitored regularly, reported to the Competent Authority and made available to the public under the conditions set out in the agreement;

(e) shall have the progress made under them examined in terms of provisions to be made by the Competent Authority.

Permit required to operate a waste batteries and accumulators collection, treatment and recycling scheme.

22. (1) Persons who intend to operate a waste batteries and accumulators collection, treatment and recycling scheme as required under these regulations, including the collection, sorting, storage, treatment, export and recycling of waste batteries and accumulators, on behalf of producers, shall require and obtain a valid permit from the Competent Authority in terms of the Waste Management (Permit and Control) Regulations, 2001.

(2) Without prejudice to the Waste Management (Permit and Control) Regulations, 2001, in applying for such a permit, any such person shall provide the Competent Authority with the following information as applicable:

(a) a copy of the Memorandum and Articles of Association;

(b) a copy of a valid development permit issued under the Development Planning Act;

(c) a description of the proposed system which will provide for the collection, treatment and recycling of waste batteries and accumulators in accordance with the provisions of these regulations;

(d) details of any deposit-refund system or other system adopted in order to ensure the return of waste batteries and accumulators by consumers;

(e) a financial plan in relation to the proposed scheme;

(f) the annual weights of waste batteries and accumulators in each category to be collected, treated and recycled;

(g) the annual collection targets to be achieved under the proposed scheme;

(h) proposals for determining and verifying the level of recycling of waste batteries and accumulators as well as whether the recycling efficiencies referred to in Part B of Schedule 2 of these regulations have been met under the

proposed scheme, including estimations and assumptions to be made in this process;

(i) proposals for the certification of producers who will make use of the proposed scheme;

(j) proposals of how the information under the provisions of these regulations will be compiled and made available to the Competent Authority;

(k) any other relevant information requested by the Competent Authority.

(3) The Competent Authority may specify the format in which such information shall be made available.

(4) The Competent Authority shall make this information available in accordance with the Freedom of Access to Information on the Environment Regulations, 2005.

23. The Competent Authority may exempt a producer from all or part of these regulations provided the producer provides evidence to the Competent Authority of participating in an authorised waste batteries and accumulators collection, treatment and recycling scheme.

Participation in an authorised waste batteries and accumulators collection, treatment and recycling scheme.

24. (1) If a producer chooses to make use of an existing authorised waste batteries and accumulators collection, treatment and recycling scheme, he shall be required to submit to the Competent Authority a signed agreement with the operator of the authorised waste batteries and accumulators collection, treatment and recycling scheme to prove that the scheme complies with the provisions by these regulations.

Signed agreement with an operator of an authorised waste batteries and accumulators collection, treatment and recycling scheme.

(2) By 30 September 2009, the producer shall moreover submit to the Competent Authority a statement of compliance with the provisions of these regulations, signed by the operator of the authorised waste batteries and accumulators collection, treatment and recycling scheme, in respect of batteries and accumulators placed on the market by the producer between 1 January 2008 and 31 December 2008, and thereafter the information shall be provided by 31 January each year in respect of the batteries and accumulators which have been placed on the market for the first time within Malta by the producer during the immediately preceding year.

(3) The operator of the authorised waste batteries and accumulators collection, treatment and recycling scheme referred to in sub-regulation (1) of this regulation shall:

(a) bind himself to carry out the activities agreed to and on behalf of the producer in accordance with any existing laws and regulations;

(b) ensure that all economic operators and all competent public authorities may participate in the scheme;

(c) ensure that the scheme shall also apply to batteries and accumulators imported from third countries under non-discriminatory conditions and shall be designed to avoid barriers to trade or distortions of competition;

(d) provide the Competent Authority by 30 September 2009 with the information on any measures that the producer takes to encourage developments affecting the impact of batteries and accumulators on the environment, in respect of batteries and accumulators placed on the market for the first time within Malta by the producer between 1 January 2008 and 31 December 2008, and thereafter such information shall be provided by 31 January each year in respect of the batteries and accumulators which have been placed on the market for the first time within Malta by the producer during the immediately preceding year, in particular:

(i) developments, including voluntary steps taken by the producer, 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;

(iv) research in those fields; and

(v) measures taken to promote waste prevention;

(e) provide the Competent Authority by 30 September 2009 with the information referred to in regulations 14 and 16 of these regulations as it applies *mutatis mutandis* to the

producer, in respect of batteries and accumulators placed on the market for the first time within Malta by the producer between 1 January 2008 and 31 December 2008, and thereafter a statement of compliance shall be provided by 31 January each year in respect of the batteries and accumulators which have been placed on the market for the first time within Malta by the producer during the immediately preceding year; and

(f) provide to the Competent Authority by 30 September 2009 with a statement of compliance of the producer with the provisions of these regulations, in respect of batteries and accumulators placed on the market for the first time within Malta by the producer between 1 January 2008 and 31 December 2008, and thereafter the information shall be provided by 31 January each year in respect of the batteries and accumulators which have been placed on the market for the first time within Malta by the producer during the immediately preceding year.

(4) The Competent Authority may specify the format in which such information shall be made available.

(5) The Competent Authority shall make this information available in accordance with the Freedom of Access to Information on the Environment Regulations, 2005.

25. Any person shall be guilty of an offence under these regulations if:

Offences under these regulations.

(a) he fails to comply with any provisions of these regulations or fails to comply with permit conditions or with any order lawfully given in terms of any provision of these regulations; or

(b) he contravenes any restriction, prohibition or requirement imposed by or under these regulations; or

(c) he acts in contravention of any of the provisions of these regulations; or

(d) he conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or to fail to comply with any such

provisions, including any order lawfully given in terms of any of the provisions of these regulations, or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

Penalties.

26. Any person who commits an offence against these regulations shall, on conviction, be liable:

(a) on a first conviction, to a fine (*multa*) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69), but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37);

(b) on a second conviction or subsequent convictions, to a fine (*multa*) of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37), but not exceeding four thousand and six hundred and fifty-eight euro and seventy-five cents (€4,658.75), or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Provided that whenever any person is found guilty of committing an offence under these regulations by means of a vehicle, the owner of the said vehicle, where applicable, is held liable in the same manner and degree:

Provided further that the court may order any person who has been found guilty of committing an offence against these regulations to pay for the expenses incurred by the Competent Authority mentioned in these regulations as a result of the said offence, the revocation of the permit issued by the Competent Authority and the confiscation of the *corpus delicti*, including the vehicle, if applicable.

Applicability of the Criminal Code.

27. (1) The provisions of articles 23 and 30 of the Criminal Code shall, *mutatis mutandis*, apply to proceedings in respect of offences against these regulations, so however that the disqualification from holding or obtaining a licence, permit or authority shall in no case be for less than one year.

Cap. 9.

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be held before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in

accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

(3) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations.

28. The Waste Management (Batteries and Accumulators) Regulations, 2002, are hereby revoked.

Revokes L.N. 158 of 2002.

Schedule 1

(Regulation 7)

Monitoring of compliance with collection targets

Year	Data collection		Calculation of Collection rate	Collection Target
2009	2009 sales (S1)			
2010	2010 sales (S2)	-	-	
2011	2011 sales (S3)	2011 collection (C3)	$3 \times C3 / (S1 + S2 + S3)$	
2012	2012 sales (S4)	2012 collection (C4)	$3 \times C4 / (S2 + S3 + S4)$	25 %
2013	2013 sales (S5)	2013 collection (C5)	$3 \times C5 / (S3 + S4 + S5)$	30 %
2014	2014 sales (S6)	2014 collection (C6)	$3 \times C6 / (S4 + S5 + S6)$	35 %
2015	2015 sales (S7)	2015 collection (C7)	$3 \times C7 / (S5 + S6 + S7)$	40 %
2016	2016 sales (S8)	2016 collection (C8)	$3 \times C8 / (S6 + S7 + S8)$	45 %
2017	2017 sales (S9)	2017 collection (C9)	$3 \times C9 / (S7 + S8 + S9)$	45 %
2018	2018 sales (S10)	2018 collection (C10)	$3 \times C10 / (S8 + S9 + S10)$	45 %
2019	Etc.	Etc.	Etc.	45 %
Etc.				

Schedule 2**(Regulation 9)****Detailed treatment and recycling requirements**

PART A: TREATMENT

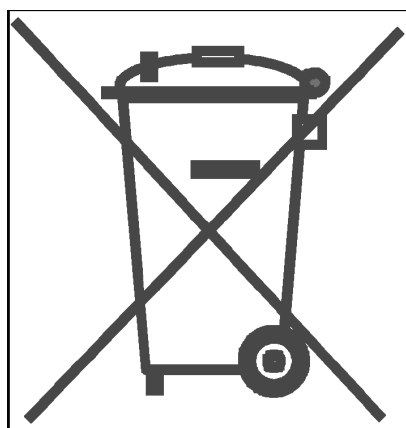
1. Treatment shall, as a minimum, include removal of all fluids and acids.
2. Treatment and any storage, including temporary storage, at treatment facilities shall take place in sites with impermeable surfaces and suitable weatherproof covering or in suitable containers.

PART B: RECYCLING

3. Recycling processes shall achieve the following minimum recycling efficiencies:
 - (a) recycling of 65 % by average weight of lead-acid waste batteries and accumulators, including recycling of the lead content to the highest degree that is technically feasible while avoiding excessive costs;
 - (b) recycling of 75 % by average weight of nickel-cadmium waste batteries and accumulators, including recycling of the cadmium content to the highest degree that is technically feasible while avoiding excessive costs; and
 - (c) recycling of 50 % by average weight of other waste batteries and accumulators.

Schedule 3**(Regulation 14)****Symbols for batteries, accumulators and battery packs for separate collection**

The symbol indicating 'separate collection' for all batteries and accumulators shall be the crossed-out wheeled bin shown below:



Schedule 4**(Regulation 17)****Information to be contained in an application for producer registration**

1. The date of the application for registration.
2. The name of the producer and any brand name under which the producer operates or intends to operate in Malta.
3. The following contact details for the producer:
 - (a) the full postal address (including post code) and telephone number of:
 - the producer's registered office; or
 - if the producer is not a company registered in Malta, the producer's principal place of business in Malta.
 - (b) a website address; and
 - (c) where available, a fax number and e-mail address.
4. The name and telephone number of a contact person for the producer, and, where available, a fax number and e-mail address, for that person.
5. The national identification code of the producer, including the VAT number, the NACE code, the company registration number and the range of the number of employees of the company (1-9, 10-29, 30-49, 50-99, 100-149, 150-249, 250-499, 500+), where applicable.
6. An indication of which categories of batteries or accumulators the producer is placing or intends to place on the market in Malta.
7. Information as to:
 - (a) whether the producer is meeting or intends to meet its responsibilities under these Regulations individually or collectively; and
 - (b) if collectively:
 - the name of the authorised waste batteries and accumulators collection, treatment and recycling scheme of which the producer is a member;
 - the name of the operator of the authorised waste batteries and accumulators collection, treatment and recycling scheme; and
 - the address and telephone number of the registered office of the

operator of the authorised waste batteries and accumulators collection, treatment and recycling scheme or, if not a company registered in Malta, the principal place of business and telephone number of the operator of the authorised waste batteries and accumulators collection, treatment and recycling scheme in Malta.

8. A signed declaration of the truth of the information provided and the name and title of the signatory of the declaration.

Schedule 5**(Regulation 16)****Public Register**

The following information shall be contained in the register in relation to a producer whose application for registration has been processed by the Competent Authority under regulation 17 of these regulations.

1. The name of the producer and any brand name under which the producer operates in Malta.
2. The following contact details for the producer:
 - (a) the full postal address (including post code) and telephone number of:
 - the producer's registered office; or
 - if the producer is not a company registered in Malta, the producer's principal place of business in Malta.
 - (b) a website address; and
 - (c) where available, a fax number and e-mail address.
3. An indication of the categories of batteries or accumulators placed on the market by the producer.
4. Information as to:
 - (a) whether the producer meets its responsibilities under these Regulations individually or collectively; and
 - (b) if collectively:
 - the name of the authorised waste batteries and accumulators collection, treatment and recycling scheme of which the producer is a member;
 - the name of the operator of the authorised waste batteries and accumulators collection, treatment and recycling scheme; and
 - the address and telephone number of the registered office of the operator of the authorised waste batteries and accumulators collection, treatment and recycling scheme or, if not a company registered in Malta, the principal place of business and telephone number of the operator of the authorised waste batteries and accumulators collection, treatment and recycling

scheme in Malta.

5. The producer's registration number.
6. The date of the application for registration.
7. A statement each year as to whether the producer has met his obligation under regulation 24 of these regulations to furnish a statement of compliance.

