Changes to Legislation: as of 5 April 2024, there are changes to this Act which have not been implemented by the Revised Acts editorial team, see highlighted entries **here**. Note that some amendments may not be in force until commenced by a commencement order or other provision.

Number 10 *of* 1996

WASTE MANAGEMENT ACT 1996

REVISED

Updated to 1 January 2024

This Revised Act is an administrative consolidation of the *Waste Management Act 1996*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Electoral (Amendment) Act 2023* (40/2023), enacted 19 December 2023, and all statutory instruments up to and including the *Sick Leave Act 2022 (Increase of Statutory Sick Leave Days) Order 2024* (S.I. No. 10 of 2024), made 1 January 2024, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 10 *of* 1996

WASTE MANAGEMENT ACT 1996

REVISED

Updated to 1 January 2024

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Number 10 *of* 1996

WASTE MANAGEMENT ACT 1996

REVISED

Updated to 22 September 2023

AN ACT TO MAKE PROVISION IN RELATION TO THE PREVENTION, MANAGEMENT AND CONTROL OF WASTE; TO GIVE EFFECT TO PROVISIONS OF CERTAIN ACTS ADOPTED BY INSTITUTIONS OF THE EUROPEAN COMMUNITIES IN RESPECT OF THOSE MATTERS; TO AMEND THE ENVIRONMENTAL PROTECTION AGENCY ACT, 1992, AND TO REPEAL CERTAIN ENACTMENTS AND TO PROVIDE FOR RELATED MATTERS. [20*th May*, 1996]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Functions transferred and references construed (22.07.2016) by *Climate Action and Environment (Transfer of Departmental Administration and Ministerial Functions) Order 2016* (S.I. No. 393 of 2016), arts. 2, 3 and sch. 1, in effect as per art. 1(2), subject to transitional provisions in arts. 4-8. Note that the name of Minister for and Department of Communications, Energy and Natural Resources was changed to Communications, Climate Action and Environment (23.07.2016) by *Communications, Energy and Natural Resources (Alteration of Name of Department and Title of Minister) Order 2016* (S.I. No. 421 of 2016), in effect as per art. 1(2).

2. (1) The administration and business in connection with the performance of any functions transferred by this Order are transferred to the Department of Communications, Energy and Natural Resources.

(2) References to the Department of the Environment, Community and Local Government contained in any Act or any instrument made under an Act and relating to the administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Communications, Energy and Natural Resources.

3. (1) The functions conferred on the Minister for the Environment, Community and Local Government by or under any of the provisions of—

(*a*) the enactments specified in Schedule 1, and

(*b*) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Communications, Energy and Natural Resources.

(2) References to the Minister for the Environment, Community and Local Government contained in any Act or instrument made under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Communications, Energy and Natural Resources.

...

Schedule 1

Article 3(1)(a)

Enactments, functions by or under which are transferred from the Minister for the Environment, Community and Local Government to the Minister for Communications, Energy and Natural Resources.

...

Waste Management Act 1996 (No. 10 of 1996)

...

C2 Application of collectively cited *Waste Management Acts 1996 to 2003* restricted (21.09.2011) by *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), reg. 42(22) and sch. 2, in effect as per reg. 1(3).

Screening for Appropriate Assessment and Appropriate Assessment of implications for European Sites

42. ...

(22) Notwithstanding any provision of any statute listed in the *Second Schedule* that provides for the consent for a plan or project to which this Regulation applies to be obtained by default on the failure of the public authority to provide a response within a specified timescale or otherwise, that provision shall not have effect in respect of any plan or project to which this Regulation applies.

...

SECOND SCHEDULE

Number	Year	Short Title/Citation
...	...	...
		Waste Management Acts 1996 to 2003
...	...	...

C3 Application of Act and authorisations and regulations made under Act restricted (30.07.2009) by *European Communities Environmental Objectives (Surface Waters) Regulations 2009* (S.I. No. 272 of 2009), regs. 9 and 11, in effect as per reg. 1(2).

9. Requirements under Article 7 shall apply to all new authorisations to discharge into surface waters and to reviews of existing authorisations, granted under the Dumping at Sea Acts 1996-2004, the Foreshore Acts 1933-1992, the Fisheries Acts 1959-2003, the Act of 1977, the Act of 1992, the Act of 1996 and Regulations made for such purpose under the Act of 1972, or any other enactment, from the date of coming into force of these Regulations.

...

Review of existing authorisations

11. (1) Notwithstanding any existing provisions of the Acts or Regulations referred to in Article 9, or any Regulation made to give effect to a requirement of the said Acts, a public authority shall as soon as may be practicable, but not later than 22 December 2012 and sooner if required or where directed by the Minister,

(*a*) examine the terms of every authorisation or revised authorisation to which Article 9 applies and for the time being in force and determine whether, having regard to the requirements of Article 7 of these Regulations, the authorisation or revised authorisation requires to be reviewed for the purposes of compliance with the said Article, and

(*b*) if the authorisation or revised authorisation requires to be so reviewed complete such a review by the required date, or

(*c*) if the authorisation or revised authorisation does not require to be so reviewed and accordingly, that no further action is required, declare in writing that this is the case.

(2) A public authority shall from time to time carry out such further examination, and where necessary review, of authorisations as may be necessary to ensure compliance with the environmental objectives and quality standards established by these Regulations.

C4 Requirements for granting of certain authorisations under Act specified (27.07.2009) by *European Communities Environmental Objectives (Freshwater Pearl Mussel) Regulations 2009* (S.I. No. 296 of 2009), reg. 12 and sch. 4.

12. Without prejudice to the generality of Regulation 9 or any requirement arising under the European Communities Environmental Objectives (Surface Water) Regulations 2009, a public authority considering an application for authorisation of a discharge to waters draining to the surface water bodies identified under the First Schedule to these Regulations, under the Fisheries Acts 1959-2003, the Act of 1977, the Act of 1992, the Act of 1996 or Regulations made for that purpose under the European Communities Act of 1972 shall, where it is satisfied that the proposed discharge would not contravene Article 6(3) and 6(4) of the Habitats Directive, set down in the authorisation, emission limit values that aim to achieve the ecological quality objectives set out in the Fourth Schedule to these Regulations.

Editorial Notes:

E1 Transitional requirement for license to comply with and be enforced under collectively cited *Waste Management Acts* provided (31.12.2009) by *Waste Management (Management of Waste From the Extractive Industries) Regulations 2009* (S.I. No. 566 of 2009), regs. 7(1)(d), 16(3), in effect as per reg. 1(3).

E2 Enforcement and remedies for non compliance with licences issued under collectively cited *Waste Management Acts* provided (1.04.2009) by *European Communities (Environmental Liability) Regulations 2008* (S.I. No. 547 of 2008, reg. 3 and sch. 3, in effect as per reg. 1(2).

PART I

Preliminary and General

Short title and commencement.

1.—(1) This Act may be cited as the Waste Management Act, 1996.

(2) This Act shall come into operation on such day or days as, by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to a particular purpose or provision and different days may be so fixed for different purposes and different provisions:

Provided that if immediately before the expiration of the period of 2 years from the date of passing of this Act, this Act has not been commenced by an order under this section or any provision or provisions thereof remains or remain to be commenced by such an order (including as respects a particular purpose), this Act or the said provision or provisions shall come into operation (or, in the case of such provision or provisions that remains or remain to be commenced for a particular purpose, shall come into operation for that purpose) upon the expiration of the said period.

Annotations

Editorial Notes:

E3 Power pursuant to section exercised (1.07.1996) by *Waste Management Act, 1996 (Commencement) Order 1996* (S.I. No. 192 of 1996).

2. The Waste Management Act, 1996 (other than sections 6 (2), 32 (2), 57 and 58) shall come into operation on the 1st day of July, 1996.

Community acts given effect to by this Act.

2.—The purposes for which the provisions of this Act are enacted include the purpose of giving effect to the Community acts specified in the Table to this section.

TABLE

F1**[**...**]**

F1**[**...**]**

Council Directive 76/403/EEC of 6 April, 1976 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls[1]

Council Directive 80/68/EEC of 17 December, 1979 on the protection of groundwater against pollution caused by certain dangerous substances[2]

F2**[**Directive No. 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment[3]**]** F3**[**, as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014[2]**]**

Council Directive 86/278/EEC of 12 June, 1986 on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture[4]

F1**[**...**]**

Council Directive 87/217/EEC of 19 March, 1987 on the prevention and reduction of environmental pollution by asbestos[5]

Council Directive 89/369/EEC of 8 June, 1989 on the prevention of air pollution from new municipal waste incineration plants[6]

F1**[**...**]**

Council Directive 91/157/EEC of 18 March, 1991 on batteries and accumulators containing dangerous substances[7]

Council Directive 91/271/EEC of 21 May, 1991 concerning urban waste water treatment[8]

F1**[**...**]**

Commission Directive 93/86/EEC of 4 October, 1993 adapting to technical progress Council Directive 91/157/EEC on batteries and accumulators containing certain dangerous substances[9]

F4**[**Council Directive 1999/31/EC of 26 April 1999[10] on the landfill of waste and Council Directive 2011/97/EU of 5 December 2011 amending Directive 1999/31/EC as regards specific criteria for the storage of metallic mercury considered as waste**]**

F5**[**Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste[11]**]**

[1] O.J. No. L 108/41, 26 April, 1976
[2] O.J. No. L 20/43, 26 January, 1980
[3] O.J. No. L 26, 28.1.2012 p.1
[2] OJ No. L 124, 25.4.2014, p.1
[4] O.J. No. L 181/6, 4 July, 1986
[5] O.J. No. L 85/40, 28 March, 1987
[6] O.J. No. L 163/32, 14 June, 1989
[7] O.J. No. L 78/38, 26 March, 1991
[8] O.J. No. L 135/40, 30 May, 1991
[9] O.J. No. L 264/51, 23 October, 1993
[10] OJ No L182, 16.07.1999, p. 0001.
[11] OJ L 190, 12.7.2006, p.1

European Parliament and Council Directive 94/62/EC of 20 December, 1994 on packaging and packaging waste[12]

F6**[**F1**[**...**]**

European Parliament and Council Directive 2000/53/EC of 18 September, 2000 on end-of-life vehicles[13]

European Parliament and Council Directive 2000/76/EC of 4 December, 2000 on the incineration of waste[14]**]**

F7**[**European Parliament and Council Directive 2002/95/EC of 27 January 2003[15] on the restriction of the use of certain hazardous substances in electrical and electronic equipment

European Parliament and Council Directive 2002/96/EC of 27 January 2003[16] on waste electrical and electronic equipment

European Parliament and Council Directive 2003/108/EC of 8 December 2003[17] amending Directive 2002/96/EC on waste electrical and electronic equipment**]**

F8**[**Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006[18] on the management of waste from extractive industries

F9**[**...**]**

Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives**]**

Annotations

Amendments:

F1 Deleted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 3(a)-(f).

F2 Substituted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 3, in effect as per reg. 1(2).

F3 Inserted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 5.

F4 Inserted (21.02.2013) by *European Communities (Metallic Mercury Waste) Regulations 2013* (S.I. No. 72 of 2013), reg. 2(a).

F5 Substituted (1.07.2008) by *Waste Management (Registration of Brokers and Dealers) Regulations 2008* (S.I. No. 113 of 2008), reg. 19(1)(b), in effect as per reg. 1(2).

F6 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 19, S.I. No. 393 of 2004.

F7 Inserted (1.07.2005) by *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005), reg. 4, in effect as per reg. 2.

F8 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 3(g).

F9 Deleted (7.01.2014) by *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013), reg. 24, in effect as per reg. 2.

[12] O.J. No. L 365/10, 31 December, 1994
[13] O.J. No. L269, 21.10.2000, p.34.
[14] O.J. No. L332, 28.12.2000, p.91.
[15] O.J. No. L 37/19, 13 February, 2003.
[16] O.J. No. L 37/24, 13 February, 2003.
[17] O.J. No. L 345/106, 31 December, 2003
[18] O.J. No. L102, 11.04.2006, p.15

Editorial Notes:

E4 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; as the only effect of this instrument was to amend S.I. No. 282 of 2006, it was rendered obsolete by its revocation, see below.

E5 Previous affecting provision: section amended (1.07.2008) by *Waste Management (Registration of Brokers and Dealers) Regulations 2008* (S.I. No. 113 of 2008), reg. 19(1)(a), in effect as per reg. 1(2); section further amended as per F-note above.

E6 Previous affecting provision: power pursuant to section exercised (7.12.2007, 15.12.2007, and 31.03.2008) by *Waste Management (Packaging) Regulations 2007* (S.I. No. 798 of 2007), in effect as per reg. 3; revoked (21.06.2014) by *European Union (Packaging) Regulations 2014* (S.I. No. 282 of 2014), reg. 36(1), in effect as per reg. 3, subject to transitional provision and construed as per reg. 36(2), (3).

E7 Previous affecting provision: power pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 2; revoked (21.06.2014) by *European Union (End-of-Life Vehicle) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3.

F10[Non-application of this Act.

3.— (1) This Act shall not apply to—

(*a*) gaseous effluents emitted into the atmosphere and carbon dioxide captured and transported for the purposes of geological storage and geologically stored in accordance with Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009[19] on the geological storage of carbon dioxide or excluded from the scope of that Directive pursuant to Article 2(2) of that Directive,

(*b*) land (in situ) including unexcavated contaminated soil and buildings permanently connected with land,

(*c*) uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated,

(*d*) the dumping (within the meaning of the Dumping at Sea Act 1981 (No. 8 of 1981)) of waste at sea,

(*e*) radioactive waste,

(*f*) decommissioned explosives, or

(*g*) faecal matter, if not covered by *subsection (2)(b)*, straw and other natural non-hazardous agricultural or forestry material used in farming, forestry or for the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health.

(2) This Act shall not apply to the following to the extent that they are covered by other Community acts:

(*a*) waste waters;

(*b*) animal by-products, including processed products covered by Regulation (EC) No. 1069/2009 of the European Parliament and of the Council of 21 October 2009[20] laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC)

[19] O.J. No. L140, 05.06.2009, p.114
[20] O.J. No. L300, 14.11.2009, p.1

No. 1774/2002 (Animal by-products Regulation) F11**[**, except those which are destined for incineration, landfilling or use in a biogas or composting plant**]**;

(*c*) carcasses of animals that have died other than by being slaughtered, including animals killed to eradicate epizootic diseases, and that are disposed of in accordance with Regulation (EC) No. 1069/2009;

(*d*) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries covered by Directive 2006/21/EC.

F12**[**(*e*) substances that are destined for use as feed materials as defined in point (g) of Article 3(2) of Regulation (EC)No 767/200910 of the European Parliament and of the Council and that do not consist of or contain animal by-products.**]**

(3) Without prejudice to obligations under other relevant Community acts, this Act shall not apply to sediments relocated inside surface waters for the purpose of managing waters and waterways or of preventing floods or mitigating the effects of floods and droughts or land reclamation if it is proved that the sediments are non-hazardous.**]**

Annotations

Amendments:

F10 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 4.

F11 Inserted (14.06.2011) by *European Communities (Waste Directive) (No. 2) Regulations 2011* (S.I. No. 323 of 2011), reg. 3.

F12 Inserted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 4.

F14**[**Definitions of "activity", "disposal", "hazardous waste", "recovery" and "waste".

4. (1) In this Act—

"activity" includes operation;

"disposal"—

(*a*) means any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy, and

(*b*) without prejudice to the generality of paragraph (*a*), includes the disposal operations listed in the *Third Schedule*,

and "waste disposal activity" shall be construed accordingly;

"hazardous waste" means waste which displays one or more of the hazardous properties listed in the *Second Schedule*;

F13**[**"non-hazardous waste" means waste which is not covered by the definition of hazardous waste.**]**

"recovery"—

(*a*) means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy, and

(*b*) without prejudice to the generality of paragraph (*a*), includes the recovery operations listed in the *Fourth Schedule*,

and "waste recovery activity" shall be construed accordingly;

"waste" means any substance or object which the holder discards or intends or is required to discard.

(2) A reference in this Act to waste shall be construed as including a reference to hazardous waste.**]**

Annotations

Amendments:

F13 Inserted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 5.

F14 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 4.

Editorial Notes:

E8 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E9 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E10 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part in effect as per reg. 1(2).

Interpretation generally.

5.—(1) In this Act, save where the context otherwise requires—

"the Act of 1963" means the Local Government (Planning and Development) Act, 1963;

"the Act of 1987" means the Air Pollution Act, 1987;

"the Act of 1992" means the Environmental Protection Agency Act, 1992;

F15**[**"Act of 2022" means the Circular Economy and Miscellaneous Provisions Act 2022;**]**

"aftercare" means, in relation to a facility which has been used for the purpose of waste recovery or disposal, any measures that are necessary to be taken in relation to the facility for the purpose of preventing environmental pollution following the cessation of the activity in question at the facility;

"the Agency" means the Environmental Protection Agency established under section 19 of the Act of 1992;

"any Minister of the Government concerned" means any Minister of the Government (other than the Minister) who, having regard to the functions vested in him or her, in the opinion of the Minister might be concerned with or interested in the matter in question;

F15**[**"approval", in relation to a proposal under *section 14A(4)*, means an approval given under *section 14A(5)* or renewed under *section 14A(11)* in respect of the CCTV scheme which is the subject of the proposal;

"approved CCTV scheme" means a CCTV scheme which is the subject of a proposal in respect of which an approval is in being;**]**

F16**[**"authorised person" means F17**[**(other than in *section 10A*)**]** a person who is appointed in writing by—

(*a*) the Minister,

(*b*) a local authority,

(*c*) the Agency,

(*d*) the Commissioner of the Garda Síochána (or a member of the Garda Síochána nominated by that Commissioner for the purposes of appointing authorised persons under this Act), or

(*e*) such other person as may be prescribed,

to be an authorised person for the purposes of this Act or any Part or section thereof;**]**

"authorised waste collector" means a holder of a waste collection permit that is in force;

F15**[**"automatic number plate recognition device" means a device which engages an automated method of recognising vehicle registration plates from a camera image;**]**

F18**[**"backfilling" means any recovery operation where suitable non-hazardous waste is used for purposes of reclamation in excavated areas or for engineering purposes in landscaping. Waste used for backfilling must substitute non-waste materials, be suitable for the aforementioned purposes, and be limited to the amount strictly necessary to achieve those purposes;**]**

F19**[**"best available techniques" means best available techniques as defined in Article 2(12) of Directive 2008/1/EC;**]**

F15**[**"biometric data" has the meaning given to it by section 69 (1) of the Data Protection Act 2018;**]**

F20**[**"bio-waste" means biodegradable garden and park waste, food and kitchen waste from households, offices, restaurants, wholesale, canteens, caterers and retail premises and comparable waste from food processing plants;**]**

F15**[**"body-worn recording device" means a recording device affixed to or contained in the clothing, uniform or headgear of an authorised person;**]**

F19**[**"broker" means any person arranging the recovery or disposal of waste on behalf of others, including any such person that does not take physical possession of the waste;**]**

F15**[**"CCTV scheme" has the meaning given to it by *section 14A(1);***]**

F15**[**"closed circuit television" or "CCTV" means a system of recording devices the signals of which are not made publicly available but are monitored, or are capable of being monitored, by a local authority;

"code of practice" means a code of practice approved by the Minister in accordance with *section 14C* and includes part of a code of practice;**]**

F19**[**"collection" means the gathering of waste, including the preliminary sorting and storage of waste for the purposes of transport to a waste treatment facility;**]**

"commercial waste" means waste from premises used wholly or mainly for the purposes of a trade or business or for the purposes of sport, recreation, education or entertainment but does not include household, agricultural or industrial waste;

"Community act" means an act adopted by an institution of the European Communities;

F18**[**"construction and demolition waste" means waste generated by construction and demolition activities;**]**

"contravention" includes, in relation to any provision, a failure or refusal to comply with that provision, and "contravene" shall be construed accordingly;

F19**[**"dealer" means any person who acts in the role of principal to purchase and subsequently sell waste, including any such person who does not take physical possession of the waste;**]**

F21**[**"development" has the meaning assigned to it by section 3 of the Planning and Development Act 2000**]**

F22**[**"EIA Directive" means Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011[1] as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014[2];**]**

"emission" has the meaning assigned to it by the Act of 1992;

"emission into the atmosphere" means the emission of a pollutant, within the meaning of the Act of 1987, into the atmosphere;

F23**[**"emission limit value" means the mass, expressed in terms of a specific parameter, concentration or level of an emission, or both a specific concentration and level of an emission, which may not be exceeded during one or more periods of time;**]**

F24**[**"Environment Fund" has the meaning assigned to it by *section 74*;**]**

F42**[**...**]**

F21**[**"environmental impact assessment" shall be construed in accordance with *section 40(2A)*;**]**

F22**[**"environmental impact assessment report" shall be construed in accordance with *section 40(2A)*;**]**

F25**[**F26**[**...**]]**

"environmental medium" has the meaning assigned to it by the Act of 1992;

"environmental pollution" means, in relation to waste, the holding, transport, recovery or disposal of waste in a manner which would F27**[**...**]** endanger human health or harm the environment, and in particular—

(*a*) create a risk to waters, the atmosphere, land, soil, plants or animals,

(*b*) create a nuisance through noise, odours or litter, or

(*c*) adversely affect the countryside or places of special interest;

"established activity" means—

(*a*) in relation to an activity the carrying on of which requires a waste licence, an activity—

(i) in respect of which a permission under Part IV of the Act of 1963 is granted before the date prescribed under *section 39 (1)* in respect of that activity ("the relevant date") and which permission on that date has not ceased to have effect in accordance with the provisions of sections 2 and 4 of the Local Government (Planning and Development) Act, 1982, or

[1] O.J. No. L 26, 28.1.2012, p.1
[2] O.J. No. L 124, 25.4.2014, p.1

(ii) which is, immediately before the relevant date, being carried on or was, at any time during the period of 12 months ending on the said date, carried on, other than an activity which involves or is associated with an unauthorised structure or an unauthorised use within the meaning of the Act of 1963, and

(*b*) in any other case, an activity which was being lawfully carried on immediately before the commencement of the provision concerned of this Act that requires the use of the F28**[**best available techniques**]**;

"European Communities" has the meaning assigned to it by the European Communities Act, 1972;

"European Waste Catalogue" means the list of waste set out in Commission Decision 94/3/EC of 20 December, 1993[1], (made pursuant to Article 1 (*a*) of Council Directive 75/442/EEC[2] on waste) and includes such list as amended from time to time;

F24**[**"executive function" means a function other than a reserved function;**]**

F18**[**"extended producer responsibility scheme" means a set of measures taken by Member States to ensure that producers of products bear financial responsibility or financial and organisational responsibility for the management of the waste stage of a product's life cycle.**]**

F15**[**"facial recognition device" means a device or system of devices which, through automated use of biometric data, matches or categorises facial images captured by the device;**]**

"facility" means, in relation to the recovery or disposal of waste, any site or premises used for such purpose;

F18**[**"food waste" means all food as defined in Article 2 of Regulation (EC) No 178/2002[11] of the European Parliament and of the Council that has become waste;**]**

"functions" includes powers and duties and references to the performance of functions include, as respects powers and duties, references to the exercise of the powers and the carrying out of the duties;

F29**[**...**]**

"household waste" means waste produced within the curtilage of a building or self-contained part of a building used for the purposes of living accommodation;

F30**[**"Industrial Emissions Directive" means Directive 2010/75/EU[1] of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (Recast);**]**

"industrial waste" includes waste produced or arising from manufacturing or industrial activities or processes;

F30**[**"integrated pollution control activity" has the same meaning as it has in section 3 (amended by Regulation 4 of the European Union (Industrial Emissions) Regulations 2013) of the Act of 1992;**]**

"land" includes any subsoil thereunder and structure thereon and land covered with water (whether inland or coastal);

F31**[**"landfill" means a waste disposal site for the deposit of waste onto or into land (i.e. underground), including:

[2] O.J. No. L 15/5, 7 January, 1994
[3] O.J. No. L 194/39, 25 July, 1975
[11] OJ L 31, 1.2.2002, p. 1
[1] O.J. No. L334, 17.12.2010, p. 17

(*a*) internal waste disposal sites (i.e. landfill where a producer of waste is carrying out its own waste disposal at the place of production), and

(*b*) a permanent site (i.e. more than one year) which is used for temporary storage of waste, but excluding

(*c*) facilities where waste is unloaded in order to permit its preparation for further transport for recovery, treatment or disposal elsewhere, and

(*d*) storage of waste prior to recovery or treatment for a period less than three years as a general rule, or

(*e*) storage of waste prior to disposal for a period less than one year.**]**

"leachate" means any liquid percolating through deposited waste and emitted from or contained within a landfill;

"local authority" means—

(*a*) in the case of a county borough, the corporation of the county borough, and

(*b*) in the case of any other administrative county, the council of the county,

and references to the functional area of a local authority shall be construed accordingly;

F24**[**"manager" means—

(*a*) with respect to the corporation of a county borough, the manager for the purposes of the Acts relating to the management of the county borough, and

(*b*) with respect to the council of a county, the manager for the purposes of the County Management Acts, 1940 to 1994;**]**

F18**[**"material recovery" means any recovery operation, other than energy recovery and the reprocessing into materials that are to be used as fuels or other means to generate energy. It includes, inter alia, preparing for re-use, recycling and backfilling;**]**

F19**[**"Minister" means the Minister for the Environment, Heritage and Local Government;**]**

F15**[**"mobile recording device" means a recording device, other than CCTV, and includes a body-worn recording device;**]**

"monitoring" includes the inspection, measurement, sampling or analysis, whether periodically or continuously, for the purpose of this Act, of waste, a premises at which waste is produced, or a facility at which waste is held, recovered or disposed of, and of any emissions therefrom, or any environmental medium which is affected by or which, in the opinion of the local authority concerned or the Agency may be affected by, such emissions;

"municipal waste" means household waste as well as commercial and other waste which, because of its nature or composition, is similar to household waste;

F18**[**"municipal waste" means:

(*a*) mixed waste and separately collected waste from households, including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, and bulky waste, including mattresses and furniture;

(*b*) mixed waste and separately collected waste from other sources, where such waste is similar in nature and composition to waste from households;

Municipal waste does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment, including sewage sludge, end-of-life vehicles or construction and demolition waste. This definition is without prejudice to the allocation of responsibilities for waste management between public and private actors;**]**

"occupier" includes, in relation to any premises, the owner, a lessee, any person entitled to occupy the premises and any other person having, for the time being, control of the premises;

F15**[**"operation", in relation to closed circuit television, includes the maintenance and monitoring of closed circuit television;**]**

"packaging" means any material, container or wrapping, used for or in connection with the containment, transport, handling, protection, promotion, marketing or sale of any product or substance, including such packaging as may be prescribed;

"person in charge" includes, in relation to any premises, the occupier of the premises or a manager, supervisor or operator of an activity relating to the holding, disposal or recovery of waste which is carried on at the premises;

"planning authority" has the meaning assigned to it by the Act of 1963;

"plant" includes any equipment, appliance, apparatus, machinery, vehicle, skip, works, building or other structure used for the purposes of, or the provision of which is incidental to, the holding, disposal or recovery of waste;

F29**[**...**]**

"premises" includes any messuage, building, vessel, structure or land (whether or not there are structures on the land and whether or not the land is covered with water), and any plant or vehicles on such land, or any hereditament of any tenure, together with any out-buildings and curtilage;

F32**[**"preparing for re-use" means checking, F33**[**cleaning**]** or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing;**]**

"prescribed" means prescribed by regulations made by the Minister under this Act;

F34**[**"prevention" means measures taken before a substance, material or product has become waste, that reduce:

(*a*) the quantity of waste, including through the re-use of products or the extension of the life span of products;

(*b*) the adverse impacts of the generated waste on the environment and human health; or

(*c*) the content of hazardous substances in materials and products;**]**

"product" includes any naturally occurring or manufactured thing;

"public authority" means—

(*a*) a Minister of the Government,

(*b*) the Commissioners of Public Works in Ireland,

(*c*) a local authority for the purposes of the Local Government Act, 1941,

(*d*) a harbour authority within the meaning of the Harbours Act, 1946,

(*e*) a health board established under the Health Act, 1970,

(*f*) a board or other body established by or under statute,

(*g*) a company in which all the shares are held by, or on behalf of, or by directors appointed by, a Minister of the Government, or

(*h*) a company in which all the shares are held by a board, company, or other body referred to in *paragraph (f)* or *(g)* of this definition;

F15**[**"recording device" means a device that is capable of recording or processing, or both, visual images or audio, or both, on any medium, from which a visual image or moving visual images may be produced and includes any accompanying document, and, where only visual images or moving visual images are concerned, includes any sound accompanying those images but does not include automatic number plate recognition devices or facial recognition devices;**]**

F19**[**"recycling"—

(*a*) subject to *paragraph (b)*, means any recovery operation by which waste materials are reprocessed into products, materials or substances, whether for the original or other purposes, including the reprocessing of organic material,

(*b*) does not include—

(i) energy recovery, and

(ii) the reprocessing into materials that are to be used as fuels or for backfilling operations;

"regeneration of waste oils" means any recycling operation whereby base oils can be produced by refining waste oils, in particular by removing the contaminants, the oxidation products and the additives contained in such oils;

"the Regulations of 2011" means the European Communities (Waste Directive) Regulations 2011 (S.I. No. 126 of 2011);**]**

F18**[**"the Regulations of 2020" means the European Union (Waste Directive) Regulations 2020 (S.I. No. 323 of 2020);**]**

"reserved function" means—

(*a*) in relation to the council of a county, a reserved function for the purposes of the County Management Acts, 1940 to 1994,

(*b*) in relation to the corporation of a county borough, a reserved function for the purposes of the Acts relating to the management of the county borough;

F32**[**"re-use" means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived;

"separate collection" means the collection where a waste stream is kept separately by type and nature so as to facilitate a specific treatment;**]**

"service station" means any installation where fuel is capable of being dispensed to motor vehicle fuel tanks from stationary storage tanks;

"sewage" and "sewage effluent" have the meanings assigned to them by the Local Government (Water Pollution) Act, 1977;

"scheduled activity" means any process, development or operation for the time being specified in the First Schedule to the Act of 1992;

"structure" means any building, erection, structure, excavation, or other thing, constructed, erected, or made on, in or under land, or any part of a structure so defined, and, where the context so admits, includes the land on, in, or under which the structure is situate;

"temporary storage of waste" shall be construed in accordance with *subsection (3)*;

"transport" includes, in relation to waste, the movement of waste by road, rail, air, sea or inland waterway but does not include the movement of waste from one place to another—

(*a*) by means of any pipe or similar apparatus which joins those two places, or

(*b*) on and within the site at which the waste is held for the time being;

F19**[**"TFS Regulation" means Regulation (EC) No. 1013/2006 of the European Parliament and of the Council of 14 June 2006[6] on shipments of waste;

"treatment" means recovery or disposal operations, including preparation prior to recovery or disposal;**]**

"vehicle" includes—

(*a*) part of a vehicle,

(*b*) an article designed as a vehicle but not capable of functioning as a vehicle,

(*c*) a skip designed or used for carriage on a vehicle,

(*d*) a load on a vehicle;

"waste collection permit" has the meaning assigned to it by *section 34*;

F32**[**"Waste Directive" means Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives;

"waste holder" means the waste producer or the person who is in possession of the waste;**]**

F35**[**"waste management" means the collection, transport, recovery including sorting, and disposal of waste, including the supervision of such operations and the after-care of disposal sites, and including actions taken as a dealer or broker;**]**

F32**[**"waste oils" means any mineral or synthetic lubrication or industrial oils which have become unfit for the use for which they were originally intended, such as used combustion engine oils and gearbox oils, lubricating oils, oils for turbines and hydraulic oils;

"waste producer" means anyone—

(*a*) whose activities produce waste (in this Act referred to as the "original waste producer"), or

(*b*) who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of such waste;

"waste prevention and management legislation and policy" means—

(*a*) this Act and regulations made under this Act,

(*b*) policy issued by the Minister,

(*c*) waste management plans made by a local authority, or

(*d*) waste prevention programmes guidance or policy issued by the Agency;**]**

"waste licence" shall be construed in accordance with *section 37*;

F36**[**"waste service" means any service, facility, approval or other thing which a local authority may or is required to render, supply, grant, issue or otherwise provide in

[6] O.J. No. L 190, 12.7.2006, p.1

the performance of any of its functions under this Act to any person or in respect of any premises;**]**

"waters" has the meaning assigned to it by the Local Government (Water Pollution) Act, 1977.

F37**[**(1A) In this Act, a reference to—

(*a*) the date on which a waste licence is granted is a reference to the date on which the licence is sealed with the seal of the Agency, and

(*b*) the date on which a decision by the Agency to refuse a waste licence is made is a reference to the date on which that decision, as reduced to writing, is so sealed.**]**

F38**[**(2) (*a*) A reference in this Act to "best available techniques" shall be construed as meaning the most effective and advanced stage in the development of an activity and its methods of operation, which indicate the practical suitability of particular techniques for providing, in principle, the basis for emission limit values designed to prevent or eliminate, or where that is not practicable, generally to reduce an emission and its impact on the environment as a whole.

(*b*) For the purposes of paragraph (*a*)—

(i) "best", in relation to techniques, means the most effective in achieving a high general level of protection of the environment as a whole;

(ii) "available techniques" means those techniques developed on a scale which allows implementation in the relevant class of activity specified in the Third and Fourth Schedules, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced within the State, as long as they are reasonably accessible to the person carrying on the activity;

(iii) "techniques" includes both the technology used and the way in which the installation is designed, built, managed, maintained, operated and decommissioned.

(*c*) F39**[**...**]]**

(3) In this Act, a reference to the temporary storage of waste shall, without prejudice to any particular provision that may be made pursuant to *section 39(6)*, be construed as a reference to the storage of waste for a period not exceeding 6 months.

F40**[**(3A) References in this Act to Dublin City Council are references to Dublin City Council in its designation as the competent authority under Article 53 of the TFS Regulation as provided for in Regulation 4 of the Waste Management (Shipments of Waste) Regulations 2007 (S.I. No. 419 of 2007).**]**

F41**[**(3B) Subject to this Act, a word or expression that is used in this Act and that is also used in the EIA Directive has, unless the context otherwise requires, the same meaning in this Act as it has in that Directive.**]**

(4) In this Act, a reference to a Part, section, or Schedule is a reference to a Part or section of, or a Schedule to, this Act unless it is indicated that reference to some other enactment is intended.

(5) In this Act, a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision (including a Schedule) in which the reference occurs, unless it is indicated that a reference to some other provision is intended.

(6) In this Act a reference to any enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment (including this Act).

Annotations

Amendments:

F15 Inserted (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 16(a), S.I. No. 344 of 2023, art. 4(c).

F16 Substituted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 20(1)(a), S.I. No. 498 of 2003.

F17 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 33, S.I. No. 358 of 2015.

F18 Inserted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 7.

F19 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 5(a)(i), (ii), (iv), (vii), (viii) and (x).

F20 Substituted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 6.

F21 Inserted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 4(a), in effect as per reg. 1(2).

F22 Inserted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 6(a)(i), (ii).

F23 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 20(1)(b), S.I. No. 393 of 2004.

F24 Inserted (17.07.2001) by *Waste Management (Amendment) Act 2001* (36/2001), s. 3, commenced on enactment.

F25 Substituted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 4(b), in effect as per reg. 1(2).

F26 Deleted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 6(a)(iii).

F27 Deleted (1.07.2008) by *Waste Management (Registration of Brokers and Dealers) Regulations 2008* (S.I. No. 113 of 2008), reg. 19(2)(c), in effect as per reg. 1(2).

F28 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 21, S.I. No. 393 of 2004.

F29 Deleted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 5(a)(iii), (v).

F30 Inserted (23.04.2013) by *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013), reg. 25(a).

F31 Substituted (8.12.2008) by *Waste Management (Certification of Historic Unlicenced Waste Disposal and Recovery Activity) Regulations 2008* (S.I. No. 524 of 2008), reg. 11(1).

F32 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 5(a)(vi), (ix), and (xi).

F33 Substituted (14.06.2011) by *European Communities (Waste Directive) (No. 2) Regulations 2011* (S.I. No. 323 of 2011), reg. 4.

F34 Substituted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 6

F35 Substituted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 6.

F36 Inserted (8.09.2003) by *Protection of the Environment Act 2003* (27/2003), s. 20(1)(c), S.I. No. 393 of 2003.

F37 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 20(2), S.I. No. 393 of 2004.

F38 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 20(3), S.I. No. 393 of 2004, subject to saver in s. 59.

F39 Deleted (7.01.2014) by *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013), reg. 25(b), in effect as per reg. 2.

F40 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 5(b).

F41 Substituted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 6(b).

F42 Deleted (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 16(b), S.I. No. 345 of 2023.

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E11 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E12 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E13 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E14 Previous affecting provision: definition of "municipal waste" superseded by insertion of new definition (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 7.

E15 Previous affecting provision: definition of "producer" substituted by "prevention" (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 5(a)(vii); "prevention" substituted as per F-note above.

E16 Previous affecting provision: subs. (1) amended (1.07.2008) by *Waste Management (Registration of Brokers and Dealers) Regulations 2008* (S.I. No. 113 of 2008), reg. 19(2)(a), (b) and (d), in effect as per reg. 1(2); substituted as per F-notes above.

E17 Previous affecting provision: subs. (3B) inserted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 4(c), in effect as per reg. 1(2); substituted as per F-note above.

Repeals and revocations.

6.—(1) Each enactment mentioned in *column (2)* of *Part I* of the *Fifth Schedule* is hereby repealed to the extent specified in *column (3)* of the said Part.

(2) Each statutory instrument mentioned in *column (2)* of *Part II* of the *Fifth Schedule* is hereby revoked to the extent specified in *column (3)* of the said Part.

Regulations, orders and directions.

7.—(1) The Minister may make regulations prescribing any matter or thing which is referred to in this Act as prescribed or to be prescribed or for the purpose of enabling any provision of this Act to have full effect.

(2) Regulations made under this Act may make different provisions in relation to different areas, different circumstances, different classes of persons or waste and different waste management or other activities.

(3) A regulation under this Act (other than a regulation under *section 7 (6)*, *39 (8)* or *62*) or an order under this Act (other than an order under F43**[***section 1(2)*, *8*, *69(1)* or *72(12)***]** or an order under *subsection (5)* amending or revoking an order under *section 8* or *69 (1)*) shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling such regulation or order is passed by either such House within the next 21 days on which that House has sat after the regulation or order is laid before it, the regulation or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(4) Where regulations under *section 7 (6)*, *39 (8)* or *62*, or an order under *section 8* or *69 (1)* or an order under *subsection (5)* amending or revoking such an order, is or are proposed to be made, a draft of the regulations or the order, as the case may be, shall be laid before each House of the Oireachtas and the regulations or order shall not be made until a resolution approving of the draft has been passed by each such House.

(5) (*a*) The Minister may by order amend or revoke an order made by him or her under this Act (F44**[**F45**[**...**]**including an order under this paragraph**]**) and by direction amend or revoke a direction given by him or her under this Act (including a direction under this paragraph).

(*b*) The Agency may by direction amend or revoke a direction given by it under this Act (including a direction under this paragraph).

(*c*) An order or direction under this subsection shall be made or given in the like manner and its making or giving shall be subject to the like (if any) consents and conditions as the order or direction that it is amending or revoking.

(6) If in any respect any difficulty arises in bringing any provision of this Act into operation or in relation to the operation of any such provision, the Minister may by regulations do anything which appears to him or her to be necessary or expedient for removing that difficulty, for bringing that provision into operation, or for securing or facilitating its operation, and any such regulations may modify any provision of this or any other enactment so far as may be necessary or expedient for the purposes aforesaid but no regulations may be made under this subsection in relation to a provision of this Act after the expiration of 2 years from the commencement of that provision.

Annotations

Amendments:

F43 Substituted (17.07.2001) by *Waste Management (Amendment) Act 2001* (36/2001), s. 10(a), commenced on enactment.

F44 Substituted (17.07.2001) by *Waste Management (Amendment) Act 2001* (36/2001), s. 10(b), commenced on enactment.

F45 Deleted (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 17, S.I. No. 344 of 2023, art. 4(d).

Editorial Notes:

E18 Power pursuabnt to section exercised (22.09.2023) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2023* (S.I. No. 471 of 2023).

E19 Power pursuant to section exercised (1.09.2023) by *Waste Management (Landfill Levy) (Amendment) Regulations 2023* (S.I. No. 398 of 2023), in effect as per reg. 1(2).

E20 Power pursuant to section exercised (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023).

E21 Power pursuant to section exercised (27.01.2023) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2023* (S.I. No. 16 of 2023).

E22 Power pursuant to section exercised (9.02.2022) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2022* (S.I. No. 51 of 2022).

E23 Power pursuant to section exercised (30.12.2020) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2020* (S.I. No. 738 of 2020).

E24 Power pursuant to section exercised (20.12.2019) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2019* (S.I. No. 684 of 2019).

E25 Power pursuant to section exercised (11.09.2019) by *Waste Management (Facility Permit And Registration) (Amendment) Regulations 2019* (S.I. No. 250 of 2019), in effect as per reg. 1(2).

E26 Power pursuant to section exercised (12.04.2019) by *Waste Management (Landfill Levy) (Amendment) Regulations 2019* (S.I. No. 182 of 2019).

E27 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E28 Power pursuant to section exercised (19.12.2017) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2017* (S.I. No. 599 of 2017).

E29 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E30 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E31 Power pursuant to section exercised (1.10.2017) by *Waste Management (Farm Plastics) (Amendment) Regulations 2017* (S.I. No. 396 of 2017), in effect as per reg. 2.

E32 Power pursuant to section exercised (30.06.2016) by *Waste Management (Collection Permit) (Amendment)(No.2) Regulations 2016* (S.I. No. 346 of 2016).

E33 Power pursuant to section exercised (16.01.2016) by *Waste Management (Collection Permit) (Amendment) Regulations 2016* (S.I. No. 24 of 2016).

E34 Power pursuant to section exercised (24.11.2015) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2015* (S.I. No. 538 of 2015).

E35 Power pursuant to section exercised (15.05.2015) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2015* (S.I. No. 198 of 2015).

E36 Power pursuant to section exercised (15.05.2015) by *Waste Management (Collection Permit) (Amendment) Regulations 2015* (S.I. No. 197 of 2015).

E37 Power pursuant to section exercised (7.05.2015) by *Waste Management (Food Waste) (Amendment) Regulations 2015* (S.I. No. 190 of 2015).

E38 Power pursuant to section exercised (1.06.2015) by *Waste Management (Landfill Levy) Regulations 2015* (S.I. No. 189 of 2015), in effect as per reg. 2.

E39 Power pursuant to section exercised (25.11.2014) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2014* (S.I. No. 546 of 2014).

E40 Power pursuant to section exercised (7.07.2014) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2014* (S.I. No. 320 of 2014).

E41 Power pursuant to section exercised (18.12.2013) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2013* (S.I. No. 504 of 2013).

E42 Power pursuant to section exercised (13.07.2010) by *Waste Management (Licensing) (Amendment) Regulations 2010* (S.I. No. 350 of 2010), in effect as per reg. 2.

E43 Power pursuant to section exercised (1.03.2010) by *Waste Management (Registration of Sewage Sludge Facility) Regulations 2010* (S.I. No. 32 of 2010), in effect as per reg. 1(2).

E44 Power pursuant to section exercised (10.12.2009) by *Waste Management (Food Waste) Regulations 2009* (S.I. No. 508 of 2009).

E45 Power pursuant to section exercised (27.07.2009) by *Waste Management (Prohibition of Waste Disposal By Burning) Regulations 2009* (S.I. No. 286 of 2009).

E46 Power pursuant to section exercised (1.07.2008) by *Waste Management (Registration of Brokers and Dealers) Regulations 2008* (S.I. No. 113 of 2008), in effect as per reg. 1(2).

E47 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) (Amendment) Regulations 2008* (S.I. No. 87 of 2008).

E48 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008* (S.I. No. 86 of 2008).

E49 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), in effect as per reg. 2.

E50 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), in effect as per reg. 1(2).

E51 Power pursuant to section exercised (1.07.2007) by *Waste Management (Environmental Levy) (Plastic Bag) (Amendment) (No. 2) Regulations 2007* (S.I. No. 167 of 2007), in effect as per reg. 3.

E52 Power pursuant to section exercised (1.07.2006) by *Waste Management (Packaging) (Amendment) Regulations 2006* (S.I. No. 308 of 2006), in effect as per reg. 1(2).

E53 Power pursuant to section exercised (1.07.2005) by *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005), in effect as per reg. 2.

E54 Power pursuant to section exercised (30.12.2004) by *Waste Management (Packaging) (Amendment) Regulations 2004* (S.I. No. 871 of 2004), in effect as per reg. 1(2).

E55 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

E56 Power pursuant to section exercised (9.10.2003) by *Waste Management (Environment Fund) (Prescribed Payments) Regulations 2003* (S.I. No. 478 of 2003).

E57 Power pursuant to section exercised (1.03.2003) by *Waste Management (Packaging) Regulations 2003* (S.I. No. 61 of 2003), in effect as per reg. 3.

E58 Power pursuant to section exercised (14.09.2001) by *Waste Management (Prescribed Date) Regulations 2001* (S.I. No. 390 of 2001).

E59 Power pursuant to section exercised (23.07.2001) by *Waste Management (Farm Plastics) Regulations 2001* (S.I. No. 341 of 2001), in effect as per reg. 1(2).

E60 Power pursuant to section exercised (30.06.2001) by *Waste Management (Use of Sewage Sludge in Agriculture) (Amendment) Regulations 2001* (S.I. No. 267 of 2001), in effect as per reg. 1(3).

E61 Power pursuant to section exercised (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000).

E62 Power pursuant to section exercised (1.05.2000) by *Waste Management (Hazardous Waste) (Amendment) Regulations 2000* (S.I. No. 73 of 2000), in effect as per reg. 1(2).

E63 Power pursuant to section exercised (20.05.1998) by *Waste Management (Miscellaneous Provisions) Regulations 1998* (S.I. No. 164 of 1998), in effect as per reg. 1(2).

E64 Power pursuant to section exercised (20.05.1998) by *Waste Management (Hazardous Waste) Regulations 1998* (S.I. No. 163 of 1998), in effect as per reg. 2.

E65 Power pursuant to section exercised (20.05.1998) by *Waste Management (Use of Sewage Sludge in Agriculture) Regulations 1998* (S.I. No. 148 of 1998), in effect as per reg. 1(2).

E66 Power pursuant to section exercised (20.05.1998) by *Waste Management (Amendment of Waste Management Act 1996) Regulations 1998* (S.I. No. 146 of 1998), in effect as per reg. 1(2).

E67 Power pursuant to section exercised (30.04.1997) by *Waste Management (Register) Regulations 1997* (S.I. No. 183 of 1997).

E68 Power pursuant to section exercised (27.03.1997) by *Waste Management (Planning) Regulations 1997* (S.I. No. 137 of 1997).

E69 Previous affecting provision; power pursuant to section exercised (14.02.2023) by *Waste Management (Collection Permit) (Amendment) Regulations 2023* (S.I. No. 63 of 2023); revoked (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023), reg. 8(1).

E70 Previous affecting provision: power pursuant to section exercised (1.07.2013) by *Waste Management (Landfill Levy) (Amendment) Regulations 2013* (S.I. No. 194 of 2013), in effect as per reg. 2; rendered obsolete by revocation of S.I. No. 434 of 2011, see below.

E71 Previous affecting provision: power pursuant to section exercised (1.07.2012) by *Waste Management (Landfill Levy) (Amendment) Regulations 2012* (S.I. No. 221 of 2012), in effect as per reg. 2; rendered obsolete by revocation of S.I. No. 434 of 2011, see below.

E72 Previous affecting provision: pursuant to section exercised (1.09.2011) by *Waste Management (Landfill Levy) Regulations 2011* (S.I. No. 434 of 2011), in effect as per reg. 2; revoked (1.06.2015) by *Waste Management (Landfill Levy) Regulations 2015* (S.I. No. 189 of 2015), reg. 19(1), in effect as per reg. 2; subject to transitional provision in reg. 19(2).

E73 Previous affecting provision: pursuant to section exercised (1.04.2010, 1.06.2010, 1.12.2010, 10.04.2010, and 1.06.2015) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2010* (S.I. No. 143 of 2010), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E74 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 282 of 2006, see below.

E75 Previous affecting provision: power pursuant to section exercised (1.02.2010) by *Waste Management (Landfill Levy) (Amendment) Regulations 2010* (S.I. No. 31 of 2010), in effect as per reg. 2; rendered obsolete by revocation of S.I. No. 199 of 2008, see below.

E76 Previous affecting provision: power pursuant to section exercised (20.01.2010) by *Waste Management (Landfill Levy) Order 2010* (S.I. No. 13 of 2010); superseded (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 13(d), S.I. No. 433 of 2011.

E77 Previous affecting provision: power pursuant to section exercised (31.12.2009) by *Waste Management (Landfill Levy) Amendment Regulations 2009* (S.I. No. 550 of 2009), in effect as per reg. 2; rendered obsolete by revocation of S.I. No. 199 of 2008, see below.

E78 Previous affecting provision: power pursuant to section exercised (11.12.2009) by *Waste Management (Landfill Levy) Order 2009* (S.I. No. 496 of 2009), art. 4; superseded (20.01.2010) by *Waste Management (Landfill Levy) Order 2010* (S.I. No. 13 of 2010), art. 4.

E79 Previous affecting provision: pursuant to section exercised (26.09.2008) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 376 of 2008), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 341 of 2005, see below.

E80 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E81 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2017) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E82 Previous affecting provision: pursuant to section exercised (1.07.2008) by *Waste Management (Landfill Levy) Regulations 2008* (S.I. No. 199 of 2008), in effect as per reg. 2; revoked (1.09.2011) by *Waste Management (Landfill Levy) Regulations 2011* (S.I. No. 434 of 2011), reg. 19(1), in effect as per reg. 2; subject to transitional provision in reg. 19(2).

E83 Previous affecting provision: power pursuant to section exercised (4.06.2008) by *Waste Management (Landfill Levy) Order 2008* (S.I. No. 168 of 2008); superseded (11.12.2009) by *Waste Management (Landfill Levy) Order 2009* (S.I. No. 496 of 2009), art. 4.

E84 Previous affecting provision: pursuant to section exercised (15.12.2007 and 31.03.2008) by *Waste Management (Packaging) Regulations 2007* (S.I. No. 798 of 2007), in effect as per reg. 3; revoked (21.06.2014) by *European Union (Packaging) Regulations 2014* (S.I. No. 282 of 2014), reg. 36(1), in effect as per reg. 3, subject to transitional provision and construed as per reg. 36(2) and (3).

E85 Previous affecting provision: power pursuant to section exercised (1.01.2008) by *Waste Management (Tyres and Waste Tyres) Regulations 2007* (S.I. No. 664 of 2007), in effect as per reg. 1(2); revoked (1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), in effect as per reg. 1(2).

E86 Previous affecting provision: pursuant to section exercised (1.07.2007) by *Waste Management (Environmental Levy) (Plastic Bag) (Amendment) Regulations 2007* (S.I. No. 66 of 2007), in effect as per reg. 3; revoked on same date (1.07.2007) by *Waste Management (Environmental Levy) (Plastic Bag) (Amendment) (No. 2) Regulations 2007* (S.I. No. 167 of 2007), reg. 6, in effect as per reg. 3.

E87 Previous affecting provision: power pursuant to section exercised (20.02.2007) by *Waste Management (Environmental Levy) (Plastic Bag) Order 2007* (S.I. No. 62 of 2007), in effect as per reg. 3; revoked (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 5(3)(a), S.I. No. 344 of 2023.

E88 Previous affecting provision: pursuant to section exercised (28.07.2006) by *Waste Management (Landfill Levy)(Amendment) Regulations 2006* (S.I. No. 402 of 2006); revoked (1.07.2008) by *Waste Management (Landfill Levy) Regulations 2008* (S.I. No. 199 of 2008), reg. 20, in effect as per reg. 2.

E89 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

E90 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 341 of 2005); revoked (2.01.2013) by *European Union (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2012* (S.I. No. 513 of 2012), reg. 35(1), in effect as per reg. 34; subject to transitional provision and construed as per reg. 35(2) and (3).

E91 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

E92 Previous affecting provision: pursuant to section exercised (2.07.2002) by *Waste Management (Licensing) (Amendment) Regulations 2002* (S.I. No. 336 of 2002); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), reg. 2(1) and sch. 1, in effect as per reg. 1(2), subject to transitional provision in reg. 2(2).

E93 Previous affecting provision: pursuant to section exercised (13.03.2002) by *Waste Management (Landfill Levy) Regulations 2002* (S.I. No. 86 of 2002); revoked (1.07.2008) by *Waste Management (Landfill Levy) Regulations 2008* (S.I. No. 199 of 2008), reg. 20, in effect as per reg. 2.

E94 Previous affecting provision: power pursuant to section exercised (19.12.2001) by *Waste Management (Environmental Levy) (Plastic Bag) Regulations 2001* (S.I. No. 605 of 2001); revoked (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 5(3)(b), S.I. No. 344 of 2023.

E95 Previous affecting provision: pursuant to section exercised (30.11.2001) by *Waste Management (Collection Permit) (Amendment) Regulations 2001* (S.I. No. 540 of 2001); revoked (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), art. 2(1) and sch. 1, in effect as per art. 1(2); subject to transitional provision in art. 2(2).

E96 Previous affecting provision: power pursuant to section exercised (14.09.2001) by *Waste Management Act 1996 (Prescribed Date) Order 2001* (S.I. No. 345 of 2001); superseded (14.09.2001) by *Waste Management (Prescribed Date) Regulations 2001* (S.I. No. 390 of 2001).

E97 Previous affecting provision: pursuant to section exercised (30.08.2001) by *Waste Management (Collection Permit) Regulations 2001* (S.I. No. 402 of 2001); revoked (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 2(1) and sch. 1, in effect as per reg. 1(2), subject to transitional provision in reg. 2(2).

E98 Previous affecting provision: pursuant to section exercised (23.08.2001) by *Waste Management (Licensing) (Amendment) Regulations 2001* (S.I. No. 397 of 2001); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), reg. 2 and sch. 1, in effect as per reg. 1(2).

E99 Previous affecting provision: power pursuant to section exercised (1.12.1998) by *Waste Management (Packaging) (Amendment) Regulations 1998* (S.I. No. 382 of 1998), in effect as per reg. 1(2); rendered obsolete by revocation of S.I. No. 242 of 1997, see below.

E100 Previous affecting provision: pursuant to section exercised (20.05.1998) by *Waste Management (Permit) Regulations 1998* (S.I. No. 165 of 1998), in effect as per reg. 1(2); revoked (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 3(1) and sch. 1, in effect as per reg. 2; subject to transitional provisions in reg. 3(2), (3), and (4).

E101 Previous affecting provision: pursuant to section exercised (20.05.1998) by *Waste Management (Transfrontier Shipment of Waste) Regulations 1998* (S.I. No. 149 of 1998), in effect as per reg. 1(2); revoked (12.07.2007) by *Waste Management (Shipments of Waste) Regulations 2007* (S.I. No. 419 of 2007), reg. 12, in effect as per reg. 1(2).

E102 Previous affecting provision: pursuant to section exercised (20.05.1998) by *Waste Management (Movement of Hazardous Waste) Regulations 1998* (S.I. No. 147 of 1998), in effect as per reg. 1(2); revoked (31.12.2011) by *European Communities (Shipments of Hazardous Waste exclusively within Ireland) Regulations 2011* (S.I. No. 324 of 2011), reg. 19(2), in effect as per reg. 19(2).

E103 Previous affecting provision: power pursuant to section exercised (19.05.1998) by *Waste Management (Licensing) (Amendment) Regulations 1998* (S.I. No. 162 of 1998); rendered obsolete by revocation of S.I. No. 133 of 1997, see below.

E104 Previous affecting provision: pursuant to section exercised (1.08.1997) by *Waste Management (Farm Plastics) Regulations 1997* (S.I. No. 315 of 1997), in effect as per reg. 1(2); revoked (23.07.2001) by *Waste Management (Farm Plastics) Regulations 2001* (S.I. No. 341 of 2001), reg. 31, in effect as per reg. 1(2); subject to transitional provision in reg. 32.

E105 Previous affecting provision: pursuant to section exercised (1.07.1997) by *Waste Management (Packaging) Regulations 1997* (S.I. No. 242 of 1997), in effect as per reg. 3; revoked (1.03.2003) by *Waste Management (Packaging) Regulations 2003* (S.I. No. 61 of 2003), reg. 29, in effect as per reg. 3; subject to transitional provisions in reg. 30.

E106 Previous affecting provision: pursuant to section exercised (27.03.1997) by *Waste Management (Licensing) Regulations 1997* (S.I. No. 133 of 1997); revoked (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000), reg. 50; subject to transitional provision in reg. 51.

Orders in relation to *Third Schedule* or *Fourth Schedule*.

8.—The Minister may make an order amending the *Third Schedule* or the *Fourth Schedule* by adding or deleting anything to or from either of the said Schedules.

Offences by bodies corporate.

9.—(1) Where an offence under this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

Annotations

Editorial Notes:

E107 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E108 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E109 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

Penalties.

10.—(1) A person guilty of an offence under this Act (other than an offence referred to in *subsection (2)*) shall be liable—

(*a*) on summary conviction, to a F46**[**class A fine**]** or to imprisonment for a term not exceeding 12 months, or to both such fine and such imprisonment, or

(*b*) on conviction on indictment, to a fine not exceeding F47**[**€15,000,000**]** or to imprisonment for a term not exceeding 10 years, or to both such fine and such imprisonment.

(2) A person guilty of an offence under *section 16 (5)*, *32 (6)* (where the offence consists of a contravention of regulations under *subsection (4)* of that section), *33 (8)* F48**[***34(1)(c)*, in so far as the offence consists of contravention of a condition attached, under *section 34(7)(d)*, to a waste collection permit, *34(10A)*, *34A(13)***]**, *38 (7)* or *40 (13)* shall be liable on summary conviction to a F49**[**class A fine**]** or to imprisonment for a term not exceeding 12 months, or to both such fine and such imprisonment.

(3) If the contravention in respect of which a person is convicted of an offence under this Act is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence the person shall be liable, on summary conviction, to a fine not exceeding F47**[**€1,000**]** or (in the case of an offence to which *subsection (1)* applies) on conviction on indictment, to a fine not exceeding F47**[**€130,000**]**.

(4) In imposing any penalty under *subsection (1)*, the court shall, in particular, have regard to the risk or extent of environmental pollution F50**[**, and any remediation required,**]** arising from the act or omission constituting the offence.

Annotations

Amendments:

F46 Substituted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 34(a), S.I. No. 358 of 2015. A class A fine means a fine not greater than €5,000, as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 4(1), S.I. No. 662 of 2010.

F47 Substituted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 22(b), (d), S.I. No. 498 of 2003. A fine of €1,000 translates into a class D fine, not greater than €1,000, as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 7(2) and table ref. no. 1, S.I. No. 662 of 2010.

F48 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 34(b)(i), S.I. No. 358 of 2015.

F49 Substituted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 34(b)(ii), S.I. No. 358 of 2015. A class A fine means a fine not greater than €5,000, as provided (4.01.2011) by *Fines Act 2010* (8/2010), ss. 3, 4(1), S.I. No. 662 of 2010.

F50 Inserted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 22(e), S.I. No. 498 of 2003.

Editorial Notes:

E110 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E111 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E112 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E113 Previous affecting provision: subss. (1)(a) and (2) amended (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 22(a) and (c), S.I. No. 498 of 2003, subject to saver in s. 59; section further amended as per F-notes above.

F51**[**Fixed payment notice for certain offences relating to producer responsibility

10A.— (1) Where an authorised person has reasonable grounds for believing that a person has committed a relevant offence the authorised person may give to the person a notice (in this Act referred to as a "fixed payment notice") in writing and in the prescribed form stating that—

(*a*) the person is alleged to have committed that offence,

(*b*) the person may, during the period of 21 days beginning on the date of the notice, make to the local authority concerned or the Agency, as appropriate, at the address specified in the notice a payment of the amount specified in *subsection (4)* in respect of that offence, accompanied by the notice,

(*c*) the person is not obliged to make the payment specified in the notice, and

(*d*) a prosecution of the person to whom the notice is given in respect of the relevant offence concerned will not be instituted during the period of 21 days beginning on the date of the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of that offence will be instituted.

(2) Where a fixed payment notice is given—

(*a*) the person to whom it applies may, during the period of 21 days beginning on the date of the notice, make to the local authority concerned or the Agency, as appropriate, at the address specified in the notice the payment specified in the notice, accompanied by the notice,

(*b*) the local authority concerned or the Agency, as appropriate, shall receive the payment and shall, upon receipt of the payment, issue a receipt for it and any payment so received shall not be recoverable by the person who made it and the local authority or Agency, as appropriate, shall retain the money for disposal in accordance with *subsection (5)*, and

(*c*) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In proceedings for a relevant offence it shall be a defence for the defendant to prove that he or she has made a payment in accordance with this section, pursuant to a fixed payment notice issued in respect of that offence.

(4) The amount to be specified in a fixed payment notice in respect of a relevant offence is—

(*a*) €2,000, where the relevant offence consists of a contravention of Regulation 10(5)(a) of the WEEE Regulations,

(*b*) €1,000, where the relevant offence consists of a contravention of—

(i) Regulation 17(3) or 21(1)(b) of the Batteries and Accumulators Regulations,

(ii) Regulation 14(1)(b)(i), 14(1)(b)(iii), 20(a) or 22(1) of the End-of-Life Vehicles Regulations,

(iii) Regulation 10(1)(b), 10(1)(c) or 10(1)(d) of the Packaging Regulations, or

(iv) Regulation 10(7) or 15(1)(a)(ii) of the WEEE Regulations,

(*c*) €500, where the relevant offence consists of a contravention of—

(i) Regulation 21(4)(a) or 32(c) of the Batteries and Accumulators Regulations,

(ii) Regulation 10(1)(a), 15(1)(b) or 15(2)(c) of the Packaging Regulations, or

(iii) Regulation 13(5), 29(a)(i), 29(a)(ii) or 30(3) of the WEEE Regulations,

or

(*d*) €100, where the relevant offence consists of contravention of Regulation 33 of the End-of-Life Vehicles Regulations.

(5) (*a*) Moneys received by a local authority pursuant to the giving of a fixed payment notice shall be lodged to the credit of the local fund maintained by the local authority concerned pursuant to, and in accordance with, section 97 of the Local Government Act 2001 and expended in accordance with that section.

(*b*) Moneys received by the Agency pursuant to the giving of a fixed payment notice shall be disposed of in a manner determined by the Agency with the prior consent of the Minister and the Minister for Public Expenditure and Reform.

(6) (*a*) In this section—

"authorised person" means—

(i) in relation to a relevant offence referred to in *paragraph (b)(i)*, an authorised person within the meaning of the Batteries and Accumulators Regulations,

(ii) in relation to a relevant offence referred to in *paragraph (b)(ii)*, an authorised person within the meaning of the End-of-Life Vehicles Regulations,

(iii) in relation to a relevant offence referred to in *paragraph (b)(iii)*, an authorised person within the meaning of the Packaging Regulations, and

(iv) in relation to a relevant offence referred to in *paragraph (b)(iv)*, an authorised person within the meaning of the WEEE Regulations;

"Batteries and Accumulators Regulations" means the European Union (Batteries and Accumulators) Regulations 2014 (S.I. No. 283 of 2014);

"End-of-Life Vehicles Regulations" means the European Union (End-of-Life Vehicles) Regulations 2014 (S.I. No. 281 of 2014);

"Packaging Regulations" means the European Union (Packaging) Regulations 2014 (S.I. No. 282 of 2014);

"WEEE Regulations" means the European Union (Waste Electrical and Electronic Equipment) Regulations 2014 (S.I. No. 149 of 2014).

(*b*) In this section "relevant offence" means—

(i) an offence under Regulation 47 of the Batteries and Accumulators Regulations consisting of a contravention of Regulation 17(3), 21(1)(b), 21(4)(a) or 32(c) of those regulations,

(ii) an offence under Regulation 34 of the End-of-Life Vehicles Regulations consisting of a contravention of Regulation 14(1)(b)(i), 14(1)(b)(iii), 20(a), 22(1) or 33 of those regulations,

(iii) an offence under Regulation 34 of the Packaging Regulations consisting of a contravention of Regulation 10(1)(a), 10(1)(b), 10(1)(c), 10(1)(d), 15(1)(b) or 15(2)(c) of those regulations, or

(iv) an offence under Regulation 39 of the WEEE Regulations consisting of a contravention of Regulation 10(5)(a), 10(7), 13(5), 15(1)(a)(ii), 29(a)(i), 29(a)(ii) or 30(3) of those regulations.**]**

Annotations

Amendments:

F51 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 35, S.I. No. 358 of 2015.

F52 Substituted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 18(a)(i), not commenced as of date of revision.

F53 Substituted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 18(a)(ii)(I), (II), (iii)(I), (II), not commenced as of date of revision.

F54 Inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 18(a)(ii)(III), (iii)(III), not commenced as of date of revision.

F55 Substituted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 18(b)(i)(I)(A), (B), not commenced as of date of revision.

F56 Inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 18(b)(i)(I)(C), (b)(i)(II), not commenced as of date of revision.

F57 Substituted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 18(b)(ii)(I), (II), (III), not commenced as of date of revision.

F58 Inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 18(b)(ii)(IV), not commenced as of date of revision.

Modifications (not altering text):

C5 Prospective affecting provision:

• subs. (4)(a) substituted,

• subs. (4)(b)(iii), (iv), (c)(ii), (iii), (6)(a) definition of "authorised person", (b)(i), (iii), (iv) amended,

• subss. (4)(b)(v), (c)(iv), (6)(a)(v), definition of "Tyres and Waste Tyres Regulations", (b)(v) inserted,

by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 18(a)(i)-(iii), (b)(i), (ii), not commenced as of date of revision.

(4) ...

F52**[***(a)* €2,000 where the relevant offence consists of a contravention of—

(i) Regulation 10(5)(a) of the WEEE Regulations,

(ii) Regulation 17(1)(a)(i) of the Batteries and Accumulators Regulations, or

(iii) Regulation 9(a) or 21(1)(a) of the Tyres and Waste Tyres Regulations,**]**

...

(*b*) ...

(iii) Regulation 10(1)(b), 10(1)(c) or 10(1)(d) of the F53**[**Packaging Regulations,**]**

(iv) Regulation 10(7) or 15(1)(a)(ii) of F53**[**the WEEE Regulations, or**]**

F54**[**(v) Regulation 9(d), 14, 19 or 29(1)(b) of the Tyres and Waste Tyres Regulations,**]**

(*c*) ...

(ii) Regulation 10(1)(a), 15(1)(b) or 15(2)(c) of the F53**[**Packaging Regulations,**]**

(iii) Regulation 13(5), 29(a)(i) or 30(3) of the F53**[**WEEE Regulations, or**]**

F54**[**(iv) Regulation 24(2), 26(a), 26(b), 42(2) or 42(3) of the Tyres and Waste Tyres Regulations**]**

...

(6) (*a*) n this section—

"authorised person" means— ...

(iii) in relation to a relevant offence referred to in *paragraph (b)(iii)*, an authorised person within the meaning of the F55**[**Packaging Regulations,**]**

(iv) in relation to a relevant offence referred to in *paragraph (b)(iv)*, an authorised person within the meaning of the F55**[**WEEE Regulations, and**]**

F56**[**(v) in relation to a relevant offence referred to in *paragraph (b)(v)*, an authorised person within the meaning of the Tyres and Waste Tyres Regulations;**]**

...

F56**[**"Tyres and Waste Tyres Regulations" means the Waste Management (Tyres and Waste Tyres) Regulations 2017 (S.I. No. 400 of 2017);**]**

(b) In this section "relevant offence" means—

(i) an offence under Regulation 47 of the Batteries and Accumulators Regulations consisting of a F57**[**contravention of Regulation 17(1)(a)(i), Regulation 17(3),**]** 21(1)(b),21(4)(a) or 32(c) of those regulations,

...

(iii) an offence under Regulation 34 of the Packaging Regulations consisting of a contravention of Regulation 10(1)(a), 10(1)(b), 10(1)(c), 10(1)(d),15(1)(b) or 15(2)(c) of F57**[**those regulations,**]**

(iv) an offence under Regulation 39 of the WEEE Regulations consisting of a contravention of Regulation 10(5)(a), 10(7), 13(5), 15(1)(a)(ii), 29(a)(i), 29(a)(ii) or 30(3) of those F57**[**those regulations, or**]**

F58**[**(v) an offence under Regulation 46 of the Tyres and Waste Tyres Regulations consisting of a contravention of Regulation 9(a), 9(d), 14, 19, 21(1) (a), 24(2), 26(a), 26(b), 29(1) (b), 42(2) or 42(3) of those Regulations.**]**

Editorial Notes:

E114 Power pursuant to section exercised (14.07.2016) by *Waste Management (Fixed Payment Notice) (Producer Responsibility) Regulations 2016* (S.I. No. 373 of 2016).

E115 The section heading is taken from the amending section in the absence of one included in the amendment.

F59**[**Fixed payment notice for certain offences relating to waste collection permit

10B.— (1) Where an authorised person has reasonable grounds for believing that a person has committed an offence under *section 34(1)(c)*, in so far as the offence consists of contravention of a condition attached, under *section 34(7)(d)*, to a waste collection permit, the authorised person may give to the person a notice in writing (in this Act referred to as a "fixed payment notice") in the prescribed form stating that—

(*a*) the person is alleged to have committed that offence,

(*b*) the person may, during the period of 21 days beginning on the date of the notice make to the local authority concerned at the address specified in the notice a payment of €500 in respect of that offence, accompanied by the notice,

(*c*) the person is not obliged to make the payment specified in the notice, and

(*d*) a prosecution of the person to whom the notice is given in respect of the offence will not be instituted during the period of 21 days beginning on the date of the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of that offence will be instituted.

(2) Where a fixed payment notice is given—

(*a*) the person to whom it applies may, during the period of 21 days beginning on the date of the notice, make to the local authority concerned, at the address specified in the notice, the payment specified in the notice accompanied by the notice,

(*b*) the local authority concerned shall receive the payment and shall, upon receipt of the payment, issue a receipt for it and any payment so received shall not be recoverable by the person who made it and the local authority shall retain the money for disposal in accordance with *subsection (4)*, and

(*c*) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified in the notice is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In proceedings for an offence under *section 34(1)(c)*, in so far as the offence consists of contravention of a condition attached, under *section 34(7)(d)*, to a waste collection permit, it shall be a defence for the defendant to prove that he or she has made a payment, in accordance with this section, pursuant to a fixed payment notice issued in respect of that offence.

(4) Moneys received by a local authority pursuant to the giving of a fixed payment notice shall be lodged to the credit of the local fund maintained by the local authority concerned pursuant to, and in accordance with, section 97 of the Local Government Act 2001 and expended in accordance with that section.**]**

Annotations

Amendments:

F59 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 36, S.I. No. 358 of 2015.

F60 Substituted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 19(a)(i), (ii), (b), not commenced as of date of revision.

F61 Inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 19(c), (d), not commenced as of date of revision.

Modifications (not altering text):

C6 Prospective affecting provision: subs. (1), (1)(b), (3) amended, subss. (3A), (5) inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 19(a)(i), (ii), (b)-(d), not commenced as of date of revision.

10B.— (1) Where an authorised person has reasonable grounds for believing that a person has committed F60**[**a relevant offence**]**, the authorised person may give to the person a notice in writing (in this Act referred to as a "fixed payment notice") in the prescribed form stating that—

(*a*) the person is alleged to have committed that offence,

(*b*) the person may, during the period of 21 days beginning on the date of the notice make to the local authority concerned at the address specified in the notice a F60**[**payment of the amount specified in *subsection (3A)***]** in respect of that offence, accompanied by the notice,

...

(3) In proceedings for F60**[**a relevant offence**]**, it shall be a defence for the defendant to prove that he or she has made a payment, in accordance with this section, pursuant to a fixed payment notice issued in respect of that offence.

F61**[**(3A) The amount to be specified in a fixed payment notice in respect of a relevant offence is—

(*a*) €500 where the relevant offence consists of—

(i) a contravention of *section 32(1A)(a)* or *32(2)*,

(ii) a contravention of a condition attached, under *section 34(7)(c)* or *34(7)(d)*, to a waste collection permit,

(iii) a contravention of *section 34(1)(a)*,

(iv) an offence under *section 34(10A)*, or

(v) an offence under *section 39(9)*, in so far as the offence consists of a contravention of a provision of regulations made under *section 39(4)* prohibiting, other than in accordance with those regulations, the recovery or disposal in a specified manner of a specified class or classes of waste, including a class or classes of household waste, or

(*b*) €1,000, where the relevant offence consists of a contravention of *section 32(1)*.**]**

...

F61**[**(5) In this section, "relevant offence" means—

(i) an offence under *section 32(6)(a)*, in so far as the offence consists of a contravention of *section 32(1)*, *32(1A)(a)* or *32(2)*, or

(ii) an offence under *section 34(1)(c)*, in so far as the offence consists of—

(I) a contravention of a condition attached, under *section 34(7)(c)* or *34(7)(d)*, to a waste collection permit,

(II) a contravention of *section 34(1)(a)*,

(III) an offence under *section 34(10A)*, or

(IV) an offence under *section 39(9)*, in so far as the offence consists of a contravention of a provision of regulations made under *section 39(4)* prohibiting, other than in accordance with those regulations, the recovery or disposal in a specified manner of a specified class or classes of waste, including a class or classes of household waste.**]**

Editorial Notes:

E116 Form prescribed for purposes of subs. (1) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 38 and sch. 9, as inserted (16.01.2016) by *Waste Management (Collection Permit) (Amendment) Regulations 2016* (S.I. No. 24 of 2016), reg. 2(t), (w).

E117 The section heading is taken from the amending section in the absence of one included in the amendment.

F62**[**Fixed payment notice for certain offences relating to single use plastic

10C.— (1) Where an authorised person has reasonable grounds for believing that a person has committed an offence under the European Union (Single Use Plastic) (No. 2) Regulations 2021 and the offence is to be prosecuted summarily the authorised person may give to the person a notice in writing (in this Act referred to as a "fixed payment notice") in the prescribed form stating that —

(*a*) the person is alleged to have committed that offence,

(*b*) the person may, during the period of 21 days beginning on the date of the notice make to the local authority concerned or to the Agency, as appropriate, at the address specified in the notice a payment of € 2,000 in respect of that offence, accompanied by the notice,

(*c*) the person is not obliged to make the payment specified in the notice, and

(*d*) a prosecution of the person to whom the notice is given in respect of the offence will not be instituted during the period of 21 days beginning on the date of the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of that offence will be instituted.

(2) Where a fixed payment notice is given —

(*a*) the person to whom it applies may, during the period of 21 days beginning on the date of the notice, make to the local authority concerned or to the Agency, as appropriate, at the address specified in the notice, the payment specified in the notice,

(*b*) the local authority concerned or the Agency, as appropriate, shall receive the payment and shall, upon receipt of the payment, issue a receipt for it and any payment so received shall not be recoverable by the person who made it and the local authority concerned or the Agency, as appropriate, shall retain the money for disposal in accordance with *subsection (4)*, and

(*c*) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified in the notice is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In proceedings for an offence under the European Union (Single Use Plastic) (No. 2) Regulations 2021 it shall be a defence for the defendant to prove that he or she has made a payment, in accordance with this section, pursuant to a fixed payment notice issued in respect of that offence.

(4) (*a*) Moneys received by a local authority pursuant to the giving of a fixed payment notice shall be lodged to the credit of the local fund maintained by the local authority concerned pursuant to, and in accordance with, section 97 of the Local Government Act 2001 and expended in accordance with that section.

(*b*) Moneys received by the Agency pursuant to the giving of a fixed payment notice shall be disposed of in a manner determined by the Agency with the prior consent of the Minister and the Minister for Public Expenditure and Reform.**]**

Annotations

Amendments:

F62 Inserted (8.10.2021) by *European Union (Single Use Plastics) (No. 2) Regulations 2021* (S.I. No. 516 of 2021), reg. 4.

Editorial Notes:

E118 The section heading is taken from the content of the section in the absence of one included in the amendment.

Prosecution of offences.

11.—(1) Subject to *subsection (5)*, summary proceedings for an offence under this Act may be brought by a local authority (whether or not the offence is committed in the authority's functional area) or by the Agency.

(2) Notwithstanding *subsection (1)*, the Minister may, by regulations, provide that summary proceedings for an offence aforesaid specified in the regulations may be brought by such person (including the Minister) as is so specified.

(3) Notwithstanding the provisions of section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings in relation to an offence under this Act may be commenced—

(*a*) at any time within 12 months from the date on which the offence was committed, or

(*b*) if, at the expiry of that period, the person against whom the proceedings are to be brought is outside the State, within 6 months of the date on which he or she next enters the State, or

(*c*) at any time within 6 months from the date on which evidence that, in the opinion of the person by whom the proceedings are brought, is sufficient to justify the bringing of the proceedings, comes to such person's knowledge,

whichever is the later, provided that no such proceedings shall be commenced later than 5 years from the date on which the offence concerned was committed.

(4) For the purpose of this section, a certificate signed by or on behalf of the person bringing the proceedings as to the date on which evidence relating to the offence concerned came to his or her knowledge shall be *prima facie* evidence thereof and in any legal proceedings a document purporting to be a certificate issued for the purpose of this subsection and to be so signed shall be deemed to be so signed and shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate.

(5) Subject to any order under *section 69*, summary proceedings for an offence under this Act in respect of a failure to comply with a condition attached to a waste licence or any other requirements of or under this Act in relation to the carrying on of an activity, the subject of such a licence, may only be brought by the Agency.

Annotations

Modifications (not altering text):

C7 Power to prosecute extended (20.05.1998) by *Waste Management (Miscellaneous Provisions) Regulations 1998* (S.I. No. 164 of 1998), reg. 4, in effect as per reg. 1(2).

4. It is hereby prescribed that summary proceedings for an offence under the Act may be brought by any person.

Editorial Notes:

E119 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E120 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E121 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E122 Power pursuant to section exercised (20.05.1998) by *Waste Management (Miscellaneous Provisions) Regulations 1998* (S.I. No. 164 of 1998), in effect as per reg. 1(2).

F63**[**Presumption in certain prosecutions.

11A.—In a prosecution for an offence under *section 32(6)* or *39(9)* relating to the recovery or disposal of waste on, in, over or under any land where it is proved that, by reason of—

(*a*) the nature of the particular recovery or disposal activity that was carried on,

(*b*) the period of time over which it appears that activity was carried on,

(*c*) the characteristics of the land and the degree of use or control it appears the owner of the land made of, or exercised in relation to, the land at the relevant time or times, or

(*d*) any other relevant circumstances,

it is a reasonable inference that that recovery or disposal was carried on with the consent of the owner of the land then, it shall be presumed, until the contrary is shown, that that recovery or disposal was carried on with that owner's consent.**]**

Annotations

Amendments:

F63 Inserted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 23, S.I. No. 498 of 2003.

Cost of prosecutions.

12.—Where a person is convicted of an offence under this Act in proceedings brought by a local authority, the Agency, or a person specified under *section 11 (2)*, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the local authority, Agency or other person, as the case may be, the costs and expenses, measured by the court, incurred by the local authority, Agency or other person in relation to the investigation, detection and prosecution of the offence, including costs and expenses incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of directors, employees, consultants and advisers, as the case may be.

Payment of certain fines to local authority, Agency or other persons.

13.—Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence under this Act in proceedings brought by a local authority, the Agency or a person specified under *section 11(2)* it shall, on the application of the local authority, the Agency or the said person, as the case may be (made before the time of such imposition, affirmation or variation), provide by order for the payment of the amount of the fine to the local authority, the Agency or the said person and such payment may be enforced by the local authority, the Agency or the said person, as the case may be, as if it were due to it or him or her on foot of a decree or order made by the court in civil proceedings.

Powers of authorised person.

14.—(1) An authorised person may, for any purpose connected with this Act—

(*a*) at all reasonable times, or at any time if he or she has reasonable grounds for believing that there may be a risk of environmental pollution arising from the carrying on of an activity at the premises or that such pollution is occurring, enter any premises and bring thereon such other persons (including members of the Garda Síochána) or equipment as he or she may consider necessary for the purpose, and

F64**[**(*b*) at any time halt (if necessary) and board any vehicle and have it taken, or require the driver of the vehicle to take it, to a place designated by the authorised person, and such a vehicle may be detained at that place by the authorised person for such period as he or she may consider necessary for the purpose.**]**

(2) Subject to *subsection(7)*, an authorised person shall not, other than with the consent of the occupier, enter into a private dwelling under this section unless he or she has given to the occupier of the dwelling not less than 24 hours notice in writing of his or her intended entry.

(3) Every authorised person shall be furnished with a certificate of his or her appointment and when exercising any power conferred on him or her by or under this Act, the authorised person shall, if requested by any person affected, produce the certificate to that person.

(4) Whenever an authorised person enters any premises or boards any vehicle, pursuant to this section, the authorised person may therein, as appropriate—

(*a*) make such plans, take such photographs F65**[**, record such information on data loggers, make such tape, electrical, video or other recordings**]** and carry out such inspections,

(*b*) make such tests F66**[**make such copies of documents and records (including records in electronic form) found therein and take such samples**]**,

(*c*) carry out such surveys, take such levels, make such excavations and carry out such examinations of depth and nature of subsoil,

(*d*) require that the premises or vehicle or any part of the premises or anything in the premises or vehicle shall be left undisturbed for such period,

(*e*) require from an occupier of the premises or any occupant of the vehicle or any person employed on the premises or any other person on the premises, such information,

(*f*) require the production of and inspect such records and documents F67**[**, including records held in electronic form**]**, and take copies of or extracts from, or take away if considered necessary for the purposes of inspection or examination, any such records or documents,

as the authorised person, having regard to all the circumstances, considers necessary for the purposes of exercising any power conferred on him or her by or under this Act.

(5) (*a*) An authorised person who, having entered any premises or boarded any vehicle, pursuant to this section, considers that waste thereon or therein is such, or is being handled or transported in such manner, as to constitute a risk of environmental pollution, may direct the holder of such waste to take such measures as are considered by that authorised person to be necessary to remove that risk, including the disposal of the waste, in such manner and place and within such period as the authorised person may specify.

(*b*) If a holder of waste fails to comply with a direction of an authorised person under this subsection, the authorised person may do all things as are necessary to ensure that the direction is carried out and the costs incurred by him or her in doing any such thing shall be recoverable from the holder of the waste by him or her, or the person by whom he or she was appointed, as a simple contract debt in any court of competent jurisdiction.

(6) Any person who—

(*a*) refuses to allow an authorised person to enter any premises or board any vehicle or to take any person or equipment with him or her in the exercise of his or her powers under this section,

(*b*) obstructs or impedes an authorised person in the exercise of any of his or her powers under this section,

(*c*) gives either to an authorised person, a relevant local authority or the Agency, information which to his or her knowledge is false or misleading in a material respect, or

(*d*) fails or refuses to comply with any requirement of this section or of an authorised person,

shall be guilty of an offence.

(7) (*a*) Where an authorised person in the exercise of his or her powers under this section is prevented from entering any premises or if an authorised person has reason to believe that evidence related to a suspected offence under this Act may be present in any premises and that the evidence may be removed therefrom or destroyed, the authorised person or the person by whom he or she was appointed may apply to a judge of the District Court for a warrant under this subsection authorising the entry by the authorised person into the premises.

(*b*) If on application being made to him or her under this subsection, a judge of the District Court is satisfied, on the sworn information of the applicant, that the authorised person concerned has been prevented from entering a premises as aforesaid or that the authorised person has reasonable grounds for believing the other matters aforesaid, the judge may issue a warrant under his or her hand authorising that person, accompanied, if the judge deems it appropriate so to provide, by such number of members of the Garda Síochána as may be specified in the warrant, at any time or times within 1 month from the date of the issue of the warrant, on production if so requested of the warrant, to enter, if need be by force, the premises concerned and exercise the powers referred to in *subsection (4)* or *(5)*.

(8) An authorised person may, in the exercise of any power conferred on him or her by this Act involving the bringing of any vehicle to any place, or where he or she anticipates any obstruction in the exercise of any other power conferred on him or her by or under this Act, request a member of the Garda Síochána to assist him or her in the exercise of such a power and any member of the Garda Síochána of whom he or she makes such a request shall comply therewith.

(9) An authorised person may enter on land for the purpose of assessing the suitability of the land for waste disposal; such an entry shall be subject to the relevant provisions of section 83 (other than subsection (6)) of the Act of 1963 as if it were an entry made under that section.

(10) The Minister may make regulations for the purposes of this section.

(11) Without prejudice to the generality of *subsection (10)*, regulations under this section may provide for all or any of the following matters—

(*a*) the taking of samples and the carrying out of tests, examinations and analyses,

(*b*) the specification of the classes of persons to be responsible for taking such samples and for the carrying out of such tests, examinations and analyses, or

(*c*) the specification of the certificate or other evidence to be given of the result of any such test, examination or analysis and the class or classes of person by whom such certificate or evidence is to be given.

(12) Any certificate or other evidence given or to be given in respect of any prescribed test, examination or analysis of any sample shall in relation to that sample be evidence, without further proof, of the result of the test, examination or analysis unless the contrary is shown.

Annotations

Amendments:

F64 Substituted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 24(1)(a), S.I. No. 498 of 2003.

F65 Inserted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 24(2)(a), S.I. No. 498 of 2003.

F66 Substituted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 24(2)(b), S.I. No. 498 of 2003.

F67 Inserted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 24(2)(c), S.I. No. 498 of 2003.

Modifications (not altering text):

C8 Reference to "authorised person" construed (1.01.2024) by *Circular Economy (Environmental Levy) (Plastic Bag) (No. 2) Regulations 2023* (S.I. No. 698 of 2022), reg. 19, in effect as per reg. 1(2)..

Application of section 14 of Act of 1996

19. The provisions of section 14 of the Act of 1996, in relation to authorised persons, shall apply in relation to an authorised officer under these Regulations.

C9 Reference to "authorised person" construed (28.11.2022) by *European Union (Extended Producer Responsibility) (Tobacco Filters Containing Plastic) Regulations 2022* (S.I. No. 609 of 2022), reg. 15.

Authorised Persons

15. An authorised person may exercise the powers conferred on such a person under section 14 of the Principal Act for the purposes of enforcing these Regulations and, accordingly, a reference in that Act includes a reference to these Regulations.

C10 Section applied with modifications (1.07.2008) by *Waste Management (Registration of Brokers and Dealers) Regulations 2008* (S.I. No. 113 of 2008), reg. 4(4), in effect as per reg. 1(2).

Designation of competent authority

4. ...

(4) Without prejudice to the powers conferred on the competent authority or its authorised officers by these Regulations, it is declared that the provisions of section 14 of the Act, subject to any modifications or adaptations as may be required, shall apply in relation to these Regulations.

C11 Section applied with modifications (12.07.2007) by *Waste Management (Shipments of Waste) Regulations 2007* (S.I. No. 419 of 2007), reg. 4(3), in effect as per reg. 1(2).

Designation of competent authority.

4. ...

(3) Without prejudice to the powers conferred on the competent authority or its authorised officers by the TFS Regulation and these Regulations it is declared that the provisions of section 14 of the Act, subject to any modifications or adaptations as may be required, shall apply in relation to these Regulations.

Editorial Notes:

E123 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E124 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E125 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E126 Offence under subs. (6) prescribed for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a), (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 41(d).

E127 Offence under subs. (6) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E128 Offence under subs. (6) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E129 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; as the only effect of this instrument was to amend S.I. No. 282 of 2006, it was rendered obsolete by its revocation, see below.

E130 Previous affecting provision: offence under subs. (6) prescribed (12.07.2004) for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a) by *Environmental Protection Agency (Licensing) (Amendment) Regulations 2004* (S.I. No. 394 of 2004), reg. 6(d), in effect as per reg. 2; revoked (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 42(1) and sch. 2, subject to transitional provision in para. (2).

E131 Previous affecting provision: pursuant to section exercised (1.04.2010, 1.06.2010, 1.12.2010, 10.04.2010, and 1.06.2015) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2010* (S.I. No. 143 of 2010), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E132 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2017) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

F68**[**Operation of CCTV for certain purposes

14A.— ...**]**

Annotations

Amendments:

F68 Inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 20(1), not commenced as of date of revision, subject to commencement requirement in subs. (2).

Modifications (not altering text):

C12 Prospective affecting provision: section inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 20(1), not commenced as of date of revision, subject to commencement requirement in subs. (2).

F68**[14A.**— (1) An authorised person may submit a proposal in accordance with *subsection (4)* for the installation and operation of closed circuit television in the functional area of, or any particular area within the functional area of, a local authority (in this Part referred to as "a CCTV scheme"), for the purposes of—

(*a*) deterring environmental pollution, and

(*b*) facilitating the deterrence, prevention, detection and prosecution of offences under this Act.

(2) A proposal made under *subsection (1)* shall include—

(*a*) details of the location, number and technical specification of the devices to be used in the CCTV scheme,

(*b*) details of the geographical areas to be covered by the CCTV scheme,

(*c*) a plan prepared in accordance with *subsection (3)* for the purposes of this paragraph in respect of the CCTV scheme, and

(*d*) such other matters referred to in the code of practice approved under *section 14C* in respect of the operation of this section that relate to the installation and operation of the CCTV scheme.

(3) A plan prepared for the purposes of *subsection (2)(c)*—

(*a*) shall contain details of the arrangements proposed in respect of—

(i) the monitoring, recording and disclosure of the images, sounds or documents, produced pursuant to the CCTV scheme, and

(ii) the preservation of recordings made and documents produced pursuant to that scheme,

(*b*) shall include a data protection impact assessment in respect of the CCTV scheme carried out in accordance with section 84 of the Data Protection Act 2018, and

(*c*) shall comply with—

(i) Part 5 of the Data Protection Act 2018, and

(ii) the code of practice approved under *section 14C* for the purposes of the operation of this section.

(4) A proposal under *subsection (1)* shall be submitted to the chief executive of the local authority in whose functional area, or part thereof, the proposed CCTV scheme is to operate and he or she shall decide whether or not to approve the proposal.

(5) Subject to *subsections (6)* to *(8)*, the chief executive—

(*a*) may approve, or approve, subject to such modifications, terms and conditions (if any) as he or she considers appropriate, a proposal submitted to him or her under this section, and

(*b*) where he or she approves a proposal, whether with or without modifications, terms and conditions, he or she shall specify the date on which the approval expires.

(6) In deciding whether or not to approve a proposal under *subsection (5)*, in considering what, if any, modifications, terms and conditions are appropriate and in specifying the date on which an approval is to expire, the chief executive shall consider the extent to which the proposal is proportionate to, and necessary for, the purposes referred to in *subsection (1)* and he or she shall not approve a proposal unless he or she is satisfied that the proposal is proportionate to, and necessary for, those purposes.

(7) Where the chief executive approves a proposal under *subsection (5)*—

(*a*) the approval shall—

(i) be in writing,

(ii) set out such modifications, terms and conditions (if any) as he or she considers appropriate, and

(iii) state the date on which the approval shall expire, and

(*b*) the CCTV scheme to which the approval relates shall be operated in accordance with the approval and with the code of practice approved under *section 14C* for the purposes of the operation of this section.

(8) Subject to *subsections (11)*, *(12)* and *(13)*, an approval given under *subsection (5)* shall expire not later than the date that is 5 years from the date on which the approval was given.

(9) The chief executive of a local authority in whose functional area, or part of whose functional area, an approved CCTV scheme is in operation and in respect of which an approval is in being—

(i) may, at any time, and

(ii) shall, not later than 5 years from the date on which the approval in respect of the CCTV scheme was given under *subsection (5)* and thereafter at intervals of not more than 5 years from the date of the immediately preceding review,

cause a review of the operation of that scheme to be carried out by an authorised person.

(10) An authorised person carrying out a review pursuant to this section shall consider—

(*a*) whether the approved CCTV scheme is being operated—

(i) in accordance with the approval in respect of the scheme, and

(ii) in compliance with the code of practice approved under *section 14C* for the purposes of the operation of this section,

(*b*) the extent to which the operation of the scheme during the period in respect of which the review is being conducted has been, and remains, successful, proportionate and necessary having regard to the purposes referred to in *subsection (1)*, and

(*c*) such other matters that he or she considers appropriate having regard to the purposes referred to in *subsection (1)*.

(11) Without prejudice to *subsection (12)*, following a review carried out under *subsection (10)*, the chief executive shall decide whether to—

(*a*) renew the approval given in respect of the scheme, subject to such modifications, terms and conditions, if any, as he or she considers appropriate, or

(*b*) revoke the approval,

and *subsections (6)* to *(10)* shall, with any necessary modifications, apply in respect of the decision of the chief executive under this subsection and, where renewed, the approval as so renewed.

(12) The chief executive may at any time revoke an approval where the CCTV scheme to which the approval relates has been operated otherwise than—

(*a*) in accordance with the approval, or

(*b*) in accordance with the code of practice for the time being approved under *section 14C* for the purposes of the operation of this section.

(13) Where, in relation to an approved CCTV scheme, it is proposed that there are to be changes to the scheme, other than repairs or modifications that do not alter the extent of the coverage of the scheme or the capability of the devices used in the scheme, an authorised person shall make a proposal under *subsection (1)* in respect of those changes and this section shall apply, with any necessary modifications, in respect of that proposal and where an approval is given in respect of that new proposal, the existing approval shall be revoked.

(14) Where an approval expires and is not renewed or is revoked by a chief executive under this section, the local authority shall, not later than one month after the date on which the approval expired or is revoked, as the case may be, terminate the operation of the CCTV scheme concerned.

(15) Notice of the approval, review or revocation of a proposal under this section shall be published on the website of the local authority concerned.

(16) In this section, "chief executive" has the same meaning as it has in section 2 of the Local Government Act 2001.**]**

Editorial Notes:

E133 The section heading is taken from the amending section in the absence of one included in the amendment.

F69**[**Operation of mobile recording device by authorised person for certain purposes

14B.— ...**]**

Annotations

Amendments:

F69 Inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 21(1), not commenced as of date of revision, subject to commencement requirement in subs. (2).

Modifications (not altering text):

C13 Prospective affecting provision: section inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 21(1), not commenced as of date of revision, subject to commencement requirement in subs. (2).

F69**[14B.**— (1) An authorised person acting in the course of his or her duties under this Act may, in accordance with this section and with the code of practice approved under *section 14C* for the purposes of the operation of this section, operate a mobile recording device for the purposes of—

(*a*) preventing, investigating, detecting or prosecuting offences under this Act, or

(*b*) ensuring his or her personal safety or security in preventing, investigating, detecting or prosecuting offences under this Act.

(2) The operation of a mobile recording device under *subsection (1)* must be necessary for, and proportionate to, the purpose for which it is operated.

(3) A mobile recording device shall be operated by an authorised person in accordance with the code of practice approved under *section 14C* for the purposes of the operation of this section.**]**

F70**[**Codes of practice for purposes of *sections 14A* and *14B*

14C.— (1) The Local Government Management Agency shall, as soon as practicable after the coming into operation of section 22 of the Act of 2022, prepare and submit to the Minister for his or her approval a draft code or codes of practice for the purposes of setting standards for the operation of each of *sections 14A* and *14B*.

(2) A draft code of practice referred to in *subsection (1)* shall, in respect of the section to which it relates, include provisions in relation to the following:

(*a*) the procedures and standards to be followed in the operation of the section including, where *section 14A* applies, in the installation of devices to be used in a CCTV scheme;

(*b*) confidentiality, security, storage, access to, retention, deletion and any other processing of, data gathered in accordance with the section;

(*c*) the circumstances in which data gathered under the section is to be disposed of or destroyed;

(*d*) the rights of data subjects in so far as they relate to the operation of the section concerned;

(*e*) such other matters, if any, related to the operation of the section that the Local Government Management Agency considers appropriate,

and the code or codes of practice may contain different provisions in relation to different types of devices or systems, in relation to different categories of persons and in relation to the different circumstances in which such devices or systems are operated.

(3) In preparing a draft code of practice under this section, the Local Government Management Agency—

(*a*) shall carry out or cause to be carried out on its behalf an assessment of the likely impact on data subjects of types of processing of personal data contemplated by *section 14A* or *14B*, as the case may be,

(*b*) shall ensure that the assessment referred to in *paragraph (a)* contains the following:

(i) a general description of the type of processing operations to which the assessment relates;

(ii) an assessment of the potential risks to the rights and freedoms of data subjects as a result of that processing;

(iii) a description of any safeguards, security measures or mechanisms proposed to be implemented by the local authority to mitigate any risk referred to in *subparagraph (ii)* and to ensure the protection of the personal data in relation to the types of processing contemplated by *section 14A* or *14B*, as the case may be, and

(*c*) shall ensure that the draft code takes account of the assessment referred to in *paragraph (a)*.

(4) Before submitting a draft code or codes of practice to the Minister under this section, the Local Government Management Agency—

(*a*) shall consult with—

(i) the Minister,

(ii) the Minister for Housing, Local Government and Heritage,

(iii) the Minister for Justice, and

(iv) the Data Protection Commission,

(*b*) shall provide the assessment referred to in *subsection (3)* to the persons referred to in *paragraph (a)* before consulting with those persons, and

(*c*) may consult with any other person or body appearing to the Local Government Management Agency to have an interest in the operation of *section 14A* or *14B* and such other person that the Minister may direct.

(5) The Minister may approve, with or without modifications, a code of practice submitted to him or her under this section.

(6) The Local Government Management Agency shall ensure that a code of practice approved by the Minister under this section is reviewed by it on a regular basis with the first review to be not later than 5 years from the date on which the code is first approved by the Minister, and, in the case of each subsequent review, not later than 5 years from the date of the previous review.

(7) The Local Government Management Agency shall consult with the persons referred to in *subsection (4)* when conducting a review under *subsection (6)*.

(8) The Minister shall be informed in writing by the Local Government Management Agency of the outcome of a review under *subsection (6)*.

(9) The Local Government Management Agency, following a review under *subsection (6)* or at any other time that it considers appropriate, may submit a further draft code of practice to the Minister to amend, revoke or replace, an existing code of practice, or to create a new code of practice or may request the Minister to renew the code which was the subject of the review.

(10) Subject to *subsection (11)*, *subsections (2)* to *(9)* shall apply in relation to a draft code of practice submitted to the Minister under *subsection (9)* or a request made under that subsection to renew an existing code of practice as they apply to a draft code of practice submitted to the Minister under *subsection (1)*.

(11) *Subsection (10)* shall not apply where the amendments being made to a code of practice are minor or technical only.

(12) A code of practice, renewed or approved, as the case may be, by the Minister under this section shall be laid before each House of the Oireachtas by the Local Government Management Agency and shall be published on a website maintained by or on behalf of the Minister or the Government.**]**

Annotations

Amendments:

F70 Inserted (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 22, S.I. No. 344 of 2023, art. 4(e).

F71[Admissibility of evidence obtained under *section 14*, *14A* or *14B*

14D.— ...]

Annotations

Amendments:

F71 Inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 23, not commenced as of date of revision.

Modifications (not altering text):

C14 Prospective affecting provision: section inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 23, not commenced as of date of revision.

F71[**14D.**— (1) Evidence obtained under *section 14*, *14A* or *14B*—

(*a*) may be admitted as evidence in criminal proceedings, and

(*b*) shall not require the device from which it was obtained to be exhibited in court proceedings.

(2) Nothing in *section 14*, *14A* or *14B* is to be construed as prejudicing the admissibility of information or material obtained otherwise than as a result of operating a recording device under the provisions of this Act.

(3) Information obtained as a result of the operation of an approved CCTV scheme may be admitted as evidence in criminal proceedings notwithstanding any error or omission on the face of the approval given in respect of the scheme concerned, if the court, having regard in particular to the matters specified in *subsection (4)*, decides that—

(*a*) the error or omission concerned was inadvertent, and

(*b*) the information ought to be admitted in the interests of justice.

(4) The matters referred to in *subsection (3)* are—

(*a*) whether the error or omission concerned was serious or merely technical in nature,

(*b*) the nature of any right infringed by the manner in which the information was obtained,

(*c*) whether there were circumstances of urgency relating to the giving of the approval, or

(*d*) the probative value of the information concerned.

(5) A failure to observe any provision of *section 14*, *14A* or *14B* or of any code of practice approved under *section 14C* on the part of any local authority or authorised person, shall not (without prejudice to the power of the court to exclude evidence) of itself affect the admissibility of any evidence thereby obtained.

(6) It shall be presumed, unless the contrary is shown, that—

(*a*) any device used in an approved CCTV scheme or any mobile recording device operated for the purposes of this Act is a device capable of producing accurate information or material without the necessity of proving that that device was in good working order,

(*b*) the information produced by the device, and any copies thereof, is accurate, and

(*c*) the device was operated in accordance with the relevant code of practice approved under *section 14C* in respect of its operation.

(7) A person who—

(*a*) falsifies, conceals, destroys or otherwise disposes of, information gathered by a recording device while it was or is being operated under this Act,

(*b*) permits the falsification, concealment, destruction or disposal, of such information, or

(*c*) knowingly causes damage to or destroys a recording device,

shall be guilty of an offence.

(8) A person shall not be guilty of an offence under *subsection (7)* where he or she—

(*a*) destroys or disposes, or

(*b*) permits the destruction or disposal, of information gathered by a recording device in accordance with a code of practice approved under *section 14C* or otherwise in accordance with law.**]**

Monitoring and inspection.

15.—(1) (*a*) Each local authority and the Agency shall carry out, or cause to be carried out, such monitoring of the nature, extent and effects of emissions to the environment arising from the holding, recovery or disposal of waste as it considers to be necessary for the performance of its functions under this Act.

F72**[**(*b*)(i) Establishments or undertakings which carry out waste treatment operations, establishments or undertakings which collect or transport waste on a professional basis, brokers and dealers, and establishments or undertakings which produce hazardous waste, shall be subject to appropriate periodic inspections by the local authorities, the Agency and Dublin City Council, as appropriate.

(ii) Inspections concerning collection and transport operations shall cover the origin, nature, quantity and destination of the waste collected and transported.

(iii) The authorities referred to in *subparagraph (i)* may take account of registrations obtained under the Community Eco-Management and Audit Scheme (in this Act referred to as "EMAS"), in particular regarding the frequency and intensity of inspections.**]**

F73**[**(1A) Each local authority and the Agency shall carry out, or cause to be carried out, such monitoring of compliance with environmental conditions attached to a waste licence under *section 41(2A)* or *section 41(2B)* as it considers to be necessary having regard to the nature, location and size of the activity and the significance of its effects on the environment.**]**

F72**[**(2)(*a*) The persons referred to in *section 39(1)*, the producers of hazardous waste and the establishments and undertakings which collect or transport hazardous waste on a professional basis, or act as dealers and brokers of hazardous waste, shall keep a chronological record of the quantity, nature and origin of the waste, and, where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste, and shall make that information available, on request, to the local authorities, the Agency or Dublin City Council, as appropriate.

(*b*) For hazardous waste, the records shall be preserved for at least 3 years (except in the case of establishments and undertakings transporting hazardous waste which shall keep such records for at least 12 months).

(*c*) Documentary evidence that the management operations have been carried out shall be supplied by the establishment or undertaking concerned at the request of the local authorities, the Agency or Dublin City Council, or of a previous holder, as appropriate.**]**

(3) (*a*) Where it appears necessary so to do for any purpose of this Act, a local authority or the Agency may require any person who holds or is in control of the recovery or disposal of any waste to carry out or arrange to have carried out such monitoring in relation to the activity concerned as the local authority or the Agency may specify and to keep and to supply to the local authority or the Agency such records of the said monitoring as the local authority or the Agency may specify.

(*b*) A person who fails to comply with a requirement under this subsection shall be guilty of an offence.

(4) Each local authority and the Agency shall, if so requested by the Minister, supply to the Minister or to any person specified by the Minister, at such intervals and in such manner as the Minister may require, records of any monitoring carried out under this section that are in its possession or control.

(5) Each local authority and the Agency shall carry out or take or cause to be carried out or taken such monitoring or other measures as it considers necessary to verify that any monitoring or records of such monitoring required by it under *subsection (3)* to be carried out or kept are being carried out or kept.

(6) Without prejudice to any other provisions of this Act, the Minister shall make regulations requiring the making of payments to the Agency or a local authority by any person holding, dealing in, or in control of the recovery or disposal of, waste for the purpose of defraying costs which may be incurred by the Agency or local authority in carrying out any monitoring or inspection or taking other measures under this section in relation to the activities aforesaid of that person.

(7) A defrayment, the payment of which is required under regulations under this section, shall be payable on demand and, in default of being so paid, shall be recoverable from the person concerned by the Agency or local authority concerned as a simple contract debt in any court of competent jurisdiction.

Annotations

Amendments:

F72 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 2011), reg. 6.

F73 Inserted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 7.

Modifications (not altering text):

C15 Application of subs. (2) restricted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 36 as substituted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 23.

[*Hazardous waste produced by households*

36. (1) By 1 January 2025, the Minister, the Agency or the local authorities in carrying out their respective functions under the Act of 1996, shall set up separate collection for hazardous waste fractions produced by households to ensure that they are treated in accordance with in accordance with sections 21A and 32(1) of the Act of 1996 and do not contaminate other municipal waste streams.

(2) Section 15(2) of the Act of 1996 and Regulations 33, 34, 35 and 45 shall not apply to mixed waste produced by households.

(3) Section 15(2) of the Act of 1996 and Regulations 35 and 45 shall not apply to separate fractions of hazardous waste produced by households until they are accepted for collection, disposal or recovery by an establishment or an undertaking which has obtained a waste licence or has been registered in accordance with section 39(1) of the Act of 1996 or Regulation 39.**]**

Editorial Notes:

E134 Power pursuant to section exercised (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023).

E135 Power pursuant to section exercised (16.01.2016) by *Waste Management (Collection Permit) (Amendment) Regulations 2016* (S.I. No. 24 of 2016).

E136 Offence under subs. (3) prescribed (24.07.2013) for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a), by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 41(d).

E137 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), in effect as per reg. 2.

E138 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), in effect as per reg. 1(2).

E139 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) (Amendment) Regulations 2008* (S.I. No. 87 of 2008).

E140 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008* (S.I. No. 86 of 2008).

E141 Power pursuant to section exercised (20.05.1998) by *Waste Management (Miscellaneous Provisions) Regulations 1998* (S.I. No. 164 of 1998), in effect as per reg. 1(2).

E142 Power pursuant to section exercised (20.05.1998) by *Waste Management (Hazardous Waste) Regulations 1998* (S.I. No. 163 of 1998), in effect as per reg. 2.

E143 Previous affecting provision; power pursuant to section exercised (14.02.2023) by *Waste Management (Collection Permit) (Amendment) Regulations 2023* (S.I. No. 63 of 2023); revoked (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023), reg. 8(1).

E144 Previous affecting provision: pursuant to section exercised (1.04.2010, 1.06.2010, 1.12.2010, 10.04.2010, and 1.06.2015) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2010* (S.I. No. 143 of 2010), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E145 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; as the only effect of this instrument was to amend S.I. No. 282 of 2006, it was rendered obsolete by its revocation, see below.

E146 Previous affecting provision: pursuant to section exercised (26.09.2008) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 376 of 2008), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 341 of 2005, see below.

E147 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E148 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2017) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E149 Previous affecting provision: offence under subs. (6) prescribed (12.07.2004) for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a) by *Environmental Protection Agency (Licensing) (Amendment) Regulations 2004* (S.I. No. 394 of 2004), reg. 6(d), in effect as per reg. 2; revoked (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 42(1) and sch. 2, subject to transitional provision in para. (2).

E150 Previous affecting provision: pursuant to section exercised (30.08.2001) by *Waste Management (Collection Permit) Regulations 2001* (S.I. No. 402 of 2001); revoked (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), art. 2(1) and sch. 1, in effect as per art. 1(2); subject to transitional provision in art. 2(2).

E151 Previous affecting provision: pursuant to section exercised (20.05.1998) by *Waste Management (Permit) Regulations 1998* (S.I. No. 165 of 1998), in effect as per reg. 1(2); revoked (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), art. 3(1) and sch. 1, in effect as per art. 2; subject to transitional provisions in art. 3(2), (3), and (4).

E152 Previous affecting provision: pursuant to section exercised (20.05.1998) by *Waste Management (Transfrontier Shipment of Waste) Regulations 1998* (S.I. No. 149 of 1998), in effect as per reg. 1(2); revoked (12.07.2007) by *Waste Management (Shipments of Waste) Regulations 2007* (S.I. No. 419 of 2007), reg. 12, in effect as per reg. 1(2).

E153 Previous affecting provision: pursuant to section exercised (20.05.1998) by *Waste Management (Movement of Hazardous Waste) Regulations 1998* (S.I. No. 147 of 1998), in effect as per reg. 1(2); revoked (31.12.2011) by *European Communities (Shipments of Hazardous Waste exclusively within Ireland) Regulations 2011* (S.I. No. 324 of 2011), reg. 19(2), in effect as per reg. 19(2).

Service of notices.

16.—(1) Any notice required to be served or given by or under this Act shall be addressed to the person concerned and served or given in one of the following ways—

(*a*) by addressing it to the person by name and delivering it to him or her,

(*b*) by leaving it at the address at which the person ordinarily resides,

(*c*) by sending it by post in a prepaid registered letter addressed to the person at the address at which he or she ordinarily resides,

(*d*) if an address for the service of notices has been furnished by the person, by leaving it at, or sending it by prepaid registered post addressed to him or her to, F74**[**that address,**]**

(*e*) where the address at which the person ordinarily resides cannot be ascertained by reasonable inquiry and notice is required to be served on, or given to, him or her in respect of any premises, by delivering it to a person over the age of 16 years of age resident in or employed on the premises, or by affixing it in a conspicuous position on or F74**[**near the premises, or**]**

F75**[**(*f*) by such other means as may be prescribed.**]**

(2) Where the name of the person concerned cannot be ascertained by reasonable inquiry, a notice under this Act may be addressed to "the occupier", "the owner" or "the person in charge", as the case may be.

(3) For the purposes of this section, a company registered under the Companies Acts, 1963 to 1990, shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body shall be deemed to be ordinarily resident at its principal office or place of business.

(4) A person shall not at any time during the period of 3 months after a notice is affixed under *subsection (1) (e)* remove, damage or deface the notice without lawful authority.

(5) A person who contravenes *subsection (4)* shall be guilty of an offence.

Annotations

Amendments:

F74 Substituted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 25(a) and (b), S.I. No. 498 of 2003.

F75 Inserted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 25(c), S.I. No. 498 of 2003.

Editorial Notes:

E154 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2017) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

Time for the doing of certain things: Saturdays, Sundays, public holidays, etc.

17.—(1) Where a provision of this Act, or of any regulation made under this Act, or of any notice served under this Act, enables representations or objections to be made, or requires documents, particulars or other information to be furnished, before the expiration of a specified period and the last day of the period is a Saturday, a Sunday, a public holiday (within the meaning of the Holidays (Employees) Act, 1973) or any other day on which the principal office of the local authority concerned or the Agency (as the case may be) is closed, the representations, objections, documents, particulars or other information (as the case may be) shall be regarded as having been received before the expiration of that period if received by the local authority or the Agency on the next following day on which the principal office of the local authority or the Agency is open.

(2) In this section "representations or objections" includes submissions and observations.

Information.

18.—(1) The Minister, a local authority or the Agency may, for any purpose relating to his or her or its functions under this Act, by the service of a notice in writing on the person, require—

(*a*) any holder of waste, or

(*b*) any person, engaged in the importation, exportation, production, collection, recovery or disposal of waste, or any related or ancillary activity, or

(*c*) any person acting as a waste broker or dealer, or

(*d*) the occupier or person in charge of any waste facility,

to maintain such records and to furnish in writing to the Minister, local authority or Agency, as the case may be, within such period (being not less than 14 days after the date of the service of the notice) and, if appropriate, thereafter at such frequency as may be specified in the notice, such particulars, as to—

(i) any activity or process as aforesaid or any facility concerned,

(ii) provision proposed to be made or made or measures taken for the importation, exportation, collection, recovery or disposal of any waste concerned,

(iii) the origin, type, quantity, nature, composition and properties of waste concerned, or

(iv) any other related or ancillary matter,

as may be so specified.

(2) A person who fails to comply with a notice under this section or who furnishes any information in reply to such a notice which he or she knows to be false or misleading in a material respect shall be guilty of an offence.

(3) The Minister shall make regulations requiring—

(*a*) a specified class or classes of person carrying on a specified class or classes of waste recovery or disposal activity, or

(*b*) a specified class or classes of holder or producer of a specified class or classes of waste,

to maintain specified records for a specified period or periods, and to provide or make available specified information, including evidence of specified matters, to a local authority, the Agency or any other specified person, at such frequency, under such circumstances and in such manner as may be specified.

(4) Information obtained under this section by a local authority, or any summary or compilation of, or any report based on, such information may, and shall if the Minister or the Agency so requests, be furnished to the Minister or the Agency, as the case may be.

(5) Each local authority and the Agency shall compile or otherwise obtain, and furnish to the Minister, such statistics or other information relating to any aspect of waste production and management, at such frequency, as may be specified in writing by the Minister.

(6) Where the Agency or a local authority brings proceedings against a person in respect of an offence under this Act, and the person is convicted of that offence, the Agency or the local authority, as the case may be, shall, as soon as may be after the conviction of the person, inform each local authority or, as the case may be, each other local authority and the Agency of the fact that the person has been so convicted, giving such details, as it thinks appropriate, of the nature of the offence.

(7) Where the Agency grants, effects the transfer or accepts the surrender of a waste licence, it shall (unless the holder of the licence or the transferee thereof is a local authority) within a period of 21 days thereafter inform the local authority in whose functional area the activity, the subject matter of the licence concerned, will be, or (as the case may be) is or has been, carried on, of that fact.

(8) A person who contravenes a provision of regulations under *subsection (3)* shall be guilty of an offence.

Annotations

Editorial Notes:

E155 Power pursuant to subs. (3) exercised (1.09.2023) by *Waste Management (Landfill Levy) (Amendment) Regulations 2023* (S.I. No. 398 of 2023), in effect as per reg. 1(2).

E156 Power pursuant to section exercised (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023).

E157 Power pursuant to subs. (3) exercised (12.04.2019) by *Waste Management (Landfill Levy) (Amendment) Regulations 2019* (S.I. No. 182 of 2019).

E158 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E159 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E160 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E161 Power pursuant to section exercised (30.06.2016) by *Waste Management (Collection Permit) (Amendment)(No.2) Regulations 2016* (S.I. No. 346 of 2016).

E162 Power pursuant to section exercised (16.01.2016) by *Waste Management (Collection Permit) (Amendment) Regulations 2016* (S.I. No. 24 of 2016).

E163 Power pursuant to subs. (3) exercised (1.06.2015) by *Waste Management (Landfill Levy) Regulations 2015* (S.I. No. 189 of 2015), in effect as per reg. 2.

E164 Power pursuant to section exercised (15.05.2015) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2015* (S.I. No. 198 of 2015).

E165 Power pursuant to section exercised (15.05.2015) by *Waste Management (Collection Permit) (Amendment) Regulations 2015* (S.I. No. 197 of 2015).

E166 Power pursuant to section exercised (7.05.2015) by *Waste Management (Food Waste) (Amendment) Regulations 2015* (S.I. No. 190 of 2015).

E167 Power pursuant to section exercised (7.07.2014) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2014* (S.I. No. 320 of 2014).

E168 Power pursuant to subs. (3) exercised (1.07.2013) by *Waste Management (Landfill Levy) (Amendment) Regulations 2013* (S.I. No. 194 of 2013), in effect as per reg. 2.

E169 Power pursuant to section exercised (10.12.2009) by *Waste Management (Food Waste) Regulations 2009* (S.I. No. 508 of 2009).

E170 Power pursuant to section exercised (27.07.2009) by *Waste Management (Prohibition of Waste Disposal By Burning) Regulations 2009* (S.I. No. 286 of 2009).

E171 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) (Amendment) Regulations 2008* (S.I. No. 87 of 2008).

E172 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008* (S.I. No. 86 of 2008).

E173 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), in effect as per reg. 2.

E174 Offences under subss. (2) and (8) prescribed as offences for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E175 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), in effect as per reg. 1(2).

E176 Offences under subss. (2) and (8) prescribed as offences for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E177 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

E178 Power pursuant to section exercised (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000).

E179 Power pursuant to section exercised (1.05.2000) by *Waste Management (Hazardous Waste) (Amendment) Regulations 2000* (S.I. No. 73 of 2000), in effect as per reg. 1(2).

E180 Power pursuant to section exercised (20.05.1998) by *Waste Management (Miscellaneous Provisions) Regulations 1998* (S.I. No. 164 of 1998), in effect as per reg. 1(2).

E181 Power pursuant to section exercised (20.05.1998) by *Waste Management (Hazardous Waste) Regulations 1998* (S.I. No. 163 of 1998), in effect as per reg. 2.

E182 Previous affecting provision; power pursuant to section exercised (14.02.2023) by *Waste Management (Collection Permit) (Amendment) Regulations 2023* (S.I. No. 63 of 2023); revoked (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023), reg. 8(1).

E183 Previous affecting provision: power pursuant to subs. (3) exercised (1.07.2013) by *Waste Management (Landfill Levy) (Amendment) Regulations 2013* (S.I. No. 194 of 2013), in effect as per reg. 2; rendered obsolete by revocation of S.I. No. 434 of 2011, see below.

E184 Previous affecting provision: power pursuant to subs. (3) exercised (1.07.2012) by *Waste Management (Landfill Levy) (Amendment) Regulations 2012* (S.I. No. 221 of 2012), in effect as per reg. 2; rendered obsolete by revocation of S.I. No. 434 of 2011, see below.

E185 Previous affecting provision: pursuant to section exercised (1.04.2010, 1.06.2010, 1.12.2010, 10.04.2010, and 1.06.2015) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2010* (S.I. No. 143 of 2010), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E186 Previous affecting provision: pursuant to subs. (3) exercised (1.09.2011) by *Waste Management (Landfill Levy) Regulations 2011* (S.I. No. 434 of 2011), in effect as per reg. 2; revoked (1.06.2015) by *Waste Management (Landfill Levy) Regulations 2015* (S.I. No. 189 of 2015), reg. 19(1), in effect as per reg. 2; subject to transitional provision in reg. 19(2).

E187 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 282 of 2006, see below.

E188 Previous affecting provision: power pursuant to section exercised (1.02.2010) by *Waste Management (Landfill Levy) (Amendment) Regulations 2010* (S.I. No. 31 of 2010), in effect as per reg. 2; rendered obsolete by revocation of S.I. No. 199 of 2008, see below.

E189 Previous affecting provision: power pursuant to section exercised (31.12.2009) by *Waste Management (Landfill Levy) Amendment Regulations 2009* (S.I. No. 550 of 2009), in effect as per reg. 2; rendered obsolete by revocation of S.I. No. 199 of 2008, see below.

E190 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E191 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2017) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E192 Previous affecting provision: power pursuant to section exercised (1.01.2008) by *Waste Management (Tyres and Waste Tyres) Regulations 2007* (S.I. No. 664 of 2007), in effect as per reg. 1(2); revoked (1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), in effect as per reg. 1(2).

E193 Previous affecting provision: pursuant to section exercised (15.12.2007 and 31.03.2008) by *Waste Management (Packaging) Regulations 2007* (S.I. No. 798 of 2007), in effect as per reg. 3; revoked (1.10.2017) by *Waste Management (Packaging) Regulations 2014* (S.I. No. 282 of 2014), reg. 36(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 36(2) and (3).

E194 Previous affecting provision: pursuant to section exercised (28.07.2006) by *Waste Management (Landfill Levy)(Amendment) Regulations 2006* (S.I. No. 402 of 2006); revoked (1.07.2008) by *Waste Management (Landfill Levy) Regulations 2008* (S.I. No. 199 of 2008), reg. 20, in effect as per reg. 2.

E195 Previous affecting provision: pursuant to section exercised (1.07.2008) by *Waste Management (Landfill Levy) Regulations 2008* (S.I. No. 199 of 2008), in effect as per reg. 2; revoked (1.09.2011) by *Waste Management (Landfill Levy) Regulations 2011* (S.I. No. 434 of 2011), reg. 19(1), in effect as per reg. 2; subject to transitional provision in reg. 19(2).

E196 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

E197 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

E198 Previous affecting provision: pursuant to section exercised (2.07.2002) by *Waste Management (Licensing) (Amendment) Regulations 2002* (S.I. No. 336 of 2002); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), reg. 2(1) and sch. 1, in effect as per reg. 1(2), subject to transitional provision in reg. 2(2).

E199 Previous affecting provision: pursuant to section exercised (13.03.2002) by *Waste Management (Landfill Levy) Regulations 2002* (S.I. No. 86 of 2002); revoked (1.07.2008) by *Waste Management (Landfill Levy) Regulations 2008* (S.I. No. 199 of 2008), reg. 20, in effect as per reg. 2.

E200 Previous affecting provision: pursuant to section exercised (30.08.2001) by *Waste Management (Collection Permit) Regulations 2001* (S.I. No. 402 of 2001); revoked (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), art. 2(1) and sch. 1, in effect as per art. 1(2); subject to transitional provision in art. 2(2).

E201 Previous affecting provision: pursuant to section exercised (23.08.2001) by *Waste Management (Licensing) (Amendment) Regulations 2001* (S.I. No. 397 of 2001); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), art. 2 and sch. 1, in effect as per art. 1(2).

E202 Previous affecting provision: pursuant to section exercised (20.05.1998) by *Waste Management (Permit) Regulations 1998* (S.I. No. 165 of 1998), in effect as per reg. 1(2); revoked (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), art. 3(1) and sch. 1, in effect as per art. 2; subject to transitional provisions in art. 3(2), (3), and (4).

E203 Previous affecting provision: pursuant to section exercised (20.05.1998) by *Waste Management (Movement of Hazardous Waste) Regulations 1998* (S.I. No. 147 of 1998), in effect as per reg. 1(2); revoked (31.12.2011) by *European Communities (Shipments of Hazardous Waste exclusively within Ireland) Regulations 2011* (S.I. No. 324 of 2011), reg. 19(2), in effect as per reg. 19(2).

E204 Previous affecting provision: power pursuant to section exercised (19.05.1998) by *Waste Management (Licensing) (Amendment) Regulations 1998* (S.I. No. 162 of 1998); rendered obsolete by revocation of S.I. No. 133 of 1997, see below.

E205 Previous affecting provision: pursuant to section exercised (27.03.1997) by *Waste Management (Licensing) Regulations 1997* (S.I. No. 133 of 1997); revoked (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000), reg. 50; subject to transitional provision in reg. 51.

Register to be maintained by each local authority and the Agency.

19.—(1) Each local authority and the Agency shall as soon as may be after the commencement of this section establish and maintain a register for the purposes of this Act, and shall make therein all such entries and additions as may, from time to time, be prescribed.

(2) A register under this section shall be kept at the principal office of the local authority concerned or the Agency, as the case may be, and shall be made available for inspection by any person during office hours.

(3) Where a request is made to a local authority or the Agency for a copy of an entry in the register maintained by it under this section, the authority or the Agency, as the case may be, shall issue such a copy to the applicant on, if it so requires, the payment by the applicant to it of a fee of such an amount (not exceeding the reasonable cost of making the copy) as it may determine.

(4) Every document purporting to be a copy of an entry in a register maintained by a local authority or the Agency under this section and purporting to be certified by an officer of the local authority or the Agency to be a true copy of the entry shall, without proof of the signature of the person purporting so to certify or that he or she was such an officer, be received in evidence in any legal proceedings and shall, until the contrary is proved, be deemed to be a true copy of the entry and to be evidence of the terms of the entry.

(5) Evidence of an entry in a register under this section may be given by production of a copy thereof certified pursuant to this section and it shall not be necessary to produce the register itself.

(6) A local authority shall notify, in such manner and at such times as may be prescribed, the Agency of such particulars entered in a register maintained by it under this section as may be prescribed.

(7) (*a*) A local authority or the Agency may keep a register under this section otherwise than in legible form so that the register is capable of being used to make a legible copy or reproduction of any entry in the register.

(*b*) References in the preceding provisions of this section to a copy of an entry in a register under this section shall be construed as including references to such a legible copy or reproduction.

Annotations

Editorial Notes:

E206 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E207 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E208 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E209 Power pursuant to section exercised (1.10.2017) by *Waste Management (Farm Plastics) (Amendment) Regulations 2017* (S.I. No. 396 of 2017), in effect as per reg. 2.

E210 Power pursuant to section exercised (30.06.2016) by *Waste Management (Collection Permit) (Amendment)(No.2) Regulations 2016* (S.I. No. 346 of 2016).

E211 Power pursuant to section exercised (16.01.2016) by *Waste Management (Collection Permit) (Amendment) Regulations 2016* (S.I. No. 24 of 2016).

E212 Additional entries for register maintained under section prescribed (21.06.2014) by *European Union (Packaging) Regulations 2014* (S.I. No. 282 of 2014), reg. 26, in effect as per reg. 3.

E213 Additional entries for register maintained under section prescribed (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 17(1), in effect as per reg. 3.

E214 Additional entries for register maintained under section prescribed (1.03.2010) by *Waste Management (Registration of Sewage Sludge Facility) Regulations 2010* (S.I. No. 32 of 2010), reg. 4, in effect as per reg. 1(2).

E215 Additional entries for register maintained under section prescribed (1.07.2008) by *Waste Management (Registration of Brokers and Dealers) Regulations 2008* (S.I. No. 113 of 2008), reg. 5, in effect as per reg. 1(2).

E216 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), in effect as per reg. 2.

E217 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) (Amendment) Regulations 2008* (S.I. No. 87 of 2008).

E218 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008* (S.I. No. 86 of 2008).

E219 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), in effect as per reg. 1(2).

E220 Power pursuant to section exercised (1.07.2006) by *Waste Management (Packaging) (Amendment) Regulations 2006* (S.I. No. 308 of 2006), in effect as per reg. 1(2).

E221 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

E222 Power pursuant to section exercised (1.03.2003) by *Waste Management (Packaging) Regulations 2003* (S.I. No. 61 of 2003), in effect as per reg. 3.

E223 Power pursuant to section exercised (23.07.2001) by *Waste Management (Farm Plastics) Regulations 2001* (S.I. No. 341 of 2001), in effect as per reg. 1(2).

E224 Power pursuant to section exercised (30.04.1997) by *Waste Management (Register) Regulations 1997* (S.I. No. 183 of 1997).

E225 Previous affecting provision: pursuant to section exercised (1.04.2010, 1.06.2010, 1.12.2010, 10.04.2010, and 1.06.2015) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2010* (S.I. No. 143 of 2010), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E226 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 282 of 2006, see below.

E227 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E228 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2017) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E229 Previous affecting provision: pursuant to section exercised (15.12.2007 and 31.03.2008) by *Waste Management (Packaging) Regulations 2007* (S.I. No. 798 of 2007), in effect as per reg. 3; revoked (21.06.2014) by *European Union (Packaging) Regulations 2014* (S.I. No. 282 of 2014), reg. 36(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 36(2) and (3).

E230 Previous affecting provision: power pursuant to section exercised (1.01.2008) by *Waste Management (Tyres and Waste Tyres) Regulations 2007* (S.I. No. 664 of 2007), in effect as per reg. 1(2); revoked (1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), in effect as per reg. 1(2).

E231 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

E232 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

E233 Previous affecting provision: pursuant to section exercised (2.07.2002) by *Waste Management (Licensing) (Amendment) Regulations 2002* (S.I. No. 336 of 2002); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), reg. 2(1) and sch. 1, in effect as per reg. 1(2), subject to transitional provision in reg. 2(2).

E234 Previous affecting provision: pursuant to section exercised (30.08.2001) by *Waste Management (Collection Permit) Regulations 2001* (S.I. No. 402 of 2001); revoked (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), art. 2(1) and sch. 1, in effect as per art. 1(2); subject to transitional provision in art. 2(2).

E235 Previous affecting provision: pursuant to section exercised (20.05.1998) by *Waste Management (Permit) Regulations 1998* (S.I. No. 165 of 1998), in effect as per reg. 1(2); revoked (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), art. 3(1) and sch. 1, in effect as per art. 2; subject to transitional provisions in art. 3(2), (3), and (4).

E236 Previous affecting provision: pursuant to section exercised (1.08.1997) by *Waste Management (Farm Plastics) Regulations 1997* (S.I. No. 315 of 1997), in effect as per reg. 1(2); revoked (23.07.2001) by *Waste Management (Farm Plastics) Regulations 2001* (S.I. No. 341 of 2001), reg. 31, in effect as per reg. 1(2); subject to transitional provision in reg. 32.

E237 Previous affecting provision: pursuant to section exercised (1.07.1997) by *Waste Management (Packaging) Regulations 1997* (S.I. No. 242 of 1997), in effect as per reg. 3; revoked (1.03.2003) by *Waste Management (Packaging) Regulations 2003* (S.I. No. 61 of 2003), reg. 29, in effect as per reg. 3; subject to transitional provisions in reg. 30.

Expenses.

20.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Transfer of functions from local authorities to Agency, etc.

21.—(1) The Minister may, following consultation with the Agency, where he or she is satisfied that any function conferred on a local authority by this Act could be more effectively performed by the Agency in lieu of being performed by that authority, by regulations provide that the function shall be performed by the Agency with effect from a date specified in the regulations.

(2) Whenever regulations under *subsection (1)* are in force in relation to a particular function, a reference in this Act to a local authority shall, where appropriate, be construed as a reference to the Agency and the function to which the regulations relate shall be a function of the Agency.

(3) The Minister may, where he or she is satisfied that any function conferred on a local authority by this Act could, as respects the functional area of the corporation of a borough (other than a county borough), or the council of an urban district, that is situate in the functional area of that local authority, be more effectively performed by the said corporation or council in lieu of being performed by that authority, by regulations provide that the said function shall, with effect from a date specified in the regulations, be performed, as respects the first-mentioned functional area, by the said corporation or, as the case may be, council.

(4) Whenever regulations under *subsection (3)* are in force in relation to a particular function, a reference in this Act to a local authority shall, where appropriate, be construed as a reference to the corporation of the borough or the council of the urban district to which the regulations relate and the function to which the regulations relate shall be a function of the said corporation or council.

(5) Regulations under this section may contain such incidental, supplementary, consequential and transitional provisions (including provisions modifying and applying any provision of this Act or of any other enactment) as appear to the Minister to be necessary for the purpose or in consequence of, or to give full effect to, the regulations.

F76**[**Waste hierarchy.

21A.— (1) The following waste hierarchy shall apply as a priority order in waste prevention and management legislation and policy:

(*a*) prevention;

(*b*) preparing for re-use;

(*c*) recycling;

(*d*) other recovery (including energy recovery); and

(*e*) disposal.

(2)(*a*) When applying the waste hierarchy referred to in *subsection (1)*, the Minister, the Agency and the local authorities, in carrying out their respective functions under this Act, shall take measures to encourage the options that deliver the best overall environmental outcome.

(*b*) Such measures may require specific waste streams departing from the hierarchy where this is justified by life-cycle thinking on the overall impacts of the generation and management of such waste.

(3) The Minister shall ensure that the development of waste legislation and policy is a fully transparent process, observing existing national rules about the consultation and involvement of citizens and stakeholders.

(4) In carrying out their respective functions under this Act and related waste management legislation and policy, the Minister, the Agency and the local authorities shall take into account the general environmental protection principles of precaution and sustainability, technical feasibility and economic viability, protection of resources as well as the overall environmental, human health, economic and social impacts, in accordance with Article 1 of the Waste Directive and *section 32(1)*.**]**

F77**[**(5) The Minister shall make use of economic instruments and other measures to provide incentives for the application of the waste hierarchy, such as those indicated in the *Sixth Schedule* or other appropriate instruments and measures.**]**

F77**[**(6) In order to contribute to the objectives laid down in Directives 2000/53/EC on the end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment, the Minister may also make use of the economic instruments and measures referred to under *sub-paragraph (5)* and indicated in the *Sixth Schedule*.**]**

Annotations

Amendments:

F76 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 7.

F77 Inserted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 8.

PART II

Waste Management Planning

Waste management plans.

22.—(1) In this section—

"relevant period" means the period beginning on the date of making of the waste management plan concerned or, as the case may be, the date on which the F78**[**last evaluation**]** of the said plan under *subsection (4)* was completed and ending on the date on which the local authority or authorities concerned expect to complete or, as may be appropriate, to next complete, F78**[**an evaluation**]** of the plan under that subsection;

F79**[**"revise", in relation to a waste management plan, includes a review of the plan;**]**

"waste management plan" includes, where the context admits, a replacement waste management plan under *subsection (4)* F80**[**...**]**.

F81**[**(2)(*a*) Subject to *subsection (3)* and *section 24*, in order that plans in combination cover the entire geographical territory of the State, each local authority shall make a waste management plan for non-hazardous waste in relation to its functional area.

(*b*) The Agency, shall, in accordance with *section 26*, establish such a plan for the State in respect of hazardous waste.

(*c*) The plans shall—

(i) lay down measures to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of waste and by reducing overall impacts of resource use and improving the efficiency of such use,

(ii) be in accordance with the waste hierarchy set out in *section 21A*,

(iii) meet the protection of human health and the environment obligations set out in *section 32(1)*, and

(iv) meet the principles of self-sufficiency and proximity set out in *section 37A*.

(*d*) Waste management plans and the hazardous waste management plan in existence at the commencement of the Regulations of 2011 shall be evaluated by 31 December 2012 and, consequent on any such evaluation, where appropriate, be revised to be brought into line with the requirements of the Waste Directive.

(3) Two or more local authorities may, in lieu of each of them making a waste management plan, jointly make a plan (in this Act also referred to as a "waste management plan") as respects their functional areas with regard to the matters specified in *subsection (2)*.

(4) A local authority or, in the case of a waste management plan under *subsection (3)*, the 2 or more local authorities concerned, shall ensure that a waste management plan made by it or them from time to time as occasion may require is evaluated at least once in each period of 6 years after the date of making of the plan and may, consequent on such an evaluation, where appropriate, make, in accordance with Article 9 of the Waste Directive, Regulation 31 of the Regulations of 2011 and *section 23*, any revisions to the plan or replace it with a new waste management plan as it or they thinks or think fit.**]**

(5) A local authority shall, before it commences the preparation of any of the following, namely, a waste management plan under *subsection (2)* or *(3)*, a F82**[**revision**]** of, or a replacement for, such a plan under *subsection (4)* or a replacement for such a plan in compliance with a requirement made by the Minister under *section 24*, cause notice of its intention to commence such preparation to be published in a newspaper circulating in its functional area and such a notice shall state that written representations in relation to the matter may be made to the local authority within a specified period, being a period of not less than 2 months from the date of publication of the notice.

F83**[**(6)(*a*) A waste management plan shall—

(i) set out an analysis of the current waste management situation in the geographical entity concerned (if regional, for example, for the region),

(ii) set out the measures to be taken to improve environmentally sound preparing for re-use, recycling, recovery and disposal of waste, and

(iii)(I) set out an evaluation of how the plan will support the implementation of the objectives and provisions of the Waste Directive,

(II) set out such measures or arrangements as are to be taken or entered into by the local authority or local authorities,with a view to securing the objectives of the plan, and

(III) with regard to hazardous waste, cover the matters specified in *subsection (8)* in so far as they relate to its functional area.

F84**[**(*b*) A waste management plan shall contain, as appropriate, and taking into account the geographical level and coverage of the planning area, at least the following:

(i)(I) the type, quantity and source of waste generated within the territory, the waste likely to be shipped from or to the national territory, and an evaluation of the development of waste streams in the future; and

(II) a requirement that, in order to fulfil this obligation, liaison shall be undertaken, as appropriate, with the Minister, the Agency, Dublin City Council and other relevant local authorities;

(ii) existing major disposal and recovery installations, including any special arrangements for waste oils, hazardous waste, waste containing significant amounts of critical raw materials, or waste streams addressed by specific Union legislation;

(iii) an assessment of the need for closure of existing waste installations, and for additional waste installation infrastructure in accordance with *section 37A*. The Minister shall ensure that an assessment of the investments and other financial means, including for local authorities, required to meet those needs is carried out. This assessment shall be included in the relevant waste management plans or in other strategic documents covering the entire territory of the State;

(iv) information on the measures to attain the objective laid down in Article 5(3a) of Directive 1999/31/EC or in other strategic documents covering the entire territory of the Member State concerned;

(v) an assessment of existing waste collection schemes, including the material and territorial coverage of separate collection and measures to improve its operation, of any derogations granted in accordance with Article 10(3) of the Waste Directive, and of the need for new collection schemes;

(vi) sufficient information on the location criteria for site identification and on the capacity of future disposal or major recovery installations, if necessary;

(vii) general waste management policies, including planned waste management technologies and methods, or policies for waste posing specific management problems;

(viii) measures to combat and prevent all forms of littering and to clean up all types of litter;

F85**[**(ix) appropriate qualitative or quantitative indicators and targets, including in respect of any or all of the following:

(I) the quantity of generated waste and its treatment;

(II) municipal waste that is disposed of or subject to energy recovery;

(III) the use of products and materials that have been re-used, re-manufactured or repaired, or any combination thereof;**]**

(x) information as respects the integration and implementation of measures consequential on, or incidental to, the requirements of *section 27A* in relation to waste prevention programmes;

(xi) the measures taken by the Minister to give effect to Article 22 of the Waste Directive in relation to bio-waste.**]**

(*c*) A waste management plan may contain, taking into account the geographical level and coverage of the planning area, the following:

(i) organisational aspects related to waste management including a description of the allocation of responsibilities between public and private actors carrying out the waste management;

(ii) an evaluation of the usefulness and suitability of the use of economic and other instruments in tackling various waste problems, taking into account the need to maintain the smooth functioning of the internal market;

(iii) the use of awareness campaigns and information provision directed at the general public or at a specific set of consumers.

F84**[**(*d*) Waste management plans shall conform to the waste planning requirements laid down in Article 14 of European Parliament and Council Directive 94/62/EC of 20 December 1994 on packaging and packaging waste, and the strategy for the implementation of the reduction of biodegradable waste going to landfills, referred to in Article 5 of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste as well as national legislation and policy on biodegradable waste.**]]**

(7) Without prejudice to the generality of *subsection (6)*, a waste management plan shall, subject to such regulations as may be made by the Minister for the purposes of this section, include information on or otherwise have regard to—

(*a*) the policies and objectives, and the priorities respectively assigned to them, of the local authority or authorities concerned in relation to assisting the

prevention and minimisation of waste and in relation to the management generally of activities carried on by it or them or other persons as respects the collection, recovery and disposal of waste within its or their functional area or areas;

(*b*) the measures which—

(i) will be taken during the relevant period by the local authority or authorities concerned, and

(ii) in so far as the local authority or authorities concerned can determine, will or may be taken during the relevant period by persons other than such authority or authorities,

for the purpose of preventing or minimising the production of waste;

(*c*) F86**[**...**]**

(*d*) F86**[**...**]**

(*e*) facilities, plant and equipment which the local authority or authorities concerned expect to be available or, in its or their opinion, will be required to be available for the collection, recovery or disposal of waste in its or their functional area or areas during the relevant period and matters relevant to the selection of sites in respect of facilities aforesaid;

(*f*) general requirements of a technical or other nature applicable to the collection, recovery and disposal of waste and the aftercare of facilities used for the disposal of waste;

(*g*) the steps to be taken generally by the local authority or authorities concerned to enforce the provisions of this Act in its or their functional area or areas;

(*h*) the identification of sites at which waste disposal or recovery activities have been carried on, the assessment of any risk of environmental pollution arising as a result of such activities, measures proposed to be taken, or, where such an assessment has already been made measures taken, in order to prevent or limit any such environmental pollution, the identification of necessary remedial measures in respect of such sites, and measures proposed to be taken, or, where such measures have already been identified, measures taken, to achieve such remediation, having regard to the cost-effectiveness of available remediation techniques;

(*i*) any incidental and ancillary matters;

(*j*) such other matters as may be prescribed.

(8) There shall be included in a waste management plan, but separate from the other information contained in the plan, information as respects the implementation of measures consequential on, or incidental to, the provisions of the hazardous waste management plan or any recommendations made by the Agency under *section 26 (6)*.

F87**[**(8 bis.) F88**[**...**]]**

F85**[**(9) The Minister may make regulations relating to any matter to be set out or addressed in a waste management plan.**]**

F89**[**(10) (*a*) On and from the passing of the Waste Management (Amendment) Act, 2001, but without prejudice to *paragraph (c)*, the duties of a local authority under this section with respect to the making of a waste management plan shall be carried out by the manager of the authority and, accordingly, the making of such a plan shall be an executive function.

(*b*) For the avoidance of doubt, the waste management plans to which *paragraph (a)* applies include such a plan which a local authority indicated its intention,

before the passing of the Waste Management (Amendment) Act, 2001, to make jointly with one or more other local authorities but which plan it subsequently (but before the said passing) decided not to make.

(*c*) Where in the opinion of the manager of a local authority a waste management plan purporting to be made, before the passing of the Waste Management (Amendment) Act, 2001, by the authority jointly with one or more other local authorities is invalid because the decision of the authority purporting to make the plan, expressly or by implication, qualifies its assent to the plan—

(i) by making its assent to the plan subject to one or more conditions being satisfied, or

(ii) by the authority purporting to reserve to itself a power to vary the plan, otherwise than pursuant to the powers conferred on it in that behalf by this section, or

(iii) in any other respect whatsoever,

the manager shall, not later than the date prescribed for the purposes of *subsection (2)*, by order—

(I) declare that he or she is of that opinion, and

(II) make the said plan,

and the said plan, as so made, shall, accordingly, be deemed for all purposes to be the waste management plan made by the local authority, but without prejudice to any steps taken by that or any other local authority, before the date of the making of the said order, pursuant to the terms of the said plan as purported to be jointly made by those local authorities.

F90**[**(*d*) On and from the commencement of section 26(2)(b) of the Protection of the Environment Act 2003, F91**[**the evaluation, revision**]** or replacement of a waste management plan shall be an executive function.**]**

(*e*) F92**[**...**]**

(*f*) F92**[**...**]**

(*g*) A local authority shall not, by resolution, under section 3 or 4 of the City and County Management (Amendment) Act, 1955, or section 179 of the Planning and Development Act, 2000, give a direction that works not be proceeded with or require any act, matter or thing to be done or effected where the effect of such direction or requirement would be contrary to, or inconsistent with, any provision (including any objective contained therein) of a waste management plan or would limit or restrict the proper implementation of such a provision and any resolution purporting to be passed under the said section 3, 4 or 179 which contravenes this paragraph shall be void.

F93**[**(10A) (*a*) The development plan for the time being in force in relation to the functional area of a local authority shall be deemed to include the objectives for the time being contained in the waste management plan in force in relation to that area.

(*b*)(i) In the event of there being a conflict between an objective deemed to be included in a development plan by virtue of *paragraph (a)* (the "firstmentioned objective") and an objective otherwise included in the development plan (the "second-mentioned objective"), the first-mentioned objective shall override the second-mentioned objective, irrespective of whether or not the development plan is subsequent to the waste management plan referred to in that paragraph.

(ii) A reference in *subparagraph (i)* to—

(I) an objective deemed to be included in a development plan by virtue of *paragraph (a)* shall be construed as including a reference to an objective deemed to be included in a development plan by virtue of this subsection before the amendment of it by *section 26* of the *Protection of the Environment Act 2003*,

(II) an objective otherwise included in a development plan shall be construed as including a reference to an objective otherwise included in a development plan before the amendment of this subsection by that *section 26*.

(10AA) An application for permission under Part III of the Planning and Development Act 2000 shall not be refused by a planning authority or An Bord Pleanála solely on the ground that the development to which the application relates is not specifically referred to in the waste management plan in force in relation to the functional area of the planning authority if the planning authority or the Board, as the case may be, considers the development will facilitate the achievement of the objectives of that waste management plan.**]**

(10B) (*a*) Where a planning authority proposes to grant permission under Part III of the Planning and Development Act, 2000, for development which is consistent with the provisions (including any objectives contained therein) of, and is necessary for the proper implementation of, the waste management plan in force in relation to the authority's functional area, but, in the opinion of the manager of the authority, would contravene materially any other objective of the development plan in force in relation to that area, the manager shall—

(i) publish notice of the intention of the authority to grant the permission in one or more newspapers circulating in that area,

(ii) give a copy of the notice to the applicant for permission and to any person who has made a submission or observation in writing in relation to the development to which the application relates in accordance with any regulations made under the Planning and Development Act, 2000.

(*b*) Any submission or observation in writing in relation to the making of a decision to grant the permission concerned which is received by the planning authority not later than 4 weeks after the publication of the notice in accordance with *paragraph (a)* shall be considered by the manager of the authority.

(*c*) Following consideration of any submissions or observations received in accordance with *paragraph (b)*, the manager of the planning authority may, subject to, and in accordance with, the provisions of the Planning and Development Act, 2000 (apart from the amendments of them effected by this section), decide to grant the permission, with or without conditions, or to refuse the permission.

(*d*) Section 34(6) of the Planning and Development Act, 2000, shall not apply to applications for permission referred to in paragraph (*a*).

(*e*) Notwithstanding section 34(8) of the Planning and Development Act, 2000, where a notice referred to in *paragraph (a)* is published in relation to an application for permission for development, the manager of the planning authority concerned shall make his or her decision in relation to the application within the period of 8 weeks beginning on the day on which the notice is first published.

(10C) (F94**[***a***]**) Where development which is consistent with the provisions (including any objectives contained therein) of, and is necessary for the proper implementation of, the waste management plan in force in relation to the area concerned but, in the opinion of the manager of the authority, would contravene materially any other objective of the development plan in force in relation to the area concerned, is proposed to be carried out by—

(F94**[**i**]**) a local authority that is a planning authority, or

(F94**[**ii**]**) some other person on behalf of, or jointly or in partnership with such a local authority, pursuant to a contract entered into by that local authority,

within the functional area of the authority (hereafter in this section referred to as "proposed development"), the manager shall publish notice of the intention of the authority to carry out the proposed development in one or more newspapers circulating in that functional area.

(F94**[***b***]**) Any submission or observation in writing in relation to the proposed development which is received by the planning authority not later than 4 weeks after the publication of the notice in accordance with *paragraph (a)* shall be considered by the manager of the authority.

(F94**[***c***]**) Following consideration of any submissions or observations received in accordance with *subsection (2)*, the manager may—

(F94**[**i**]**) notwithstanding the fact that the proposed development would materially contravene the development plan, decide to proceed with the proposed development, with or without modifications (and, where he or she so decides, he or she shall follow the relevant procedures contained in section 175 or 179 of the Planning and Development Act, 2000, as appropriate), or

(F94**[**ii**]**) decide not to proceed with the proposed development.**]**

F95**[**(10D) (*a*) In performing their functions under the Planning and Development Acts 2000 to 2002, and, in particular, their functions under Part III and sections 175 and 179 of the Planning and Development Act 2000, planning authorities and An Bord Pleanála shall ensure that such measures as are reasonably necessary are taken to secure appropriate provision for the management of waste (and, in particular, recyclable materials) within developments, including the provision of facilities for the storage, separation and collection of such waste (and, in particular, such materials) and the preparation by the appropriate persons of suitable plans for the operation of such facilities.

(*b*) The Minister may issue guidelines as to the steps that may be taken to comply with this subsection.**]**

(11) In making or F96**[**evaluating**]** a waste management plan, the local authority or authorities concerned shall have regard to the proper planning and development of its or their functional area or areas and shall, for this purpose, have regard to the provisions of—

(*a*) the development plan or plans and any special amenity area order made under the Act of 1963,

(*b*) a water quality management plan made under the Local Government (Water Pollution) Acts, 1977 and 1990, and

(*c*) an air quality management plan made under the Air Pollution Act, 1987,

for the time being in force in relation to the said area or areas.

(12) A local authority shall take such steps as are appropriate and necessary to attain in relation to its functional area the objectives in a waste management plan made by the authority (whether such plan has been made by the authority or jointly by the authority with another local authority or other local authorities).

(13) The corporation of a borough (not being a county borough) or the council of an urban district shall, in the performance by it of any functions in relation to waste

management, have regard to the provisions of a waste management plan made by the council of the county in whose functional area the borough or urban district is situate.

(14) F97**[**...**]**

Annotations

Amendments:

F78 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 8(a)(ii).

F79 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 8(a)(i).

F80 Deleted (8.09.2003) by *Protection of the Environment Act 2003* (27/2003), s. 26(2)(a), S.I. No. 393 of 2003.

F81 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 8(b).

F82 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 8(c).

F83 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 8(d).

F84 Substituted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 9(1), (2).

F85 Substituted (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 24(a), (b), S.I. No. 344 of 2023, art. 4(f).

F86 Deleted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 8(e).

F87 Inserted (1.07.2008) by *Waste Management (Registration of Brokers and Dealers) Regulations 2008* (S.I. No. 113 of 2008), reg. 19(3), in effect as per reg. 1(2).

F88 Deleted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 8(f).

F89 Substituted and inserted (17.07.2001) by *Waste Management (Amendment) Act 2001* (36/2001), s. 4, commenced on enactment.

F90 Substituted (8.09.2003) by *Protection of the Environment Act 2003* (27/2003), s. 26(2)(b), S.I. No. 393 of 2003.

F91 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 8(g).

F92 Deleted (8.09.2003) by *Protection of the Environment Act 2003* (27/2003), s. 26(2)(b), S.I. No. 393 of 2003.

F93 Substituted and inserted (8.09.2003) by *Protection of the Environment Act 2003* (27/2003), s. 26(2)(c), S.I. No. 393 of 2003.

F94 Substituted (8.09.2003) by *Protection of the Environment Act 2003* (27/2003), s. 27(2) and (3), S.I. No. 393 of 2003.

F95 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 26(2)(d), S.I. No. 393 of 2004.

F96 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 8(h).

F97 Deleted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 8(i).

Modifications (not altering text):

C16 Reference in subs. (10C) construed (8.09.2003) by *Protection of the Environment Act 2003* (27/2003), s. 27(2)-(4), S.I. No. 393 of 2003.

Further amendment of section 22 of Act of 1996: minor textual corrections.

27.—...

"relevant subsection" means subsection (10C) (inserted by the Act of 2001) of section 22 of the Act of 1996.

(2) Each division of the relevant subsection prefixed with the figure "1", "2" or "3" in brackets shall be read and operate, and be construed as always having been intended to be read and operate, as a paragraph prefixed with, as appropriate, the letter "a", "b" or "c" in brackets.

(3) Each subdivision of a foregoing division, being the division prefixed with the figure "1" or "3" in brackets, shall be read and operate, and be construed as always having been intended to be read and operate, as a subparagraph prefixed with, as appropriate, the figure "i" or "ii" in brackets.

(4) The reference in the relevant subsection, in the third division thereof, to "subsection (2)" shall be read, and be construed as always having been intended to be read, as a reference to "paragraph (*b*)".

Editorial Notes:

E238 Power pursuant to section exercised (14.09.2001) by *Waste Management (Prescribed Date) Regulations 2001* (S.I. No. 390 of 2001).

E239 Power pursuant to section exercised (20.05.1998) by *Waste Management (Miscellaneous Provisions) Regulations 1998* (S.I. No. 164 of 1998), in effect as per reg. 1(2).

E240 Power pursuant to section exercised (27.03.1997) by *Waste Management (Planning) Regulations 1997* (S.I. No. 137 of 1997).

E241 Previous affecting provision: subs. (8bis) inserted (1.07.2008) by *Waste Management (Registration of Brokers and Dealers) Regulations 2008* (S.I. No. 113 of 2008), reg. 19(3), in effect as per reg. 1(2); deleted as per F-note above.

E242 Previous affecting provision: power pursuant to section exercised (14.09.2001) by *Waste Management Act 1996 (Prescribed Date) Order 2001* (S.I. No. 345 of 2001); superseded (14.09.2001) by *Waste Management (Prescribed Date) Regulations 2001* (S.I. No. 390 of 2001).

E243 Previous affecting provision: subs. (1) amended (17.07.2001) by *Waste Management (Amendment) Act 2001* (36/2001), s. 5, commenced on enactment; subsection further amended as per F-note above.

Publication of notices in relation to waste management plans and procedure on review of such plans.

23.—(1) Where a local authority proposes to make, under *subsection (2)* or *(3)* of *section 22*, F98**[**or to revise**]** or replace under *subsection (4)* of that section, or to replace in compliance with a requirement made by the Minister under *section 24*, a waste management plan ("the plan"), the local authority shall cause to be published in at least one newspaper circulating in its functional area a notice of the proposal to F98**[**make, revise**]** or replace, as the case may be, the plan, and shall submit a copy of the proposed plan or, as the case may be, the proposed F98**[**revision**]** of the plan, to the Minister, the Agency and such other persons as may be prescribed.

(2) A notice under *subsection (1)* shall state that—

(*a*) a copy of the proposed plan or, as the case may be, F98**[**the proposed revision**]** of the plan may—

(i) be inspected at a specified place and at specified times during a specified period, being a period of not less than 2 months from the time when the proposed plan or F98**[**revision is deposited for inspection (and the proposed plan or revision**]** shall be so deposited and made available for such inspection accordingly), and

(ii) be purchased from the local authority (and the proposed plan or F98**[**revision**]** shall be made available for such purchase accordingly (at a cost not exceeding the reasonable cost of making a copy));

(*b*) written representations in relation to the proposed plan or to the F98**[**proposed revision**]** of the plan made to the local authority within the period aforesaid will be taken into consideration by the local authority or authorities concerned before the making of the plan or, as the case may be, F98**[**the revision**]** of the plan (and any such representations shall be taken into consideration accordingly).

(3) The local authority or authorities concerned, having considered any representations duly made to it or each of them, as the case may be, within the relevant period under *subsection (2)*, may make, F98**[**revise**]** or replace the plan (whether in the terms as originally proposed or with such amendments as it or they thinks or think fit).

(4) (*a*) A local authority which has made a plan under *subsection (2)* or *(3)* of *section 22* shall furnish to a person, on request and, if the authority so requires, payment to it by the person of such reasonable fee as it may charge, a copy of, or extract from, the plan, within a period of 21 days of receipt by the authority of such request, or of payment of such fee as it may charge, whichever shall be the later.

(*b*) A document purporting to be a copy of a plan or to be an extract from a plan and to be certified by an officer of a local authority which made the plan under *subsection (2)* or *(3)* of *section 22* as a true copy shall be *prima facie* evidence of the plan or extract, as the case may be, and it shall not be necessary to prove the signature of such officer or that he or she was in fact such an officer.

(*c*) Evidence of a plan or of an extract from such plan may be given by production of a copy thereof certified pursuant to this subsection and it shall not be necessary to produce the plan itself.

Annotations

Amendments:

F98 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 9.

Editorial Notes:

E244 Power pursuant to section exercised (27.03.1997) by *Waste Management (Planning) Regulations 1997* (S.I. No. 137 of 1997).

Power of Minister in relation to waste management plans.

24.—The Minister may, after consultation with the local authority or authorities concerned—

(*a*) require that two or more local authorities jointly make a waste management plan under *section 22 (3)*,

(*b*) require that the making of waste management plans, whether under *subsection (2)* or *(3)* of *section 22*, by two or more local authorities be co-ordinated in such manner and in relation to such matters as the Minister may specify, and

(*c*) require a local authority or, as the case may be, two or more local authorities, to F99**[**revise**]** (whether by addition or deletion) a waste management plan made by it or them in such manner as the Minister may specify or to replace the plan by a new waste management plan,

and the local authority or authorities shall comply with any such requirement of the Minister.

Annotations

Amendments:

F99 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 10.

Duty of local authority on making, varying or replacing a waste management plan.

25.—As soon as may be after a local authority or, as the case may be, two or more local authorities, has or have made, F100**[**revised**]** or replaced a waste management plan, the local authority or, as the case may be, one of the local authorities, shall transmit a copy of the plan or F100**[**revision**]** or the new plan, as the case may be, to the Minister, the Agency and such other persons as may be prescribed.

Annotations

Amendments:

F100 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 11.

Hazardous waste management plan.

26.—(1) The Agency shall, as soon as may be after the commencement of this section, but not later than such date as may be prescribed, make a national plan (in this Act referred to as "the hazardous waste management plan") with regard to—

(*a*) the prevention and minimisation of hazardous waste,

(*b*) the recovery of hazardous waste,

(*c*) the collection and movement of hazardous waste, and

(*d*) the disposal of such hazardous waste as cannot be prevented or recovered.

(2) The hazardous waste management plan shall have regard to, and incorporate such information contained in, any waste management plan as the Agency considers appropriate and shall—

(*a*) describe the type, quantity and origin of hazardous waste arising in the State, the movement of hazardous waste within, into or out of the State, and facilities available for the collection, recovery or disposal of such waste in the State, and such description shall indicate the likely position with respect to each of those matters for such period after the making or review under *subsection (3)* of the plan as the Agency thinks appropriate;

(*b*) specify objectives and, where appropriate, targets which in the opinion of the Agency are practicable or desirable in relation to the prevention and minimisation of the production of hazardous waste, the minimisation of the

harmful nature of such waste and the recovery or disposal of such waste, over such periods as may be specified;

(*c*) provide for, as appropriate, the identification of sites at which waste disposal activities, being activities that to a significant extent involved hazardous waste, have been carried on, the assessment of any risk of environmental pollution arising as a result of such activities, the taking or recommendation of measures in order to prevent or limit any such environmental pollution, the identification of necessary remedial measures in respect of such sites, and the recommendation of measures to be taken to achieve such remediation, having regard to the cost-effectiveness of available remediation techniques;

(*d*) have regard to the need to give effect to the polluter pays principle;

(*e*) have regard to the need for precaution in relation to the potentially harmful effect of emissions, where there are, in the opinion of the Agency, reasonable grounds for believing that such emissions could cause significant environmental pollution;

(*f*) make recommendations, as respects the management of hazardous waste, regarding—

(i) priorities, measures or programmes which could be pursued,

(ii) infrastructure, waste facilities or other physical resources considered by the Agency to be necessary throughout the State or in any area of the State,

(iii) the functions of any relevant public authorities;

(g) specify policies which the Agency proposes to pursue, having regard to its functions under this Act or any other enactment.

F101**[**(3) The Agency shall from time to time as it thinks appropriate, and at least once in each period of 6 years after the date of making of the hazardous waste management plan, evaluate the plan and make such revisions to it, in accordance with Article 9 of the Waste Directive and Regulation 31 of the Regulations of 2011, as it thinks fit and references in this Part to such a plan shall, unless the context otherwise requires, be construed as including references to such a plan as so revised.**]**

(4) (*a*) The Agency shall cause to be published in at least one national newspaper—

(i) a notice of its intention to make the hazardous waste management plan,

(ii) where it has carried out a review of that plan and proposes to revise the plan consequent on such a review, a notice of that proposal,

and shall furnish a copy of the plan or, as the case may be, the proposed revision of the plan to the Minister, each local authority and such other persons as may be prescribed.

(*b*) *Subsections (2), (3)* and *(4)* of *section 23* shall apply in relation to the hazardous waste management plan and a notice aforesaid as those provisions apply in relation to a waste management plan and a notice under *subsection (1)* of *section 23* with the following and any other necessary modifications, namely—

(i) references in those provisions to a plan and a proposed F102**[**revision**]** of a plan shall be construed, respectively, as references to the hazardous waste management plan and a proposed revision of that plan,

(ii) references in those provisions to F102**[**revising**]** or replacing a plan shall be construed as references to revising a plan,

(iii) references in those provisions to a local authority shall be construed as references to the Agency.

(5) A Minister of the Government, a local authority and any other public authority in whom are vested functions by or under any enactment in relation to the protection of the environment shall have regard to, and in so far as it is considered by that Minister of the Government, local authority or other public authority to be appropriate to do so, shall take measures to implement or otherwise give effect to, recommendations contained in the hazardous waste management plan.

(6) Without prejudice to *subsection (5)*, the Agency may, having regard to the provisions of the hazardous waste management plan and the functions of local authorities in relation to the management of hazardous waste, make such recommendations to one or more local authorities as the Agency considers appropriate in relation to the effective management by it or them of hazardous waste, and such recommendations shall be regarded as having been issued under and in accordance with section 63 of the Act of 1992.

(7) For the purpose of the making or F103**[**evaluation**]** of a hazardous waste management plan by the Agency, it shall be the duty of each local authority and any public authority referred to in *subsection (5)* to furnish to the Agency, on request being made by the Agency therefor, any relevant information which is available to, or may reasonably be obtained by, the local authority or public authority.

(8) Nothing in this Part shall be construed as requiring the Agency to provide, or assume a direct role in the provision of, any waste facilities, equipment or related resources or as imposing a duty on the Agency owed to any person to identify a site at which a waste disposal activity has been carried on or to do any other thing referred to in *subsection (2) (c)* in relation to such a site.

(9) Upon the making of the hazardous waste management plan or of any revisions thereto, the Agency shall—

(*a*) cause to be published in at least one national newspaper a notice of that fact and of the means by which a copy of the plan, as made or revised, may be obtained by members of the public at a cost not exceeding the reasonable cost of making a copy, and

(*b*) furnish a copy of the plan, as made or revised, to the Minister and each local authority, and any other public authority which in the opinion of the Agency has an interest in the management of hazardous waste.

F104**[**(10) In this section, "revise", in relation to the national hazardous waste management plan, includes a review of the plan.**]**

Annotations

Amendments:

F101 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 12(a).

F102 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 12(b).

F103 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 12(c).

F104 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 12(d).

PART III

Measures to Reduce Production, and Promote Recovery, of Waste

Interpretation (*Part III*).

27.—(1) In this Part—

"deposit and refund scheme" means, in relation to any product, substance, component or packaging, a scheme whereby the producer, distributor or retailer, as the case may be, who operates the scheme requires a purchaser of a product or substance to pay to him or her a refundable deposit in relation to the product or substance or any component thereof or packaging therefor, that is to say a deposit of money the amount of which will be repaid by the producer, distributor or retailer, as the case may be, to the purchaser if the purchaser returns to him or her the product, substance, component or packaging, as the case may be;

"distributor" means a person who sells or supplies a product or substance by wholesale and "distribute" shall be construed accordingly;

"environmental audit" has the same meaning as it has in section 74 of the Act of 1992;

"environmental management system" means a system for managing the carrying on of an activity with regard to its effects on the environment;

"life cycle assessment" means, in relation to a product, an assessment of the effects on the environment of the manufacture, distribution, marketing and use of the product and the recovery or, as appropriate, disposal thereof (including the use of energy and raw materials in, and the production of waste from, any of the said activities);

"producer" includes such person as the Minister may specify by regulations to be a producer for the purposes of this Part (and such specification may include the importer or vendor of the product concerned);

"producer responsibility obligation" means a requirement to take steps for the purpose of the prevention, minimisation, limitation or recovery of waste as respects the class or classes of product to which the requirement relates and may include a requirement to achieve specified targets in relation to those matters;

"waste audit" means an evaluation of the manner in which an activity is carried on with a view to identifying opportunities for—

(*a*) preventing or minimising the production of waste from the activity or the harmfulness of any waste produced from the activity, and

(*b*) facilitating the recovery of any waste so produced.

(2) A reference in this Part to the implementation and operation of a waste reduction programme shall be construed as a reference to the taking of steps in a systematic manner for the purpose of—

(*a*) reducing the production of waste from the activity concerned or the harmfulness of any waste produced from the activity, and

(*b*) recovering any waste so produced,

having regard to the results of a waste audit conducted in relation to the activity.

Annotations

Editorial Notes:

E245 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E246 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E247 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E248 Power pursuant to section exercised (1.10.2017) by *Waste Management (Farm Plastics) (Amendment) Regulations 2017* (S.I. No. 396 of 2017), in effect as per reg. 2.

E249 Power pursuant to section exercised (1.07.2006) by *Waste Management (Packaging) (Amendment) Regulations 2006* (S.I. No. 308 of 2006), in effect as per reg. 1(2).

E250 Power pursuant to section exercised (1.03.2003) by *Waste Management (Packaging) Regulations 2003* (S.I. No. 61 of 2003), in effect as per reg. 3.

E251 Power pursuant to section exercised (23.07.2001) by *Waste Management (Farm Plastics) Regulations 2001* (S.I. No. 341 of 2001), in effect as per reg. 1(2).

E252 Previous affecting provision: pursuant to section exercised (1.04.2010, 1.06.2010, 1.12.2010, 10.04.2010, and 1.06.2015) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2010* (S.I. No. 143 of 2010), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E253 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; as the only effect of this instrument was to amend S.I. No. 282 of 2006, it was rendered obsolete by its revocation, see below.

E254 Previous affecting provision: pursuant to section exercised (26.09.2008) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 376 of 2008), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 341 of 2005, see below.

E255 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E256 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2017) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E257 Previous affecting provision: pursuant to section exercised (15.12.2007 and 31.03.2008) by *Waste Management (Packaging) Regulations 2007* (S.I. No. 798 of 2007), in effect as per reg. 3; revoked (21.06.2014) by *European Union (Packaging) Regulations 2014* (S.I. No. 282 of 2014), reg. 36(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 36(2) and (3).

E258 Previous affecting provision: power pursuant to section exercised (1.01.2008) by *Waste Management (Tyres and Waste Tyres) Regulations 2007* (S.I. No. 664 of 2007), in effect as per reg. 1(2); revoked (1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), in effect as per reg. 1(2).

E259 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

E260 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 341 of 2005); revoked (2.01.2013) by *European Union (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2012* (S.I. No. 513 of 2012), reg. 35(1), in effect as per reg. 34; subject to transitional provision and construed as per reg. 35(2) and (3).

E261 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

E262 Previous affecting provision: power pursuant to section exercised (1.12.1998) by *Waste Management (Packaging)(Amendment) Regulations 1998* (S.I. No. 382 of 1998), in effect as per reg. 1(2); rendered obsolete by revocation of S.I. No. 242 of 1997, see below.

E263 Previous affecting provision: pursuant to section exercised (1.08.1997) by *Waste Management (Farm Plastics) Regulations 1997* (S.I. No. 315 of 1997), in effect as per reg. 1(2); revoked (23.07.2001) by *Waste Management (Farm Plastics) Regulations 2001* (S.I. No. 341 of 2001), reg. 31, in effect as per reg. 1(2); subject to transitional provision in reg. 32.

E264 Previous affecting provision: pursuant to section exercised (1.07.1997) by *Waste Management (Packaging) Regulations 1997* (S.I. No. 242 of 1997), in effect as per reg. 3; revoked (1.03.2003) by *Waste Management (Packaging) Regulations 2003* (S.I. No. 61 of 2003), reg. 29, in effect as per reg. 3; subject to transitional provisions in reg. 30.

F105**[**Prevention of waste

27A.— (1) The Minister or any Minister of the Government concerned shall take measures to prevent waste generation. Those measures shall, at least, include those described in Article 9(1) of the Waste Directive.

(2) The Agency shall monitor and assess the implementation of the waste prevention measures referred to in *para (1)*. For that purpose, they shall use appropriate qualitative or quantitative indicators and targets, notably on the quantity of waste that is generated.

(3) The Agency shall monitor and assess the implementation of measures on re-use by measuring re-use on the basis of the common methodology established by the implementing act referred to in Article 9(7) of the Waste Directive as from the first full calendar year after the adoption of that implementing act.

(4) The Agency shall monitor and assess the implementation of national food waste prevention measures by measuring the levels of food waste on the basis of the methodology established by the delegated act referred to in Article 9(8) of the Waste Directive as from the first full calendar year after the adoption of that delegated act.

(5) The public authorities concerned, shall ensure that any supplier of an article as defined in point 33 of Article 3 of Regulation (EC) No 1907/2006[12] of the European Parliament and of the Council provides the information pursuant to Article 33(1) of that Regulation to the European Chemicals Agency as from 5 January 2021 using the format(s) and submission tool(s) provided by the European Chemical Agency for that purpose.**]**

Annotations

Amendments:

F105 Substituted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 10.

[12] O.J. L 396, 30.12.2006, p. 1

Editorial Notes:

E265 Previous affecting provision: section inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 13; substituted as per F-note above.

F106**[**Waste prevention programmes

27B.— (1) The Agency shall establish waste prevention programmes setting out at least the waste prevention measures as laid down in *Section 27A(1)* in accordance with *Section 21A* and with Article 1 of the Waste Directive.

Such programmes shall be integrated either into the waste management plans required under F107**[***section 22***]** or into other environmental policy programmes, as appropriate, or shall function as separate programmes. If any such programme is integrated into the waste management plan or into those other programmes, the waste prevention objectives and measures shall be clearly identified.

(2) When establishing such programmes, the Agency shall, where relevant, describe the contribution of instruments and measures listed in the *Sixth Schedule* to waste prevention and shall evaluate the usefulness of the examples of measures indicated the *First Schedule* or other appropriate measures. The programmes shall also describe existing waste prevention measures and their contribution to waste prevention.

(3) The aim of such objectives and measures shall be to break the link between economic growth and the environmental impacts associated with the generation of waste.

(4) The Agency shall adopt specific food waste prevention programmes within their waste prevention programmes.

(5) The Agency shall from time to time as it thinks appropriate, and at least once in each period of 6 years after the date of making of a waste prevention programme, evaluate the plan and make such revisions to it, in accordance with Article 9 of the Waste Directive and Regulation 31 of the Regulations of 2011, as it thinks fit and references in Part II and this Part to such a plan shall, unless the context otherwise requires, be construed as including references to such a plan as so revised.

(6) Upon the establishment of a waste prevention programme or programmes or of any revisions thereto, the Agency shall—

(*a*) cause to be published in at least one national newspaper a notice of that fact and of the means by which a copy of the plan, as made or revised, may be obtained by members of the public at a cost not exceeding the reasonable cost of making a copy, and

(*b*) furnish a copy of the plan, as made or revised, to the Minister and each local authority, and any other public authority which in the opinion of the Agency has an interest in the programme or programmes.

(7) In this section, "revise", in relation to a waste prevention programme, includes a review of the programme.**]**

Annotations

Amendments:

F106 Inserted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 11.

F107 Substituted (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 25, S.I. No. 344 of 2023, art. 4(f).

Waste prevention and minimisation.

28.—(1) For the purpose of promoting, supporting or facilitating the prevention or minimisation of waste, any Minister of the Government or a local authority may provide such support or assistance, including the provision of moneys, as he or she or the local authority considers appropriate in relation to research and development projects being carried out, or proposed to be carried out, by any person in respect of the prevention or minimisation of waste, and for the purposes aforesaid may establish programmes and specify criteria and objectives governing the availability and provision of such assistance and support.

(2) (*a*) A person who carries on any activity of an agricultural, commercial or industrial nature (including the manufacture of any product) shall have due regard to the need to prevent or minimise the production of waste from that activity and, as the case may be, from any product manufactured by him or her as a result of such an activity, and shall take all such reasonable steps as are necessary for the purposes of such prevention or minimisation (including, where appropriate, steps as respects the design of any product aforesaid).

(*b*) The Minister may by regulations specify steps, as respects any particular activity aforesaid, that shall be regarded as reasonable steps necessary to be taken for the purposes of the prevention or, as the case may be, minimisation of the production of waste referred to in *paragraph (a)*, and a person who carries on such an activity shall take those steps accordingly.

(3) (*a*) Subject to *paragraph (c)*, the Minister may, after consultation with any Minister of the Government concerned, make regulations for the purpose of preventing, minimising or limiting the production of waste or a specified class or classes of waste, and any such class may be defined by reference to the manufacturing or industrial process or other activity giving rise to the waste concerned or to such other matters as the Minister thinks appropriate.

(*b*) Subject as aforesaid, regulations under this section may include provisions for the imposition of producer responsibility obligations on producers of products.

(*c*) Regulations under this section shall only apply to a scheduled activity to such extent as the Minister may determine following consultation with the Agency.

(4) Without prejudice to the generality of *subsection (3)*, regulations under this section may provide for all or any of the following matters—

(*a*) requiring a person, in a specified manner, to conduct a waste audit and implement and operate a waste reduction programme in relation to an activity carried on by him or her,

(*b*) requiring the keeping of specified documents, records or other particulars, and the furnishing of specified information to specified persons or the publication of specified information, in relation to the conduct of a waste audit or the implementation and operation of a waste reduction programme,

(*c*) exempting a person from the requirements of regulations under the foregoing paragraphs, as respects a particular activity being carried on by that person, if and for so long as he or she is carrying out a specified environmental audit, or operating a specified environmental management system, in relation to the particular activity,

(*d*) prohibiting, otherwise than with the consent of a person prescribed for the purpose by regulations under *paragraph (e)*, the display or use of any specified mark or symbol at any premises or on or in any product, substance, packaging, advertisement or notice,

(*e*) prescribing a person for the purposes of regulations under *paragraph (d)*, the procedures to be followed by such a person in granting any consent under

such regulations and enabling him or her to withdraw such a consent in specified circumstances,

(*f*) without prejudice to *paragraph (g)*, requiring a person to use the F108**[**best available techniques**]** for preventing or limiting the production of waste from an activity carried on by the said person,

(*g*) the specification, by the Minister or such person as may be prescribed for the purpose by the regulations, of the F108**[**best available techniques**]** for preventing or limiting the production of waste from an activity carried on by a person specified in regulations under *paragraph (f)*,

(*h*) requiring the producer of a specified class or classes of product to carry out a life cycle assessment in relation to the product, in such manner or in accordance with such standards or procedures as may be specified,

(*i*) prohibiting, or limiting or controlling in a specified manner and to a specified extent—

(i) the production or use, in a production process or otherwise, of any substance, material or thing,

(ii) the composition, production, importation, distribution, supply, sale, disposal or advertising of any product or substance, or

(iii) the production of any waste,

(*j*) specifying requirements to be complied with as respects the design, composition or production of packaging and the use which may be made of packaging, including a requirement—

(i) that the composition, volume or weight of packaging be restricted or limited to such extent as is consistent with its purpose of providing protection for the product or substance concerned,

(ii) that packaging be designed, produced and used so as to be capable of being re-used,

(*k*) requiring products to be designed, manufactured or constructed in a specified manner or in accordance with such standards as may be prescribed in accordance with regulations under *paragraph (l)*,

(*l*) enabling a specified person or persons to prescribe standards for the purposes of regulations under *paragraph (k)*,

(*m*) requiring a producer to prepare and publish, at a specified frequency and in a specified manner—

(i) a plan specifying the steps proposed to be taken by him or her to prevent or minimise the production of waste from any activity of production carried on by him or her or from a product manufactured by him or her, or any component of, or packaging related to, such a product, and

(ii) a report on the steps taken by him or her in pursuance of such a plan and the results of those steps,

(*n*) requiring the preparation and publication, at a specified frequency and in a specified manner, by a person who is the subject of any specified requirement of regulations under this section (other than a requirement imposed by regulations under *paragraph (m)*) of—

(i) a plan specifying the steps to be taken by him or her to comply with such a requirement, and

(ii) a report on the steps taken by him or her to comply with such a requirement and the results of those steps,

(*o*) conferring on public authorities (including the Minister) and other specified persons specified additional functions for the purpose of securing or facilitating the operation of provisions of regulations under this section,

(*p*) any matters consequential on, or incidental to, the foregoing.

(5) (*a*) Without prejudice to *subsection (3)* or *section 7 (2)*, regulations under this section may make provision in relation to persons, products, substances, activities or other matters referred to in this section generally or in relation to a specified class or classes of such persons, products, substances, activities or other matters.

(*b*) A target an obligation to achieve which is imposed on a person by regulations under this section may be defined in such regulations by reference to a specified proportion (whether by weight, volume or otherwise) of the products, substances or other things to which the obligation relates.

(6) A person who contravenes *subsection (2) (b)* or a provision of regulations under this section shall be guilty of an offence.

(7) In a prosecution for a contravention of regulations under this section (being a contravention consisting of a failure to achieve a target specified in the regulations), it shall be a good defence to prove that the accused took all reasonable steps to achieve the said target.

Annotations

Amendments:

F108 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 21, S.I. No. 393 of 2004.

Modifications (not altering text):

C17 Additional purposes for which regulations may be made under section specified (1.07.1997) by *Litter Pollution Act 1997* (12/1997), s. 30, S.I. No. 213 of 1997.

Extension of purposes for which regulations under Waste Management Act, 1996, may be made.

30.—The purposes for which regulations under sections 28 and 29 of the Waste Management Act, 1996, may be made shall include the purposes of preventing, minimising or controlling litter under this Act.

Editorial Notes:

E266 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E267 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E268 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E269 Power pursuant to section exercised (1.10.2017) by *Waste Management (Farm Plastics) (Amendment) Regulations 2017* (S.I. No. 396 of 2017), in effect as per reg. 2.

E270 Power pursuant to section exercised (7.05.2015) by *Waste Management (Food Waste) (Amendment) Regulations 2015* (S.I. No. 190 of 2015).

E271 Power pursuant to section exercised (10.12.2009) by *Waste Management (Food Waste) Regulations 2009* (S.I. No. 508 of 2009).

E272 Offence under subs. (6) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E273 Offence under subs. (6) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E274 Power pursuant to section exercised (1.07.2006) by *Waste Management (Packaging) (Amendment) Regulations 2006* (S.I. No. 308 of 2006), in effect as per reg. 1(2).

E275 Power pursuant to section exercised (30.12.2004) by *Waste Management (Packaging) (Amendment) Regulations 2004* (S.I. No. 871 of 2004), in effect as per reg. 1(2).

E276 Power pursuant to section exercised (1.03.2003) by *Waste Management (Packaging) Regulations 2003* (S.I. No. 61 of 2003), in effect as per reg. 3.

E277 Power pursuant to section exercised (23.07.2001) by *Waste Management (Farm Plastics) Regulations 2001* (S.I. No. 341 of 2001), in effect as per reg. 1(2).

E278 Power pursuant to section exercised (1.05.2000) by *Waste Management (Hazardous Waste) (Amendment) Regulations 2000* (S.I. No. 73 of 2000), in effect as per reg. 1(2).

E279 Power pursuant to section exercised (20.05.1998) by *Waste Management (Hazardous Waste) Regulations 1998* (S.I. No. 163 of 1998), in effect as per reg. 2.

E280 Previous affecting provision: pursuant to section exercised (1.04.2010, 1.06.2010, 1.12.2010, 10.04.2010, and 1.06.2015) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2010* (S.I. No. 143 of 2010), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E281 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 282 of 2006, see below.

E282 Previous affecting provision: pursuant to section exercised (26.09.2008) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 376 of 2008), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 341 of 2005, see below.

E283 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E284 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2017) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E285 Previous affecting provision: power pursuant to section exercised (1.01.2008) by *Waste Management (Tyres and Waste Tyres) Regulations 2007* (S.I. No. 664 of 2007), in effect as per reg. 1(2); revoked (1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), in effect as per reg. 1(2).

E286 Previous affecting provision: pursuant to section exercised (15.12.2007 and 31.03.2008) by *Waste Management (Packaging) Regulations 2007* (S.I. No. 798 of 2007), in effect as per reg. 3; revoked (21.06.2014) by *European Union (Packaging) Regulations 2014* (S.I. No. 282 of 2014), reg. 36(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 36(2) and (3).

E287 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

E288 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 341 of 2005); revoked (2.01.2013) by *European Union (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2012* (S.I. No. 513 of 2012), reg. 35(1), in effect as per reg. 34; subject to transitional provision and construed as per reg. 35(2) and (3).

E289 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

E290 Previous affecting provision: power pursuant to section exercised (1.12.1998) by *Waste Management (Packaging)(Amendment) Regulations 1998* (S.I. No. 382 of 1998), in effect as per reg. 1(2); rendered obsolete by revocation of S.I. No. 242 of 1997, see below.

E291 Previous affecting provision: pursuant to section exercised (1.08.1997) by *Waste Management (Farm Plastics) Regulations 1997* (S.I. No. 315 of 1997), in effect as per reg. 1(2); revoked (23.07.2001) by *Waste Management (Farm Plastics) Regulations 2001* (S.I. No. 341 of 2001), reg. 31, in effect as per reg. 1(2); subject to transitional provision in reg. 32.

E292 Previous affecting provision: pursuant to section exercised (1.07.1997) by *Waste Management (Packaging) Regulations 1997* (S.I. No. 242 of 1997), in effect as per reg. 3; revoked (1.03.2003) by *Waste Management (Packaging) Regulations 2003* (S.I. No. 61 of 2003), reg. 29, in effect as per reg. 3; subject to transitional provisions in reg. 30.

Measures related to recovery of waste.

29.— F109**[**(1) A reference in this section to the implementation and operation of a source separation programme for waste shall be construed as a reference to the taking of steps in a systematic manner for the purposes of—

(*a*) separating specified waste from other waste and the holding of such waste so separated prior to its collection, recovery or disposal, and

(*b*) giving effect to the requirements of Article 22 of the Waste Directive in relation to bio-waste.**]**

(2) For the purpose of promoting, supporting or facilitating the recovery of waste, any Minister of the Government or a local authority may provide to any person such support or assistance, including financial assistance, as he or she or the local authority considers appropriate, including the provision of moneys in relation to research and development projects being carried out or proposed to be carried out by any person in respect of the recovery of waste, and for the purposes aforesaid may establish programmes and specify criteria and objectives governing the availability and provision of such assistance and support.

F110**[**(2A) (*a*) It shall be the duty of waste producers and holders to ensure that waste undergoes preparing for re-use, recycling or other recovery operations in accordance with *sections 21A* and *32(1)*.

(*b*) A person who contravenes *paragraph (a)* shall be guilty of an offence.

(*c*) The Agency and the local authorities, in carrying out their functions under this Act and related waste management legislation and policy, shall take the necessary measures to ensure that waste undergoes recovery operations in accordance with this section and *sections 21A* and *32(1)*.**]**

F111**[**(2B) Where necessary to comply with *subsection (2A)* and to facilitate or improve preparing for re-use, recycling and other recovery operations, waste shall be subject to separate collection and shall not be mixed with other waste or other material with different properties.**]**

F112**[**(2C) The Agency and the local authorities may allow derogations from *subsection (2B)* provided that at least one of the following conditions is met:

(*a*) collecting certain types of waste together does not affect their potential to undergo preparing for re-use, recycling or other recovery operations in accordance with *section 21A* and results in output from those operations which is of comparable quality to that achieved through separate collection;

(*b*) separate collection does not deliver the best environmental outcome when considering the overall environmental impacts of the management of the relevant waste streams;

(*c*) separate collection is not technically feasible taking into consideration good practices in waste collection;

(*d*) separate collection would entail disproportionate economic costs taking into account the costs of adverse environmental and health impacts of mixed waste collection and treatment, the potential for efficiency improvements in waste collection and treatment, revenues from sales of secondary raw materials as well as the application of the polluter-pays principle and extended producer responsibility.

The Agency and the local authorities shall regularly review derogations under this paragraph taking into account good practices in separate collection of waste and other developments in waste management.

(2D) The Agency and the local authorities shall take measures to ensure that waste that has been separately collected for preparing for re-use and recycling pursuant to Article 11(1) and Article 22 of the Waste Directive is not incinerated, with the exception of waste resulting from subsequent treatment operations of the separately collected waste for which incineration delivers the best environmental outcome in accordance with *section 21A*.

(2E) Where necessary to comply with *subsection (2A)* and to facilitate or improve recovery, waste producers and holders shall take the necessary measures, before or during recovery, to remove hazardous substances, mixtures and components from hazardous waste with a view to their treatment in accordance with *sections 21A* and *32(1)*.

(2F) By 31 December 2021, the Agency shall submit a report to the Commission on the implementation of this Section as regards municipal waste and bio-waste, including on the material and territorial coverage of separate collection and any derogations under *(2C)*.**]**

(3) (*a*) The Minister may, after consultation with any Minister of the Government concerned, make regulations in relation to or for the purpose of the recovery of waste or a specified class or classes of waste, and any such class may be defined by reference to the manufacturing or industrial process or other activity giving rise to the waste concerned or to such other matters as the Minister thinks appropriate.

F113**[**(*b*) Regulations under this section may include provisions for the imposition of producer responsibility obligations on producers of products including provisions requiring the producer of a specified product to partly or wholly

bear the waste management costs of that product and or the sharing of these costs with the distributors of such specified products.**]**

F114**[**(*c*) In order to maximise environmental benefits, including the environmentally sound management of products at their end of life, regulations under this section may also include provisions for the application of economic instruments including the making of arrangements relating to the display of environmental management charges, at a specified rate, by a producer or distributor as appropriate, to the purchasers of specified products.**]**

(4) Without prejudice to the generality of *subsection (3)*, regulations under this section may provide for all or any of the following matters—

(*a*) requiring the labelling or marking of a product or substance or its packaging, in a specified manner, so as to identify or specify—

(i) the composition of the product, substance or packaging,

(ii) the potential hazards of the product, substance or packaging in the event of its being recovered or disposed of,

(iii) the potential of the product, substance or packaging to be recovered,

(iv) such other information as may be specified,

(*b*) specifying requirements to be complied with as respects the nature, composition or design of packaging and the use to be made of packaging, and such requirements may include a prohibition on the use of packaging otherwise than in the specified circumstances or a requirement that packaging be designed in accordance with such standards as may be prescribed in accordance with regulations under *paragraph (e)* for the purpose of facilitating the recovery of the packaging,

(*c*) prohibiting, or limiting or controlling in a specified manner and to a specified extent, the importation, distribution, supply or sale in a specified container or other packaging of any product or substance,

(*d*) for the purpose of facilitating the removal of components from, or the dismantling of, products prior to their recovery or disposal, requiring products to be designed, manufactured or constructed in a specified manner or in accordance with such standards as may be prescribed in accordance with regulations under *paragraph (e)*,

(*e*) enabling a specified person or persons to prescribe standards for the purposes of regulations under *paragraph (b)* or *(d)*,

(*f*) requiring a producer, distributor or retailer to operate a deposit and refund scheme in relation to a product or substance of a type or brand made, distributed or sold by him or her, or any component of, or packaging related to, such product or substance,

(*g*) specifying the conditions under which a scheme referred to in *paragraph (f)* is to be operated (including the amount of the deposit or deposits to be required of the purchasers concerned and the targets that the operator of such a scheme shall achieve as respects the return of products, substances or packaging under the scheme in a particular period),

(*h*) requiring a producer, distributor or retailer to collect or arrange for the collection of, or to take back or arrange for the taking back of, without imposing any charge for so doing, any product or substance of a type or brand made, distributed or sold by such producer, distributor or retailer, or any component of, or packaging related to, such product or substance, after the purchaser thereof F115**[**(or, as appropriate, any person who acquires the

product or substance subsequent to its first being purchased)**]** no longer has any use for it, and specifying the conditions under which such collection or taking back is to be conducted (including the targets that the producer, distributor or retailer shall achieve as respects the collection or taking back of such type or brand of product or substance, or such related components or packaging, in a particular period),

(*i*) requiring the owner or manager of a supermarket, service station or other sales outlet to provide, free of charge, specified facilities at such an outlet for the removal by customers of packaging from products or substances purchased by them at that outlet, and receptacles for the deposit of such packaging,

(*j*) requiring the owner or manager of a supermarket, service station or other sales outlet to impose a charge on a customer in respect of the provision by him or her to the customer of any bag, container or other such packaging in relation to products or substances purchased by the customer at that sales outlet, such charge being of an amount equal to the full cost of such packaging or to such other amount as may be specified in the regulations,

(*k*) requiring the purchaser of a product or substance to return such product or substance, or any component of, or packaging related to, such product or substance, after he or she no longer has any use for it to a retailer of such a product or substance or to deliver it to an authorised waste collector or other specified person or facility,

(*l*) requiring a producer of a product or substance to use recovered or recoverable material or components in the production of the product or substance, or prohibiting, or limiting or controlling in a specified manner and to a specified extent, the use of specified virgin material in such production,

(*m*) requiring a person to implement and operate, in a specified manner, a source separation programme for waste of a specified class or classes,

(*n*) requiring that waste, the subject of a source separation programme, be offered and made available, free of charge or otherwise, in a specified manner, to a specified person for collection by such a person,

(*o*) requiring, in a specified manner, the owner or manager of a supermarket, service station or other sales outlet to provide, operate and maintain, or arrange for the provision, operation and maintenance of, waste collection receptacles at such an outlet for use by members of the public and transfer or arrange for the transfer of waste that may be so placed in such receptacles to a specified waste recovery facility,

(*p*) requiring that any used product, substance, component, packaging or other waste to which regulations under any other provision of this subsection apply be recovered in a specified manner,

(*q*) requiring specified other steps to be taken in relation to waste referred to in *paragraph (p)* where, by reason of circumstances defined in the regulations, it is not practicable to recover the waste,

(*r*) notwithstanding any other provision of this section, requiring a local authority to provide specified financial assistance in a specified manner to persons engaged in the recovery of household waste,

(*s*) exempting from all or any of the requirements of regulations under this section a person who is certified by an association or body corporate formed or established for the purpose of carrying on waste recovery activities and approved by the Minister in accordance with regulations under *paragraph (t)* to be either—

(i) a member or shareholder of that association or body corporate, as the case may be, or

(ii) participating, in a satisfactory manner, in a scheme for the recovery of waste, or complying with any requirements specified by that association or body corporate, as the case may be, in relation to the recovery of waste,

(*t*) (i) the granting by the Minister of approvals for the purpose of regulations under *paragraph (s)* and the conditions which he or she may attach to such approvals, including conditions relating to—

(I) the financial and administrative arrangements to be made by the association or body corporate concerned,

(II) the waste recovery activities to be carried on by the association or body corporate concerned and the manner in which they are to be carried on,

(III) targets to be achieved by the association or body corporate concerned with respect to the recovery of waste by it,

(ii) enabling the Minister to vary as he or she thinks fit any condition attached to an approval aforesaid or to revoke such an approval in specified circumstances,

(iii) the means by which an association or body corporate shall determine, for the purpose of regulations under *paragraph (s)*, whether a person is participating, in a satisfactory manner, in a scheme referred to in that paragraph or, as the case may be, is complying with requirements referred to in that paragraph,

(iv) the grant and revocation by an association or body corporate of a certificate for the purpose of regulations under *paragraph (s)* and the notifications to be given by it in respect of such a grant or revocation to the person concerned and other specified persons,

(*u*) requiring a person to keep specified documents, records or other particulars and to furnish specified information to specified persons in relation to the steps taken by him or her to comply with a specified requirement of regulations under this section, and enabling a specified person to verify the accuracy of any matter stated or recorded pursuant to a requirement of regulations under this paragraph,

(*v*) requiring a producer or distributor to prepare and publish, at a specified frequency and in a specified manner—

(i) a plan specifying steps proposed to be taken by him or her to promote, support or facilitate the recovery of any product or substance made, distributed or sold by him or her, or any component of, or packaging related to, such a product or substance, and

(ii) a report on the steps taken by him or her in pursuance of such a plan and the results of those steps,

(*w*) requiring the preparation and publication, at a specified frequency and in a specified manner, by a person who is the subject of any specified requirement of regulations under this section (other than a requirement imposed by regulations under *paragraph (v)*) of—

(i) a plan specifying the steps to be taken by him or her to comply with such a requirement, and

(ii) a report on the steps taken by him or her to comply with such a requirement and the results of those steps,

(*x*) conferring on public authorities (including the Minister) and other specified persons specified additional functions for the purpose of securing or facilitating the operation of provisions of regulations under this section,

(*y*) requiring local authorities to facilitate, promote or carry out in a specified manner the composting of municipal waste of an organic nature or any other process for the biological transformation of such waste,

(*z*) any matters consequential on, or incidental to, the foregoing.

(5) (*a*) Without prejudice to *subsection (3)* or *section 7 (2)*, regulations under this section may make provision in relation to persons, products, substances, activities or other matters referred to in this section generally or in relation to a specified class or classes of such persons, products, substances, activities or other matters.

(*b*) A target an obligation to achieve which is imposed on a person by regulations under this section may be defined in such regulations by reference to a specified proportion (whether by weight, volume or otherwise) of the products, substances or other things to which the obligation relates.

(6) A person who contravenes a provision of regulations under this section shall be guilty of an offence.

(7) In a prosecution for a contravention of regulations under this section (being a contravention consisting of a failure to achieve a target specified in the regulations), it shall be a good defence to prove that the accused took all reasonable steps to achieve the said target.

Annotations

Amendments:

F109 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 14(a).

F110 Substituted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 12(a).

F111 Substituted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 12(b).

F112 Inserted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 12(c).

F113 Substituted by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 14(c), as inserted (17.06.2016) by *European Union (Waste Directive) (Amendment) Regulations 2016* (S.I. No. 315 of 2016), reg. 3(a).

F114 Inserted by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 14(d), as inserted (17.06.2016) by *European Union (Waste Directive) (Amendment) Regulations 2016* (S.I. No. 315 of 2016), reg. 3(b).

F115 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 28, S.I. No. 393 of 2004.

Modifications (not altering text):

C18 Additional purposes for which regulations may be made under section specified (1.07.1997) by *Litter Pollution Act 1997* (12/1997), s. 30, S.I. No. 213 of 1997.

Extension of purposes for which regulations under Waste Management Act, 1996, may be made.

30.—The purposes for which regulations under sections 28 and 29 of the Waste Management Act, 1996 , may be made shall include the purposes of preventing, minimising or controlling litter under this Act.

Editorial Notes:

E293 Power pursuant to subs. (4)(f) exercised (20.11.2021) by *Separate Collection (Deposit Return Scheme) Regulations 2021* (S.I. No. 599 of 2021), in effect as per reg. 1(2).

E294 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E295 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E296 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E297 Power pursuant to section exercised (1.10.2017) by *Waste Management (Farm Plastics) (Amendment) Regulations 2017* (S.I. No. 396 of 2017), in effect as per reg. 2.

E298 Power pursuant to section exercised (7.05.2015) by *Waste Management (Food Waste) (Amendment) Regulations 2015* (S.I. No. 190 of 2015).

E299 Power pursuant to section exercised (10.12.2009) by *Waste Management (Food Waste) Regulations 2009* (S.I. No. 508 of 2009).

E300 Offence under subs. (6) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E301 Offence under subs. (6) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E302 Power pursuant to section exercised (1.07.2007) by *Waste Management (Environmental Levy) (Plastic Bag) (Amendment) (No. 2) Regulations 2007* (S.I. No. 167 of 2007), in effect as per reg. 3.

E303 Power pursuant to section exercised (1.07.2006) by *Waste Management (Packaging) (Amendment) Regulations 2006* (S.I. No. 308 of 2006), in effect as per reg. 1(2).

E304 Power pursuant to section exercised (30.12.2004) by *Waste Management (Packaging) (Amendment) Regulations 2004* (S.I. No. 871 of 2004), in effect as per reg. 1(2).

E305 Power pursuant to section exercised (1.03.2003) by *Waste Management (Packaging) Regulations 2003* (S.I. No. 61 of 2003), in effect as per reg. 3.

E306 Power pursuant to section exercised (23.07.2001) by *Waste Management (Farm Plastics) Regulations 2001* (S.I. No. 341 of 2001), in effect as per reg. 1(2).

E307 Power pursuant to section exercised (1.05.2000) by *Waste Management (Hazardous Waste) (Amendment) Regulations 2000* (S.I. No. 73 of 2000), in effect as per reg. 1(2).

E308 Power pursuant to section exercised (20.05.1998) by *Waste Management (Hazardous Waste) Regulations 1998* (S.I. No. 163 of 1998), in effect as per reg. 2.

E309 Previous affecting provision: subs. (2A) inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 14(b); substituted as per F-note above.

E310 Previous affecting provision: power pursuant to section exercised (1.04.2010, 1.06.2010, 1.12.2010, 10.04.2010, and 1.06.2015) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2010* (S.I. No. 143 of 2010), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E311 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 282 of 2006, see below.

E312 Previous affecting provision: pursuant to section exercised (26.09.2008) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 376 of 2008), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 341 of 2005, see below.

E313 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E314 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2017) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E315 Previous affecting provision: power pursuant to section exercised (1.01.2008) by *Waste Management (Tyres and Waste Tyres) Regulations 2007* (S.I. No. 664 of 2007), in effect as per reg. 1(2); revoked (1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), in effect as per reg. 1(2).

E316 Previous affecting provision: pursuant to section exercised (15.12.2007 and 31.03.2008) by *Waste Management (Packaging) Regulations 2007* (S.I. No. 798 of 2007), in effect as per reg. 3; revoked (21.06.2014) by *European Union (Packaging) Regulations 2014* (S.I. No. 282 of 2014), reg. 36(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 36(2) and (3).

E317 Previous affecting provision: pursuant to section exercised (1.07.2007) by *Waste Management (Environmental Levy) (Plastic Bag) (Amendment) Regulations 2007* (S.I. No. 66 of 2007), in effect as per reg. 3; revoked on same date (1.07.2007) by *Waste Management (Environmental Levy) (Plastic Bag) (Amendment) (No. 2) Regulations 2007* (S.I. No. 167 of 2007), reg. 6, in effect as per reg. 3.

E318 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

E319 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 341 of 2005); revoked (2.01.2013) by *European Union (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2012* (S.I. No. 513 of 2012), reg. 35(1), in effect as per reg. 34; subject to transitional provision and construed as per reg. 35(2) and (3).

E320 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

E321 Previous affecting provision: power pursuant to section exercised (19.12.2001) by *Waste Management (Environmental Levy) (Plastic Bag) Regulations 2001* (S.I. No. 605 of 2001); revoked (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 5(3)(b), S.I. No. 344 of 2023.

E322 Previous affecting provision: power pursuant to section exercised (1.12.1998) by *Waste Management (Packaging)(Amendment) Regulations 1998* (S.I. No. 382 of 1998), in effect as per reg. 1(2); rendered obsolete by revocation of S.I. No. 242 of 1997, see below.

E323 Previous affecting provision: pursuant to section exercised (1.08.1997) by *Waste Management (Farm Plastics) Regulations 1997* (S.I. No. 315 of 1997), in effect as per reg. 1(2); revoked (23.07.2001) by *Waste Management (Farm Plastics) Regulations 2001* (S.I. No. 341 of 2001), reg. 31, in effect as per reg. 1(2); subject to transitional provision in reg. 32.

E324 Previous affecting provision: pursuant to section exercised (1.07.1997) by *Waste Management (Packaging) Regulations 1997* (S.I. No. 242 of 1997), in effect as per reg. 3; revoked (1.03.2003) by *Waste Management (Packaging) Regulations 2003* (S.I. No. 61 of 2003), reg. 29, in effect as per reg. 3; subject to transitional provisions in reg. 30.

Public authority waste management.

30.—(1) (a) The Minister shall, as soon as may be after the commencement of this section, promulgate a programme with regard to the prevention, minimisation and recovery of waste arising from the performance by public authorities of their functions.

(*b*) A programme under this subsection may deal with such class or classes of waste, or apply to such class or classes of public authorities, as the Minister may consider appropriate.

(2) The Minister shall review from time to time as he or she thinks appropriate a programme under *subsection (1)* and make such revisions thereto as he or she thinks fit.

(3) Without prejudice to the generality of *subsection (1)*, a programme under that subsection may include—

(*a*) specific objectives in relation to different types of waste,

(*b*) measures for the co-ordination of steps being taken or proposed to be taken by public authorities in relation to the prevention, minimisation and recovery of waste,

(*c*) proposals for the regulation pursuant to powers under this Act or any other enactment of activities carried on for the prevention, minimisation and recovery of waste.

(4) For the purpose of a programme under *subsection (1)*, the Minister shall publish guidelines and criteria in relation to the prevention, minimisation and recovery of waste, to which public authorities shall have regard in the performance of their functions, and such guidelines and criteria may include provision for all or any of the following matters—

(*a*) consideration being given by public authorities to the likely effects on the environment of particular goods or services they propose to purchase or engage,

(*b*) objectives with regard to the use by public authorities of materials recovered from waste,

(*c*) the conduct by public authorities of waste audits and the implementation and operation by them of waste reduction programmes and the publication of the results of such audits and programmes,

(*d*) the making by public authorities of plans ("public authority waste management plans"), specifying appropriate measures to facilitate, and objectives with regard to, the prevention, minimisation and recovery of waste by them,

(*e*) the content, publication, implementation and review of public authority waste management plans,

(*f*) the preparation and publication by public authorities of reports on the implementation by them of their respective public authority waste management plans and their compliance generally with guidelines and criteria published under this subsection.

Recovery of waste by local authorities.

31.—(1) A local authority may—

(*a*) engage or participate in the recovery of waste, and for that purpose may enter into one or more agreements with any other local authority or other person,

(*b*) buy or otherwise acquire waste for the purpose of recovering it,

(*c*) use, sell or otherwise dispose of any material or thing, including energy, recovered from waste.

(2) For the purpose of *subsection (1)*, "local authority" includes the corporation of a borough of any kind and the council of an urban district.

F116**[**Costs

31A.— (1) In accordance with the polluter-pays principle, the costs of waste management, including for the necessary infrastructure and its operation, shall be borne by the original waste producer or by the current or previous waste holders.

(2) Without prejudice to Regulations 30 and 30A in the Regulations of 2020, the Minister or any Minister of the Government concerned, may decide that the costs of waste management are to be borne partly or wholly by the producer of the product from which the waste came and that the distributors of such product may share these costs.**]**

Annotations

Amendments:

F116 Substituted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 13.

Editorial Notes:

E325 Previous affecting provision: section inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 15; substituted as per F-note above.

PART IV

Holding, Collection and Movement of Waste

General duty of a holder of waste.

32.—F117**[**(1) A person shall not—

(*a*) cause or facilitate the abandonment, dumping or unauthorised management or treatment of waste, or

(*b*) hold, transport, recover or dispose of waste, or treat waste, in a manner that causes or is likely to cause environmental pollution.

(1A)(*a*) It shall be the responsibility of the original waste producer or other waste holder to carry out the treatment of waste himself or herself or have the treatment handled by a dealer or an establishment or undertaking which

carries out waste treatment operations or arranged by a private or public waste collector in accordance with *section 21A* and *subsection (1)*.

(*b*) The Agency, the local authorities and Dublin City Council shall take the necessary measures to ensure that, within their territory or area of responsibility, the establishments or undertakings which collect or transport waste on a professional basis deliver the waste collected and transported to appropriate treatment installations in accordance with *subsection (1)*.**]**

(2) A person shall not, save in such circumstances as may be specified under *subsection (4)*, transfer the control of waste to any person other than an appropriate person.

F118**[**(2A)(*a*) When the waste is transferred from the original waste producer or waste holder to an appropriate person for preliminary treatment, the responsibility for carrying out a complete recovery or disposal operation shall not be discharged as a general rule.

(*b*) Without prejudice to the TFS Regulation, the Agency and Dublin City Council, as the case may be, may specify the conditions of responsibility and decide in which cases the original producer is to retain responsibility for the whole treatment chain or in which cases the responsibility of the producer and the holder can be shared or delegated among the actors of the treatment chain.

(2B) The Minister or any Minister of the Government concerned may, in carrying out their functions under this Act, decide, by measures taken to give effect to Article 8 of the Waste Directive, that the responsibility for arranging waste management is to be borne partly or wholly by the producer of the product from which the waste came and that distributors of such product may share this responsibility.**]**

(3) A holder of waste shall, without delay, inform—

(*a*) the local authority in whose functional area the loss, spillage, or other matter mentioned in this subsection occurs, or

(*b*) in the case of hazardous waste, both the said local authority and the Agency,

of any loss, spillage, accident or other development concerning that waste which causes, or is likely to cause, environmental pollution.

(4) The Minister may by regulations—

(*a*) provide that the holder of a specified class or classes of waste shall effect and maintain a policy of insurance insuring him or her to a specified extent as respects any liability on his or her part to pay damages or costs on account of injury to person or property arising from the holding by him or her of the waste,

(*b*) provide that on the transfer of waste, in specified circumstances, the holder of the waste shall provide to the transferee specified particulars in writing of the waste so as to enable that person to avoid a contravention of the relevant provisions of this Act,

(*c*) provide that *subsection (2)* shall not apply in specified circumstances.

(5) In this section "an appropriate person" means a local authority, the corporation of a borough that is not a county borough, the council of an urban district, or a person otherwise authorised under and in accordance with this Act or the Act of 1992 F119**[**(including a dealer)**]** to undertake the collection, recovery or disposal of the class of waste in question.

(6) (*a*) A person who contravenes *subsection* F120**[***(1), (1A)(a), (2)***]** or *(3)* or a provision of regulations under *subsection (4)* shall be guilty of an offence.

(*b*) In a prosecution for a contravention of *subsection (1)*, it shall be a good defence to prove that the activity concerned was carried on in accordance with a waste collection permit or waste licence under this Act F121**[**, a permit, authorisation or certificate referred to in *section 39(5)(c)* (inserted by Statutory Instrument No. 166 of 1998)**]** or a licence or revised licence F122**[**for an integrated pollution control activity**]** under Part IV of the Act of 1992.

F121**[**(*c*) In a prosecution for a contravention of *subsection (1)*, where it is proved that—

(i) a waste collection permit or waste licence under this Act, a permit, authorisation or certificate referred to in *section 39(5)(c)* or a licence or revised licence under Part IV of the Act of 1992 was required for the carrying on of the activity concerned, and

(ii) such a permit, licence, authorisation or certificate was not in force in respect of the carrying on of that activity or was not being complied with in any respect,

then it shall be presumed, until the contrary is shown, that the carrying on of that activity was likely to cause environmental pollution.**]**

(7) F123**[**...**]**

Annotations

Amendments:

F117 Substituted and inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 16(a).

F118 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 16(b).

F119 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 16(c).

F120 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 16(d).

F121 Inserted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 29, S.I. No. 498 of 2003.

F122 Inserted (23.04.2013) by *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013), reg. 26.

F123 Deleted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 16(e).

Editorial Notes:

E326 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E327 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E328 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E329 Power pursuant to section exercised (16.01.2016) by *Waste Management (Collection Permit) (Amendment) Regulations 2016* (S.I. No. 24 of 2016).

E330 Power pursuant to section exercised (15.05.2015) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2015* (S.I. No. 198 of 2015).

E331 Power pursuant to section exercised (15.05.2015) by *Waste Management (Collection Permit) (Amendment) Regulations 2015* (S.I. No. 197 of 2015).

E332 Power pursuant to section exercised (7.07.2014) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2014* (S.I. No. 320 of 2014).

E333 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008* (S.I. No. 86 of 2008).

E334 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), in effect as per reg. 2.

E335 Power pursuant to section exercised (20.05.1998) by *Waste Management (Miscellaneous Provisions) Regulations 1998* (S.I. No. 164 of 1998), in effect as per reg. 1(2).

E336 Power pursuant to section exercised (20.05.1998) by *Waste Management (Hazardous Waste) Regulations 1998* (S.I. No. 163 of 1998), in effect as per reg. 2.

E337 Contraventions under subss. (1) and (3) prescribed for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a) (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 41(c).

E338 Responsibility for enforcement of obligations imposed by section assigned to local authorities or the Agency, as the case may be, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 40(1)(b), in effect as per reg. 2.

E339 Offence under subs. (6) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E340 Offence under subs. (6) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E341 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; as the only effect of this instrument was to amend S.I. No. 282 of 2006, it was rendered obsolete by its revocation, see below.

E342 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2017) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E343 Previous affecting provision: pursuant to section exercised (15.12.2007 and 31.03.2008) by *Waste Management (Packaging) Regulations 2007* (S.I. No. 798 of 2007), in effect as per reg. 3; revoked (21.06.2014) by *European Union (Packaging) Regulations 2014* (S.I. No. 282 of 2014), reg. 36(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 36(2) and (3).

E344 Previous affecting provision: power pursuant to section exercised (1.01.2008) by *Waste Management (Tyres and Waste Tyres) Regulations 2007* (S.I. No. 664 of 2007), in effect as per reg. 1(2); revoked (1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), in effect as per reg. 1(2).

E345 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

E346 Previous affecting provision: contraventions under subss. (1) and (3) prescribed (12.07.2004) for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a) by *Environmental Protection Agency (Licensing) (Amendment) Regulations 2004* (S.I. No. 394 of 2004), reg. 6(c), in effect as per reg. 2; revoked (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 42(1) and sch. 2, subject to transitional provision in para. (2).

E347 Previous affecting provision: application of subs. (2) restricted (20.05.1998) by *Waste Management (Miscellaneous Provisions) Regulations 1998* (S.I. No. 164 of 1998), reg. 5, in effect as per reg. 1(2); deleted (8.12.2008) by *Waste Management (Certification of Historic Unlicenced Waste Disposal and Recovery Activity) Regulations 2008* (S.I. No. 524 of 2008), reg. 12.

Collection of waste.

33.—(1) (a) Each local authority shall collect, or arrange for the collection of, household waste within its functional area.

(*b*) The corporation of a borough (other than a county borough) or the council of an urban district may collect, or arrange for the collection of, household waste.

(2) *Subsection (1) (a)* shall not apply to household waste in any part of a local authority's functional area to the extent that any of the conditions mentioned in *subsection (3)* applies to that part or, as appropriate, to that household waste.

(3) The conditions referred to in *subsection (2)* are—

(*a*) an adequate waste collection service is available in the part concerned of the local authority's functional area,

(*b*) the estimated costs of the collection of the waste concerned by the local authority would, in the opinion of the authority, be unreasonably high,

(*c*) the local authority is satisfied that adequate arrangements for the disposal of the waste concerned can reasonably be made by the holder of the waste.

(4) A local authority may collect, or arrange for the collection of waste, other than household waste.

(5) A local authority may enter into arrangements with one or more other local authorities, or with one or more other persons, for the collection on its behalf by the said authority or authorities or, as the case may be, by the said person or persons, of waste in its functional area or in a part or parts of that area.

(6) Notwithstanding any other provision of this Act, a local authority shall be under no duty to collect, or arrange for the collection of, waste from any person—

(*a*) if any provision of bye-laws under *section 35* regarding the presentation of the waste for collection is not complied with F124**[**(and, for the avoidance of doubt, such a provision includes the provision referred to in *section 35(3)(gg)*)**]**, or

F124**[**(*aa*) if any provision of an order under *section 75(10)* in relation to the waste is not complied with, or

(*aaa*) if that person has failed to pay a charge made under *section 75* or the Local Government (Financial Provisions) (No. 2) Act 1983 in respect of the collection of the waste concerned, or**]**

(*b*) if the waste contains any product or substance or packaging therefor in contravention of regulations under *section 29*.

(7) Waste collected or recovered by a local authority shall become the property of the authority.

(8) (*a*) A person shall not, without lawful authority, disturb, interfere with or remove—

(i) anything deposited at a facility provided by or on behalf of a local authority or an authorised waste collector for the deposit or storage of waste, or any plant, including any receptacles therein,

(ii) anything deposited in a receptacle for waste, whether such receptacle is for the use by members of the public or otherwise.

(*b*) A person shall not obstruct or interfere with the collection of waste by a local authority or an authorised waste collector.

(*c*) A person who contravenes *paragraph (a)* or *(b)* shall be guilty of an offence.

(9) For the purpose of this section, other than *subsection (1)*, "local authority" includes the corporation of a borough of any kind and the council of an urban district.

Annotations

Amendments:

F124 Inserted (8.09.2003) by *Protection of the Environment Act 2003* (27/2003), s. 30, S.I. No. 393 of 2003.

Waste collection permits.

34.—(1) F125**[**(*a*) Subject to *paragraph (b)*, a person other than a local authority shall not, for the purposes of reward, with a view to profit or otherwise in the course of business, F126**[**collect or transport waste**]**, on or after such date as may be prescribed, save under and in accordance with a permit (in this Act referred to as a "waste collection permit") granted by—

(i) the local authority in whose functional area the waste is collected,

(ii) such other local authority as stands nominated for the purpose in accordance with *paragraph (aa)*, or

(iii) such other body or bodies as may be prescribed.

(*aa*) Where two or more local authorities—

(i) have jointly made, or propose jointly to make, a waste management plan under *section 22(3)*, or

(ii) are otherwise cooperating with one another to achieve common objectives with respect to waste management in their functional areas,

the local authorities may or shall, if the Minister requires them to do so, decide that, for the purposes of the said plan or the achievement of the said objectives, one of them shall perform each of F126**[**the functions under this *section* or *section 34A* in relation to waste collection permits or review of waste collection permits**]** with respect to each of their functional areas and, accordingly, nominate that local authority for that purpose.**]**

(*b*) The Minister may make regulations providing that *paragraph (a)* shall not apply in respect of the F126**[**collection or transport of waste**]** where such F126**[**collection or transport**]** is carried out in compliance with such requirements (which may include a requirement as to the entry of specified particulars concerning the person carrying out the F126**[**collection or transport**]** in the register maintained by the local authority concerned under *section 19*) as are specified in the regulations.

(*c*) A person who contravenes *paragraph (a)* or any requirement of regulations under *paragraph (b)* shall be guilty of an offence.

F127**[**(1A) In this section—

"waste" means different waste, including household waste, or a class or classes of waste as may be prescribed;

"household waste" means different household waste or a class or classes of household waste as may be prescribed.**]**

(2) (*a*) The Agency may give such guidance or directions to a local authority or local authorities generally as it considers appropriate in relation to the control to be exercised or the measures to be taken by it or them of, or with regard to, the F128**[**collection or transport of hazardous waste**]** by persons in its or their functional area or areas or the grant by it or them of waste collection permits in respect of such waste.

(*b*) A local authority shall have regard to any guidance and comply with any direction given to it under *paragraph (a)* in performing any of its functions under this section or *section 33*, as appropriate.

(3) On an application being made to a local authority for the grant of a permit under this section, the authority may decide to grant the permit, subject to, or without, conditions or F129**[**to refuse to grant the permit for stated reasons which may include the abandonment of the application by the applicant**]**.

F130**[**(4) A local authority shall not grant a waste collection permit unless it is satisfied that—

(*a*) the applicant is a fit and proper person within the meaning of *section 34D* to hold a waste collection permit, and

(*b*) the activity concerned would not, if carried on in accordance with such conditions as may be attached to the permit, cause environmental pollution, and that the grant of the permit is consistent with the objectives of the relevant waste management plan or the hazardous waste management plan, as the case may be, and the implementation of that plan.**]**

(5) (*a*) Without prejudice to *subsections* F131**[***(3)* and *(4)***]**, an application for a waste collection permit may be refused, or a waste collection permit may be revoked F132**[**under *section 34A***]**, if the applicant, permit holder or any other relevant person has been convicted of an offence under this Act prescribed for the purposes of this subsection, or of an offence under any other enactment, or instrument under an enactment, as may be so prescribed.

(*b*) The reference in *paragraph (a)* to a relevant person is a reference to a person whom the local authority determines to be relevant for the purposes of considering the application concerned or, as the case may be, of deciding whether to revoke the waste collection permit, having had regard to any criteria that the Minister by regulations provides it is to have regard to in determining such a matter.

(6) F133**[**...**]**

F134**[**(7) (*a*) Conditions attached to a waste collection permit shall specify the requirements to be complied with by the holder of the permit ("permit holder") in respect of the activities to which the permit relates ("activities concerned").

(*b*) Conditions may, or, if the Minister so prescribes under *paragraph (e)* or *subsection (11)(b)(v)*, shall be attached under *paragraph (a)* to a waste collection permit specifying requirements in relation to the following:

(i) weighing of F135**[**household waste or commercial waste**]** collected or transported;

(ii) reporting of the weight of F135**[**household waste or commercial waste**]** collected or transported to the person who presents the F135**[**household waste or commercial waste**]** for collection being either the original waste producer or, as the case may be, the person who arranges, on behalf of more than one original waste producer occupying apartments, duplexes, maisonettes or any combination of such dwellings for collection of their waste ("person who presents F135**[**household waste or commercial waste**]** for collection");

(iii) subject to *paragraph (f)(i)* and *(ii)*, charging of fees for F135**[**household waste or commercial waste**]** collection or transport services;

(iv) in relation to collection of F135**[**household waste or commercial waste**]**, preparing and publishing a customer charter and its form and content;

(v) providing information to the person who presents F135**[**household waste or commercial waste**]**for collection that identifies the vehicle used for that collection;

(vi) requiring that waste is segregated before it can be collected or transported;

(vii) providing separate receptacles for different F135**[**household waste or commercial waste**]**;

(viii) collection or transport of different F135**[**household waste or commercial waste**]** at specified frequencies;

(ix) with regard to persons from whom F135**[**household waste or commercial waste**]** is collected by an authorised waste collector, providing the following information to the local authority, when requested to do so under *section 18*, regarding collections of F135**[**household waste or commercial waste**]** from those persons—

(I) details of the collection of separate classes of F135**[**household waste or commercial waste**]**,

(II) details of persons who choose not to partake in the collection of separate classes of F135**[**household waste or commercial waste**]**,

(III) details of when F135**[**household waste or commercial waste**]** was last collected, and

(IV) written confirmation of the structure of the fees being charged to the person from whom the waste is collected, including, where appropriate, billing information which indicates the pay by weight charge element of the fees charged for the collection of F135**[**household waste or commercial waste**]**.

(*c*) Conditions may, or if the Minister so prescribes under *paragraph (e)* or *subsection (11)(b)(v)*, shall also be attached under *paragraph (a)* to a waste collection permit specifying requirements in relation to the following:

(i) waste which may F136**[**or shall**]** be collected;

(ii) separate collection of waste;

(iii) prohibition of certain practices by a permit holder in order that waste which has been segregated prior to collection or transport does not become unsuitable for recycling or recovery;

(iv) the place to which waste F135**[**is required to be delivered, or to which it is prohibited from being delivered,**]** for preparation for reuse, recovery or disposal;

(v) methods, receptacles (including skips and skip bags) and vehicles to be employed by a permit holder in the collection or transport of waste, including requirements regarding dimensions of receptacles, care and disposal of the contents of the receptacles, the periods during which receptacles may be left in a public place, the locations from which different receptacles may be collected, the supervision by the permit holder of their use and the restriction to such persons as may be prescribed of the placing in or removal from any place of receptacles;

(vi) the display of identifying marks or colours on a receptacle or vehicle referred to in *subparagraph (v)*;

(vii) complying with technical, environmental, inspection or safety measures or standards (including standards regarding the presentation, segregation, weighing, packaging or labelling of waste);

(viii) keeping and preserving of records and supplying information to the local authority, or any other person as may be prescribed, in relation to the activities F135**[**concerned, and the form in which such records are to be kept and preserved and in which the information is to be supplied**]**;

(ix) effecting and maintaining a policy of insurance insuring the permit holder as respects any liability on his or her part to pay damages or costs on account of injury to a person or property arising from the activities concerned;

(x) matters consequent on measures that may be taken under *section 35*;

(xi) matters consequent on measures that may be taken under *Part II*;

(xii) matters consequent on giving effect to Community Acts;

(xiii) information to be furnished to customers (including providing information to customers on the presentation, segregation, packaging or labelling of waste or the charges payable for its collection or transport);

(xiv) matters consequent on the implementation and demonstration of the implementation of the waste hierarchy referred to in *section 21A*;

(xv) undergoing specified training in relation to the activities concerned;

(xvi) inspecting and acceptance of waste by a permit holder;

(xvii) effecting and maintaining an environmental management system, within the meaning of *section 27*, in respect of the activities concerned;

(xviii) the hours between which waste concerned may be collected in specified areas;

(xix) effecting and maintaining a customer complaint management system;

(xx) preventing the occurrence of littering from vehicles in the course of the activities concerned;

(xxi) having information, in such form as may be specified in a waste collection permit, to accompany and be carried in the vehicle transporting the waste;

(xxii) as respects contamination that may be caused by the F135**[**incorrect separation of waste in receptacles for segregated waste**]**—

(I) monitoring by a permit holder of levels of contamination,

(II) recording and maintaining specified data on levels of contamination,

(III) training to be provided for staff of a permit holder in relation to monitoring contamination, or

(IV) protocols and procedures where contamination is detected by the collector, including for informing the person who presents household waste for collection or non-collection of F135**[**the receptacle;**]**

F136**[**(xxiii) the achievement of such targets as may be specified in the permit in relation to recycling rates;

(xxiv) effecting and maintaining a record, document and data management system of such standard, or in accordance with such criteria, as the Minister may prescribe and which may include an electronic record, document and data management system;

(xxv) the requirement to collect waste where a waste service is not provided;

(xxvi) the requirement to effect and maintain a customer communication and awareness programme.**]**

(*d*) Conditions shall be attached under *paragraph (a)* to a waste collection permit specifying requirements in relation to the following:

(i) collection only of a European Waste Catalogue waste type specified on the waste collection permit;

(ii) deposit of waste only at a facility specified on the waste collection permit;

(iii) use only of a vehicle specified on the waste collection permit for the collection of waste;

(iv) carrying of a copy, in a form specified in the permit, of the waste collection permit on each vehicle;

(v) display of the permit holder name or number on promotional material, vehicles, skips, receptacles or bags of the permit holder;

(vi) submission of specified information on a periodic basis to the local authority in such form and at such frequency as may be specified on the waste collection permit;

(vii) where a weighing system is used to determine weight-based collection charges, submission of confirmation of an annual inspection of the weighing system used by the permit holder in accordance with the Legal Metrology (General) Regulations 2008 (S.I. No. 323 of 2008), in such form that may be specified on the waste collection permit.

(*e*) The Minister, where he or she considers that it is necessary for waste management in accordance with the principle that the costs of that management shall be borne by the original waste producer or by the current or previous waste holders, shall make regulations prescribing a requirement for attachment of a condition to a waste collection permit that a permit holder shall charge fees for the collection or transport of F135**[**household waste or commercial waste**]**.

(*f*) Regulations under *paragraph (e)* shall provide for the means by which fees for collection or F135**[**transport of household waste or commercial waste, as the case may be,**]** shall be calculated by a permit holder and shall require a permit holder to—

(i) charge a fee for each kilogramme of F135**[**household waste or commercial waste, as the case may be, collected or transported, or both,**]** which fee

shall only be calculated by reference to weight of F135**[**household waste or commercial waste, as the case may be, collected and transported**]**, and for the avoidance of doubt, methods of calculation of a fee based on pay by lift or throw, tags or a flat-rate shall not be considered to be calculated by reference to weight of waste collected,

(ii) charge a service fee, as considered appropriate by the permit holder (including a nil fee), in addition to the fee referred to in *subparagraph (i)*,

(iii) demonstrate by prescribed means if the fees charged for collection or transport of F135**[**household waste or commercial waste, as the case may be, incentivise waste prevention and segregation**]**, and

(iv) furnish to an authorised person, information in a prescribed form, regarding the billing system used by the permit holder in respect of fees referred to under *subparagraph (i)* or *(ii)*.

(*g*) (i) For the purposes of *paragraph (f)(i)*, the Minister shall prescribe the minimum amount of the fee required to be charged for each kilogramme of F135**[**household waste or commercial waste, as the case may be,**]** collected or transported and that minimum fee shall be based on the approximate cost per kilogramme of managing segregated F135**[**household waste or commercial waste, as the case may be,**]** including its collection from the person who presented that waste for collection, its delivery to an authorised facility by a permit holder and its final treatment, which in any event shall not exceed an amount of 30 cent per kilogramme of F135**[**household waste or commercial waste, as the case may be**]**.

(ii) The Minister shall review the costs of managing F135**[**household waste and commercial waste,**]** on which the minimum charges prescribed under *subparagraph (i)* are based, at least every 12 months and may amend the amount of the fee prescribed under *subparagraph (i)*.

(iii) The Minister following a review under *subparagraph (ii)*, once and only once in each financial year beginning in the financial year that he or she first prescribes under *subparagraph (i)*, may substitute for the amount of the fee prescribed under *subparagraph (i)*, an amount which does not exceed the amount so prescribed by 5 cent.**]**

(8) (*a*) A local authority, before making a decision in relation to an application made to it for the grant of a waste collection permit, shall consider any submissions made to it under and in accordance with regulations under *subsection (11)* in relation to the application.

(*b*) A local authority shall, if it decides—

(i) to grant F137**[**...**]** a waste collection permit, or

(ii) to refuse to grant F137**[**...**]** such a permit,

forthwith notify the applicant therefor F137**[**...**]** of the decision and the reasons for the decision.

(9) (*a*) An applicant for F138**[**...**]** a waste collection permit may, within F139**[**28 days**]** of the date of a notice under *subsection (8)*, appeal against the decision of the local authority concerned to the judge of the District Court for the District Court district in which the principal office of the local authority is situate.

(*b*) On the hearing of an appeal under this subsection, the judge of the District Court may make an order giving such directions to the local authority concerned as he or she thinks proper in relation to the grant F138**[**...**]** of a waste collection permit F138**[**...**]**.

(10) A contravention of any provision of *section 32* or *39*, or of any condition of a waste collection permit, by any person employed by or on behalf of, or otherwise carrying out any waste collection activity for, or on behalf of, the holder of the permit, shall be deemed to also be a contravention of the provision or condition, as the case may be, by that holder.

F140**[**(10A) A person who, under this section furnishes information to a local authority which is to his or her knowledge false or in a material respect misleading, shall be guilty of an offence.**]**

(11) (*a*) The Minister may make regulations for the purpose of this section.

(*b*) Without prejudice to the generality of *paragraph (a)*, regulations under this subsection may make provision in relation to all or any of the following matters—

(i) the form in which an application for the grant of a waste collection permit ("a permit") shall be made and the form of a permit;

F141**[**(ia) prescribing a class or classes of waste or household waste for purposes of a waste collection permit or conditions that may or shall be attached to that permit, including by reference to the nature or quantity of the waste, its presentation for collection or whether it is to be segregated;**]**

(ii) information and particulars to be submitted by an applicant for the grant of a permit, and verification of such information and particulars;

(iii) specifying the period within which an application for the grant of a permit shall be dealt with by a local authority;

(iv) matters in respect of which a local authority must be satisfied prior to the granting of a permit;

F142**[**(v) requiring a local authority to attach specified conditions to a permit, including a condition referred to in *subsection (7)(b)* or *(c)*;**]**

(vi) specifying conditions that a local authority may attach to a permit;

F143**[**(via) for the purposes of *subsection (7)*, prescribing any matter referred to in that subsection as prescribed or to be prescribed;**]**

(vii) F144**[**...**]**

(viii) the making available for inspection by members of the public of an application for the grant of a permit, and the making of submissions by members of the public to a local authority, within a specified period, in relation to such an application;

(ix) the publication by a local authority of decisions made by it in relation to permits;

(x) requiring an applicant for the grant of a permit to defray, or contribute towards, any costs incurred by the local authority concerned in carrying out an investigation in relation to the F145**[**application;**]**

F146**[**(xi) such incidental, supplementary and consequential matters as appear to the Minister to be necessary or expedient for the purposes of this section and the regulations.**]**

(12) The collection of waste shall, in the period before a waste collection permit in relation to such collection is granted or refused, be deemed not to have contravened the provisions of this section if, before the date prescribed under *subsection (1) (a)*, an application has been made for a waste collection permit in respect of such collection

and the requirements of regulations under *subsection (11)* in relation to the application have been complied with by the applicant therefor.

F147**[**(13) (*a*) The reference in *subsection (1)(a)* to a local authority, where it first occurs, shall be construed as including a reference to the corporation of a borough of any kind and the council of an urban district.

(*b*) Each other reference in this section (other than *subsections (1)(aa)* and *(4)*) to a local authority shall be construed as including a reference to a body standing prescribed for the purposes of *subsection (1)(a)(iii)*.

F148**[**(*c*) If a body stands prescribed for the purposes aforesaid, then this section shall have effect, in so far as it relates to such a body, as if the following subsection was substituted for *subsection (4)*:

"(4) A body standing prescribed for the purposes of *subsection (1)(a)(iii)* shall not grant a waste collection permit unless it is satisfied that the activity in question would not, if carried on in accordance with such conditions as may be attached to the permit, cause environmental pollution, and that the grant of the permit is consistent with the objectives of the relevant waste management plan or the hazardous waste management plan as the case may be.".**]]**

Annotations

Amendments:

F125 Substituted and inserted (17.07.2001) by *Waste Management (Amendment) Act 2001* (36/2001), s. 6(a), commenced on enactment.

F126 Substituted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(a), S.I. No. 358 of 2015.

F127 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(b), S.I. No. 358 of 2015.

F128 Substituted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(c), S.I. No. 358 of 2015.

F129 Substituted (24.02.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 26(1)(a), S.I. No. 49 of 2023, art. 2(a).

F130 Substituted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(d), S.I. No. 358 of 2015.

F131 Substituted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(e)(i), S.I. No. 358 of 2015.

F132 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(e)(ii), S.I. No. 358 of 2015.

F133 Deleted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(f), S.I. No. 358 of 2015.

F134 Substituted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(g), S.I. No. 358 of 2015.

F135 Substituted (24.02.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 26(1)(b)(i), (ii)(II)-(IV), and (iii)-(v), S. I. No. 49 of 2023, reg. 2(a).

F136 Inserted (24.02.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 26(1)(b)(ii)(I), (v), S.I. No. 49 of 2023, art. 2(a).

F137 Deleted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(h), S.I. No. 358 of 2015.

F138 Deleted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(i), S.I. No. 358 of 2015.

F139 Substituted (24.02.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 26(1)(c), S.I. No. 49 of 2023, art. 2(a), subject to transitional provision in subs. (2).

F140 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(j), S.I. No. 358 of 2015.

F141 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(k)(i), S.I. No. 358 of 2015.

F142 Substituted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(k)(ii), S.I. No. 358 of 2015.

F143 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(k)(iii), S.I. No. 358 of 2015.

F144 Deleted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(k)(iv), S.I. No. 358 of 2015.

F145 Substituted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(k)(v), S.I. No. 358 of 2015.

F146 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 37(k)(vi), S.I. No. 358 of 2015.

F147 Substituted (17.07.2001) by *Waste Management (Amendment) Act 2001* (36/2001), s. 6(b), commenced on enactment.

F148 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 31(b), S.I. No. 393 of 2004.

F149 Inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 26(1)(d), not commenced as of date of revision.

F150 Inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 26(1)(e)(i), (ii), not commenced as of date of revision.

F151 Inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 26(1)(f), not commenced as of date of revision.

Modifications (not altering text):

C19 Prospective affecting provisions: subss. (10B), (11)(b)(iva) and (xa)-(xc) inserted by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 26(1)(d), (e)(i), not commenced as of date of revision.

F149**[**(10B) A person shall not carry out any waste collection activity for, or on behalf of, the holder of a waste collection permit unless the person is an authorised waste collector.**]**

(11) ...

(*b*) ...

F150**[**(iva) the bases upon which a local authority may consider an application to be abandoned;**]**

...

F150**[**(xa) requiring that a permit holder defray, or contribute towards, any costs incurred by the local authority or, as the case may be, the nominated authority (within the meaning of section 34B) concerned, in the ongoing maintenance of the waste collection permitting system;**]**

F151**[**(xb) targets in relation to recycling rates for permit holders;

(xc) standards or criteria, or both, in relation to record, document and data management by permit holders;**]**

...

C20 Application of subs. (1)(a) restricted (1.07.2010) by *Waste Management (Food Waste) Regulations 2009* (S.I. No. 508 of 2009), reg. 7(2), in effect as per reg. 4(2), as amended (7.05.2015) by *Waste Management (Food Waste) (Amendment) Regulations 2015* (S.I. No. 190 of 2015), reg. 3(b).

Food waste arising on a producer's premises

7. ...

(2) Section 34(1)(*a*) of the Act shall not apply in respect of—[6]

[(*a*) a producer, authorised, registered or approved under the European Union (Animal By-Products) Regulations 2014, or**]**

(*b*) a producer transferring source segregated food waste arising on his premises for the purposes of an authorised treatment process in accordance with paragraph (1)(*b*) (iii), provided that the vehicle used for the transfer is—

(i) transporting the waste in compliance with the general requirements of article 4 of Directive 2006/12/EC[6], and

(ii) facilitating the transfer of the waste for the purposes of an authorised treatment process, and

(iii) registered in accordance with the provisions of section 131 of the Finance Act 1992 (No. 9 of 1992), and, as appropriate,

(iv) licensed under section 1 of the Finance (Excise Duties) (Vehicles) Act 1952 or section 21 of the Finance (No. 2) Act 1992.

...

C21 Application of subs. (1)(a) restricted (26.09.2008) by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2014), reg. 43, in effect as per regulation.

Non-application of section 34(1)(a) of the Act

43. (1) Without prejudice to regulation 21(1)(*b*)(ii), on and from 26 September 2008, section 34(1)(*a*) of the Act shall not apply in respect of the transport of waste batteries undertaken by a—

(*a*) distributor, registered or exempted from registration in accordance with the provisions of regulation 42—

(i) taking back waste batteries or, as appropriate,

(ii) depositing waste batteries at a collection point, that was accepted free of charge in accordance with the provisions of regulation 21 and is managed in accordance with the provisions of regulation 22,

(*b*) person or persons, acting on behalf of a body, which has been granted charitable recognition by the Revenue Commissioners, and issued with a Charity (CHY) Number, or

(*c*) person or persons, acting on behalf of a workplace or educational establishment designated as a collection point by a local authority in accordance with the provisions of regulation 25(*c*) provided that the waste batteries are transported in or on a vehicle registered in accordance with the provisions of section 131 of the Finance Act 1992 (No. 9 of 1992), other than a vehicle designed for the carriage of a skip or other demountable container.

(2) the exemptions provided for in sub-regulation (1) shall not apply—

(*a*) to contaminated waste batteries that present a health and safety risk, and

(*b*) unless the waste batteries will be eventually–

(i) treated at an appropriate facility in accordance with the requirements set out in Part A, and

[6] O.J. L 114, 27.04.2006, p 9.
[6] O.J. L 114, 27.04.2006, p 9.

(ii) recycled at an appropriate facility in accordance with the requirements set out in Part B of Annex III of the Directive, subject to any amendment that may be made to that Annex from time to time.

C22 Application of subs. (1)(a) restricted (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 30, in effect as per reg. 1(2), as amended (31.03.2008) by *Waste Management (Collection Permit) (Amendment) Regulations 2008* (S.I. No. 87 of 2008), reg. 2(n).

Non-application of section 34(1)(a) of the Act

30. (1) Notwithstanding the additional requirements applicable to the relevant exemptions as imposed under sub-article 30(2), section 34(1)(*a*) of the Act shall not apply in respect of—

(*a*) the gathering, sorting or mixing of waste—

(i) on the premises at which the waste arose, or

(ii) which is carried on in accordance with a waste licence, a waste facility permit, a certificate of registration or an IPPC licence that is for the time being in force,

(*b*) the collection and transport of non-hazardous waste, other than under the conditions described in paragraph (*k*)(i) by a person where—

(i) such transport is incidental to the main business activity of the person concerned, and

(ii) the quantity of waste transported by the person concerned is equal to or less than 2 tonnes other than waste which is transported in, or on, a vehicle designed for the carriage of a skip or other demountable container,

(*c*) the collection and transport of waste, returned or recovered refrigerant gases in refrigerant containers, where recovery has the meaning assigned to it under Regulation (EC) No. 2037/2000 and Regulation (EC) No. 842/2006, by a person where—

(i) such transport is incidental to the main business activity of the person concerned,

(ii) the person concerned is operating on a small scale and is engaged in environmentally beneficial operations facilitating the recycling, reclamation or destruction of recovered refrigerant gases in accordance with the relevant legislative requirements for the specific refrigerant gas type,

(iii) the quantity of waste, returned or recovered refrigerant gas transported in refrigerant containers by the person concerned is equal to or less than 2 tonnes,

(iv) the person has given prior annual notification to the Agency in accordance with the requirements prescribed in the fifth schedule and has received an acknowledgement of this notification from the Agency,

(v) the handling and transport of the refrigerant gases is carried out in a manner that shall prevent the venting or leakage of these gases to the atmosphere,

(vi) no mixing of different refrigerant gas types occurs,

(vii) the transport of the waste, returned or recovered refrigerant gases in refrigerant containers is to an authorised facility where it will be stored in accordance with the rules as set out in the fourth schedule of the Waste Management (Facility Permit and Registration) Regulations 2007,

(viii) the waste, returned or recovered refrigerant gases will eventually be recycled, reclaimed or destroyed at an authorised facility in accordance with the relevant legislative requirements for the specific refrigerant gas type,

(*d*) the collection and transport of waste, returned or recovered halons in halon containers, where recovery has the meaning assigned to it under Regulation (EC) No. 2037/2000, by a person where—

(i) such transport is incidental to the main business activity of the person concerned,

(ii) the person concerned is operating on a small scale and is engaged in environmentally beneficial operations facilitating the recycling, reclamation or destruction of recovered halons in accordance with Regulation (EC) No. 2037/2000,

(iii) the quantity of waste, returned or recovered halons transported in halon containers by the person concerned is equal to or less than 2 tonnes,

(iv) the person has given prior annual notification to the Agency in accordance with the requirements prescribed in the fifth schedule and has received an acknowledgement of this notification from the Agency,

(v) the handling and transport of the halons in halon containers is carried out in a manner that shall prevent the venting or leakage of these gases to the atmosphere,

(vi) the transport of the waste, returned or recovered halons in halon containers is to an authorised facility where it will be stored in accordance with the rules as set out in the fourth schedule of the Waste Management (Facility Permit and Registration) Regulations 2007,

(vii) the waste, returned or recovered halon gases will eventually be recycled, reclaimed or destroyed at an authorised facility in accordance with Regulation (EC) No. 2037/2000,

(*e*) the collection and transport of waste, returned or recovered fluorinated greenhouse gases in fluorinated greenhouse gas containers where recovery has the meaning assigned to it under Regulation (EC) No. 842/2006, by a person where—

(i) such transport is incidental to the main business activity of the person concerned,

(ii) the person concerned is operating on a small scale and is engaged in environmentally beneficial operations facilitating the recycling, reclamation or destruction of recovered fluorinated greenhouse gases in accordance with Regulation (EC) No. 842/2006,

(iii) the quantity of waste, returned or recovered fluorinated greenhouse gas transported in fluorinated greenhouse gas containers by the person concerned is equal to or less than 2 tonnes,

(iv) the person has given prior annual notification to the Agency in accordance with the requirements prescribed in the fifth schedule and has received an acknowledgement of this notification from the Agency,

(v) the handling and transport of the fluorinated greenhouse gas in fluorinated greenhouse gas containers is carried out in a manner that shall prevent the venting or leakage of these gases to the atmosphere,

(vi) the transport of the waste, returned or recovered fluorinated greenhouse gas in fluorinated greenhouse gas containers is to an authorised facility where it will be stored in accordance with the rules as set out in the fourth schedule of the Waste Management (Facility Permit and Registration) Regulations 2007,

(vii) the waste, returned or recovered fluorinated greenhouse gases will eventually be recycled, reclaimed or destroyed at an authorised facility in accordance with Regulation (EC) No. 842/2006,

(*f*) the collection and transport of specified risk material, or protein or tallow obtained from the rendering of specified risk material, under and in accordance with a licence granted under Regulation 10 of the European Communities (Specified Risk Material) Regulations, 2000 (S.I. No. 332 of 2000),

[(*g*) the collection and transport of animal by-products, other than catering waste, within the meaning of the European Communities (Transmissible Spongiform Encephalopathies and Animal By-Products) Regulations 2006 (S.I. No. 612 of 2006), subject to any amendment that may be made to those regulations from time to time,**]**

(*h*) the collection and transport of packaging waste by a major producer, within the meaning of the Waste Management (Packaging) Regulations 2003 (S.I. No. 61 of 2003) as amended by the Waste Management (Packaging) (Amendment) Regulations 2004 (S.I. No. 871 of 2004) and the Waste Management (Packaging) (Amendment) Regulations 2006 (S.I. No. 308 of 2006), under and in accordance with, articles 5(1)(*a*) and 9(1)(*e*) of those Regulations, subject to any amendment that may be made to those Regulations from time to time,

(*i*) collection and transport of farm plastic waste by a producer within the meaning of the Waste Management (Farm Plastics) Regulations, 2001 (S.I. No. 341 of 2001), under and

in accordance with article 4 of those Regulations, subject to any amendment that may be made to those Regulations from time to time,

(*j*) the collection of waste at a bring facility,

(*k*) the collection and transport of waste electrical and electronic equipment by—

(i) any—

(I) person or persons in accordance with the provisions of article 38 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005);

(II) producer as defined in section 53G of the Act, from a final user other than a private household, for the purposes of fulfilling his or her obligations in accordance with the provisions of article 17(1) of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) and provided the quantity of waste concerned is equal to or less than 0.5 tonnes,

(III) final user other than other than a private household for the purposes of—

(A) fulfilling his or her obligations in accordance with the provisions of article 17(2) of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005), or as appropriate,

(B) transporting waste electrical and electronic equipment to a collection point designated by a producer as defined in section 53G of the Act where alternative financial arrangements have been made in accordance with the provisions of article 18(1) of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005),

subject to any amendment that may be made to the those Regulations from time to time and provided the quantity of waste concerned is equal to or less than 0.5 tonnes, or as appropriate,

(ii) person or persons acting on behalf of or in conjunction with an authorised treatment facility where the waste electrical and electronic equipment concerned will be treated in accordance with the technical requirements as set out in the seventh schedule of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) for the purposes of raising awareness, or as appropriate, targeting specific categories of waste electrical and electronic equipment subject to the approval of the Minister and shall be subject to such conditions as the Minister may specify, including but not exclusively—

(I) the period of approval which shall be for a period of not more than 6 months,

(II) the use of logos adopted by the Minister,

(III) the nature of information to recorded and maintained by the authorised treatment facility concerned, or as appropriate

(IV) provided to the Agency, or as appropriate, any local authority

(V) variance in the terms and conditions of approval, and

(VI) revocation of approval,

subject to any amendment that may be made to those Regulations from time to time.

(*l*) the collection and transport of waste, other than in a vehicle designed for the carriage of a skip or other demountable container, undertaken by or on behalf of a body, which has been granted charitable recognition by the Revenue Commissioners and issued with a Charity (CHY) Number, provided that, in the case of waste electrical and electronic equipment, the activity is confined to the transport of waste electrical and electronic equipment listed within the first schedule of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005), other than waste electrical and electronic equipment listed within Category 5 of that schedule.

(*m*) the collection of waste at a central collection point by, or on behalf of a local authority, or with the approval of a local authority, where such collection is undertaken by, or on behalf of, a community group,

(2) The exemptions provided for in sub-articles

(*a*) 1(*j*) and 1(*k*) shall not apply—

(i) to contaminated waste electrical and electronic equipment that presents a health and safety risk,

(ii) unless transport of the waste electrical and electronic equipment is to an authorised facility where it will be stored in accordance with the requirements of Annex III of Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003, as amended by Directive 2003/108/EC of the European Parliament and of the Council of 8 December 2003, and

(iii) unless the waste electrical and electronic equipment will be reused or eventually be treated at an appropriate facility in accordance with the technical requirements of Annex II of Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003, as amended by Directive 2003/108/EC of the European Parliament and of the Council of 8 December 2003, or as appropriate,

(*b*) 1(*b*), 1(*g*), 1(*h*), 1(i), 1(*j*), 1(*k*) and 1(*l*) shall not apply to any person or persons that is not fulfilling his or her producer responsibility obligations, where applicable, provided for in Regulations made in accordance with Part III, or as appropriate, Part VA, Part VB of the Act or, as appropriate, any appropriate section or Part concerning producer responsibility obligations, that may be inserted into the Act from time to time,

(*c*) 1(*b*) to 1(*l*) inclusive shall not apply in respect of the collection and transport of waste in any vehicle that is not—

(i) transporting the waste in compliance with the general requirements of article 4 of Directive 2006/12/EC, and

(ii) facilitating the transfer of the waste to an authorised facility, and

(iii) registered in accordance with the provisions of section 131 of the Finance Act 1992 (No. 9 of 1992), and as appropriate,

(iv) licensed under section 1 of the Finance (Excise Duties) (Vehicles) Act 1952 or section 21 of the Finance (No. 2) Act 1992.

Editorial Notes:

E348 Power pursuant to section exercised (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023).

E349 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E350 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E351 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E352 Power pursuant to section exercised (30.06.2016) by *Waste Management (Collection Permit) (Amendment)(No.2) Regulations 2016* (S.I. No. 346 of 2016).

E353 Power pursuant to section exercised (16.01.2016) by *Waste Management (Collection Permit) (Amendment) Regulations 2016* (S.I. No. 24 of 2016).

E354 Power pursuant to section exercised (15.05.2015) by *Waste Management (Collection Permit) (Amendment) Regulations 2015* (S.I. No. 197 of 2015).

E355 Power pursuant to section exercised (7.05.2015) by *Waste Management (Food Waste) (Amendment) Regulations 2015* (S.I. No. 190 of 2015).

E356 Offence under subs. (1) prescribed for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a), (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 41(d).

E357 Provisions concerning costs of certain proceedings relating to waste collection permits granted pursuant to section prescribed (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), ss. 3, 4, 6 and 7, S.I. No. 433 of 2011.

E358 Power pursuant to section exercised (10.12.2009) by *Waste Management (Food Waste) Regulations 2009* (S.I. No. 508 of 2009).

E359 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) (Amendment) Regulations 2008* (S.I. No. 87 of 2008).

E360 Offence under subs. (1) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E361 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), in effect as per reg. 1(2).

E362 Offence under subs. (1) prescribed as offence for purposes of subs. (5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E363 Power pursuant to section exercised (20.05.1998) by *Waste Management (Miscellaneous Provisions) Regulations 1998* (S.I. No. 164 of 1998), in effect as per reg. 1(2).

E364 Previous affecting provision; power pursuant to section exercised (14.02.2023) by *Waste Management (Collection Permit) (Amendment) Regulations 2023* (S.I. No. 63 of 2023); revoked (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023), reg. 8(1).

E365 Previous affecting provision: pursuant to section exercised (1.04.2010, 1.06.2010, 1.12.2010, 10.04.2010, and 1.06.2015) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2010* (S.I. No. 143 of 2010), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E366 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 282 of 2006, see below.

E367 Previous affecting provision: application of subs. (1)(a) restricted (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 41, in effect as per reg. 45; revoked (29.03.2014) by *European Union (Waste Electrical and Electronic Equipment) Regulations 2014* (S.I. No. 149 of 2014), reg. 41, in effect as per reg. 45.

E368 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E369 Previous affecting provision: application of subs. (1)(a) restricted (26.09.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008), reg. 43, in effect as per regulation; revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2014), reg. 49(1), with effect from date specified in reg. 3, as amended (30.07.2014) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E370 Previous affecting provision: power pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2014) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E371 Previous affecting provision: application of subs. (1)(a) restricted (26.09.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008), reg. 43, in effect as per regulation; revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2014), reg. 49(1), with effect from date specified in reg. 3, as amended (30.07.2014) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E372 Previous affecting provision: pursuant to section exercised (15.12.2007 and 31.03.2008) by *Waste Management (Packaging) Regulations 2007* (S.I. No. 798 of 2007), in effect as per reg. 3; revoked (21.06.2014) by *European Union (Packaging) Regulations 2014* (S.I. No. 282 of 2014), reg. 36(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 36(2) and (3).

E373 Previous affecting provision: power pursuant to section exercised (1.01.2008) by *Waste Management (Tyres and Waste Tyres) Regulations 2007* (S.I. No. 664 of 2007), in effect as per reg. 1(2); revoked (1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), in effect as per reg. 1(2).

E374 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

E375 Previous affecting provision: application of subs. (1)(a) restricted (13.08.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005), reg. 38, in effect as per regulation; revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

E376 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

E377 Previous affecting provision: subs. (4) substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 31(a), S.I. No. 393 of 2004; substituted as per F-note above.

E378 Previous affecting provision: offence under subs. (6) prescribed (12.07.2004) for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a) by *Environmental Protection Agency (Licensing) (Amendment) Regulations 2004* (S.I. No. 394 of 2004), reg. 6(d), in effect as per reg. 2; revoked (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 42(1) and sch. 2, subject to transitional provision in para. (2).

E379 Previous affecting provision: application of subs. (1)(a) restricted (30.08.2001) by *Waste Management (Collection Permit) Regulations 2001* (S.I. No. 402 of 2001), reg. 22; revoked (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 2(1) and sch. 1, in effect as per reg. 1(2), subject to transitional provision in para. (2).

E380 Previous affecting provision: pursuant to section exercised (30.11.2001) by *Waste Management (Collection Permit) (Amendment) Regulations 2001* (S.I. No. 540 of 2001); revoked (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 2(1) and sch. 1, in effect as per reg. 1(2); subject to transitional provision in reg. 2(2).

E381 Previous affecting provision: pursuant to section exercised (30.08.2001) by *Waste Management (Collection Permit) Regulations 2001* (S.I. No. 402 of 2001); revoked (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 2(1) and sch. 1, in effect as per reg. 1(2); subject to transitional provision in reg. 2(2).

E382 Previous affecting provision: withdrawal of application deemed refusal by local authority for purposes of subs. (12) (30.08.2001) by *Waste Management (Collection Permit) Regulations 2001* (S.I. No. 402 of 2001), reg. 28(3); revoked (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 2(1) and sch. 1, in effect as per reg. 1(2), subject to transitional provision in para. (2).

E383 Previous affecting provision: application of subs. (1)(a) restricted (20.05.1998) by *Waste Management (Miscellaneous Provisions) Regulations 1998* (S.I. No. 164 of 1998), reg. 6(2), in effect as per reg. 1(2); deleted (30.11.2001) by *Waste Management (Collection Permit) Regulations 2001* (S.I. No. 402 of 2001), reg. 29, in effect as per regulation.

F152[Review of waste collection permit

34A.— (1) A local authority may review a waste collection permit, or a waste collection permit amended under this section—

(*a*) at any time after the permit was granted or amended, or

(*b*) on an application in that behalf being made by the holder of the permit ("permit holder").

(2) A local authority shall review a waste collection permit or a waste collection permit amended under this section where—

(*a*) the permit holder has been convicted of an offence prescribed under *section 34(5)*,

(*b*) the local authority believes that the permit holder is contravening or has contravened a condition of a waste collection permit attached to that permit under *section 34(7)(b)* (other than a condition attached under *subparagraph (v)* of that *section 34(7)(b)*), or

(*c*) the local authority believes that the permit holder, during a 5 year period beginning on the date of the first such contravention, is contravening or has contravened three different conditions attached, under *subparagraph (v)* of *paragraph (b)* or *paragraph (c)* or *(d)* of *section 34(7)*, to a waste collection permit granted to that permit holder.

(3) For the purposes of a review under this section, a local authority, by notice in writing, may request information or further information from the permit holder, the local authority concerned, the Agency, or any other person who the local authority wishes to consult, and the permit holder, local authority concerned, Agency or other person shall furnish that information or further information within the period stated in the notice.

(4) A local authority having reviewed a waste collection permit under *subsection (1)(a)* or considered an application under *subsection (1)(b)* and any information or further information furnished under *subsection (3)*, and determined whether it is satisfied regarding the same matters in relation to which the authority is required to be satisfied for the purposes of a grant of an application under *section 34*, shall make a decision in relation to the review.

(5) The decision of the local authority referred to in *subsection (4)* may be to—

(*a*) amend a permit, including amending conditions attached to the permit or removing the authorisation under the permit to collect certain classes of waste, including removing the authorisation relating to a vehicle which, the authority is satisfied, is the cause of a contravention of a condition attached

to a waste collection permit under *subparagraph (i)*, *(ii)* or *(iii)* of *section 34(7)(b)*,

(*b*) direct measures to be taken by the permit holder within a period specified in the notice under *subsection (7)*, including to direct the permit holder to submit an application for a waste collection permit under *section 34*,

(*c*) terminate the review without amending the waste collection permit, or

(*d*) revoke the waste collection permit where the local authority decides that the permit holder—

(i) is not a fit and proper person within the meaning of *section 34D*,

(ii) has failed or neglected to take the measures required under *paragraph (b)*, or

(iii) offered to surrender the permit and such offer is acceptable to the local authority.

(6) For the purposes of *subsection (5)(a)*, section 34 applies, with any necessary modifications, to the attaching of a condition that may be or, as the case may be, is required to be attached to a permit following a decision of a local authority under that subsection as it applies to the attaching to a permit granted under section 34 of those conditions.

(7) The local authority, as soon as possible after its decision under *subsection (4)*, and in any event not later than 14 days after that decision, shall give notice in writing to the permit holder or, as the case may be, person whose waste collection permit has been revoked, of the decision, the reasons therefor, that the decision may be appealed and that the decision shall be suspended, until the decision becomes final under *subsection (8)*, or the disposal of an appeal under *subsection (9)*.

(8) (*a*) If, on the expiration of the period of 28 days beginning on the date of the notice under *subsection (7)*, no appeal under *subsection (9)* is made, the decision of the local authority under *subsection (4)* shall be final.

(*b*) If, following an appeal under *subsection (9)*, the District Court gives directions to the local authority under *subsection (9)(b)*, the decision of the local authority under *subsection (4)* is suspended until the local authority complies with the direction.

(9) (*a*) A permit holder or, as the case may be, person whose waste collection permit has been revoked, within 28 days of the date of a notice under *subsection (7)*, may appeal against the decision of the local authority to the judge of the District Court for the District Court district in which the principal office of the local authority is situate.

(*b*) On the hearing of an appeal under this subsection, the judge of the District Court may make an order giving such directions to the local authority as he or she thinks proper in relation to the revocation of a waste collection permit or the amendment of conditions attached to such a permit.

(10) A local authority concerned, the Agency or other body which performs a statutory function relating to waste management responsible for prosecuting an offence prescribed under *section 34(5)* shall, if applicable, inform a local authority as soon as practicable if a permit holder is convicted of the offence.

(11) A local authority concerned, the Agency or other body which performs a statutory function relating to waste management shall inform a local authority where it appears to the local authority concerned, the Agency or body that a condition of a waste collection permit under *paragraph (b)*, *(c)* or *(d)* of *section 34(7)* is being or has been contravened.

(12) The Minister may make regulations for the purposes of this section providing for any of the following matters:

(*a*) procedures to be followed by a local authority with regard to the initiating and conducting of reviews;

(*b*) specific circumstances whereby a waste collection permit holder may apply to have their permit reviewed;

(*c*) matters in relation to which the authority shall be satisfied before accepting the surrender of a permit;

(*d*) the time within which reviews shall be carried out;

(*e*) procedures to be followed in relation to the furnishing of information under *subsection (3)*;

(*f*) information to be furnished by a permit holder relating to compliance with a waste collection permit or measures directed under *subsection (5)(b)* ;

(*g*) procedures to be followed in relation to the furnishing of information under *subsection (10)* or *(11)*;

(*h*) amendment of any entry in the register maintained by a local authority under *section 19* concerning a waste collection permit that may be required following a review under this section;

(*i*) such incidental, supplementary and consequential matters as appear to the Minister as necessary or expedient for the purposes of this section.

(13) A person who, under this section furnishes information to a local authority or to a local authority concerned which is to his or her knowledge false or in a material respect misleading, shall be guilty of an offence.

(14) In this section reference to "local authority concerned" means a local authority (first-mentioned local authority) who has nominated another local authority under *section 34(1)(aa)* to perform functions under *section 34* and this section in relation to waste collection permits or review of waste collection permits in respect of the functional area of the first-mentioned local authority.**]**

Annotations

Amendments:

F152 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 38, S.I. No. 358 of 2015.

Editorial Notes:

E384 The section heading is taken from the amending section in the absence of one included in the amendment.

F153**[**Transfer of a waste collection permit

34B.— (1) In this section and *sections 34C* and *34D* "nominated authority" means a local authority nominated under *section 34(1)(aa)(ii)*.

(2) A waste collection permit may be transferred to another person in accordance with this section.

(3) Where the authorised waste collector intends that the waste collection permit be transferred to another person (in this section referred to as "the proposed transferee"), the authorised waste collector and the proposed transferee shall jointly

make an application to the nominated authority requesting that such a transfer be effected by the authority.

(4) An application under *subsection (3)* shall be made in such form and include such information as may be prescribed and shall be accompanied by such fee as may be prescribed under *section 50* and the waste collection permit concerned.

(5) The nominated authority may require the provision of such further information by the authorised waste collector or the proposed transferee as it considers appropriate for the purposes of considering an application made under *subsection (3)*.

(6) If, on consideration of an application under *subsection (3)*, and any relevant information provided in respect thereof, the nominated authority is satisfied that the proposed transferee would, if he or she were an applicant for the waste collection permit, be regarded by it as a fit and proper person within the meaning of *section 34D* to be granted, under *section 34*, a like waste collection permit to the waste collection permit concerned, it shall effect a transfer of the waste collection permit to the proposed transferee in such manner as may be prescribed.

(7) A person to whom a waste collection permit is transferred under this section shall be deemed to have assumed and accepted all liabilities, requirements and obligations provided for in or arising under the waste collection permit, including all conditions attached to the permit, regardless of how and in respect of what period, including a period before the transfer of the waste collection permit, they may arise.

(8) The Minister may make regulations in relation to all or any of the following matters:

(*a*) the form in which an application for the transfer of a permit shall be made;

(*b*) information and particulars to be submitted with an application for the transfer of a permit and verification of such information and particulars;

(*c*) specifying the period in which an application for a transfer of a permit shall be dealt with by a nominated authority;

(*d*) the making available for inspection by members of the public of an application for the transfer of a permit, and the making of submissions by members of the public to a local authority, within a specified period, in relation to such an application;

(*e*) the manner of transfer of a waste collection permit;

(*f*) the publication by the nominated authority of decisions made by it in relation to the transfer of permits;

(*g*) requiring the proposed transferee to defray, or contribute towards, any costs incurred by the nominated authority concerned in carrying out an investigation in relation to the application.**]**

Annotations

Amendments:

F153 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 39, S.I. No. 358 of 2015.

Editorial Notes:

E385 Power pursuant to section exercised (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023).

E386 Power pursuant to section exercised (16.01.2016) by *Waste Management (Collection Permit) (Amendment) Regulations 2016* (S.I. No. 24 of 2016).

E387 Previous affecting provision; power pursuant to section exercised (14.02.2023) by *Waste Management (Collection Permit) (Amendment) Regulations 2023* (S.I. No. 63 of 2023); revoked (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023), reg. 8(1).

F154**[**Information required by authorised persons or nominated authority

34C.—(1) A local authority or, as the case may be, a nominated authority, may, by notice in writing, for the purpose of maintaining a register referred to in F155**[***subsection (7)* or *(9)*, or both,**]** request a relevant person to provide to the local authority or, as the case may be, the nominated authority, such information, referred to in *subsection (3)*, as is specified in the notice (in this section referred to as the "specified information").

(2) Where an authorised person or a nominated authority makes a request under *subsection (1)*, the relevant person to whom the notice is given shall provide the specified information within the period of 14 days beginning on the date of the notice.

(3) A local authority or, as the case may be, a nominated authority, may specify all or any of the following information in a notice under *subsection (1)*:

(*a*) details in the possession or control of the relevant person of the address (including the postcode (if any) F156**[**...**]**) of every person who has F155**[**household waste or commercial waste**]** collected by an authorised waste collector or who deposits F155**[**household waste or commercial waste**]** at a facility;

(*b*) in relation to each such person referred to in *paragraph (a)* who has F155**[**household waste or commercial waste**]** so collected or who deposits F155**[**household waste or commercial waste**]** at a facility:

(i) the name of every person availing of a F155**[**household waste or commercial waste**]** collection service;

(ii) any unique identification number which the authorised collector has assigned to a person availing of a F155**[**household waste or commercial waste**]** collection service;

(iii) details of the separate collection or deposition of separate collection of F155**[**household waste or commercial waste**]**;

(iv) details of when F155**[**household waste or commercial waste**]** or classes of F155**[**household waste or commercial waste**]** were last collected or deposited;

(v) details of the structure of the fees charged to the person from whom the F155**[**household waste or commercial waste**]** is collected or depositing the waste, including, where appropriate, billing information which indicates the pay by weight charge element of the fees charged for the collection from or deposition by that person of F155**[**household waste or commercial waste**]**.

(4) The specified information to be provided by a relevant person pursuant to a notice under *subsection (1)* shall be provided in such form and manner as may be specified by the local authority or, as the case may be, the nominated authority in the notice.

(5) Where a relevant person fails to provide the information requested in a notice given under *subsection (1)* by a local authority—

(*a*) in the form and manner requested, or

(*b*) within the time limit referred to in *subsection (2)*,

the local authority shall notify the nominated authority as soon as is reasonably practicable, in such form as is specified by the nominated authority, of the breach of a waste collection permit condition under *section 34(7)(b)(ix)* or of a condition of a licence under *section 41(3)(d)(va)*.

(6) In this section "relevant person" means—

(*a*) an authorised waste collector, or

(*b*) the holder (other than a local authority) of a waste licence or such other authorisation or certificate which accepts F155**[**household waste or commercial waste**]** directly from a person.

(7) Each local authority or, as the case may be, a nominated authority shall maintain a register of persons availing of a F155**[**household waste or commercial waste**]** collection service for the purpose of establishing compliance by original producers and other waste holders with *section 32(1A)* and any regulations or bye-laws made under this Act relating to F155**[**household waste or commercial waste**]**.

(8) The register maintained under *subsection (7)* shall include—

(*a*) such information referred to in *sections 34(7)(b)(ix)*, *39(5B)(ee)* and *41(3)(d)(va)* received by a local authority or, as the case may be, nominated authority, and

(*b*) such information received by a local authority or, as the case may be, nominated authority pursuant to a notice under *subsection (1)*,

as relates to waste services provided by or on behalf of a local authority for the collection of F155**[**household waste or commercial waste**]**.**]**

F157**[**(9) A local authority may establish and maintain a register of postcodes in respect of addresses in its functional area from which household waste or commercial waste is not—

(*a*) collected by an authorised waste collector,

(*b*) deposited at a waste facility, or

(*c*) otherwise disposed of or treated in accordance with this Act,

for the purposes of establishing compliance by original producers and other waste holders with *section 32(1A)* and any regulations or bye-laws made under this Act in relation to household waste or commercial waste.**]**

F157**[**(10) A local authority may, in performing its functions under this Act, use—

(*a*) the information specified in *subsection (3) (a)* that is provided to the local authority under *subsection (2)*, and

(*b*) such data as is contained in a postcode database referred to in subparagraph (i) of paragraph (g) of section 65A(2) of the Act of 2011 that is provided to it pursuant to a licence referred to in the said paragraph (g),

for the purposes of establishing and maintaining a register under *subsection (9)*.**]**

F157**[**(11) Where a local authority proposes to establish and maintain a register under *subsection (9)* in respect of its functional area, the chief executive of the local authority concerned shall satisfy himself or herself that the establishment and maintenance of the register is proportionate to, and necessary for, the purposes for which the register is to be so established and maintained.**]**

F157**[**(12) The chief executive of a local authority in respect of whose functional area a register is established and maintained under *subsection (9)*—

(*a*) may, at any time, and

(*b*) shall, not later than 5 years from the establishment of the register and thereafter at intervals of not more than 5 years from the date on which the chief executive was informed of the outcome of the immediately preceding review in accordance with *subsection (13)(b)*,

cause a review of the register to be carried out by an authorised person.**]**

F157**[**(13) An authorised person carrying out a review pursuant to *subsection (12)* shall—

(*a*) consider—

(i) whether the register has been established and maintained, and the information contained therein used, in accordance with the guidance issued, revised or re-issued by the Minister under *subsection (16)*,

(ii) the extent to which the maintenance of, and use of the information contained in, the register during the period in respect of which the review is being conducted has been, and remains, successful, proportionate and necessary having regard to the purposes for which the register has been established, and

(iii) such other matters that he or she considers appropriate having regard to the purposes for which the register has been established and is maintained,

and

(*b*) shall inform the chief executive, in writing, of the outcome of that review.**]**

F157**[**(14) Without prejudice to *subsection (15)*, following a review carried out pursuant to *subsection (12)*, the chief executive of the local authority shall decide whether the register is to continue to be maintained and where the chief executive decides that the register is to continue to be maintained, *subsections (12)* and *(13)* shall, with any necessary modifications, apply in respect of the register as so continued.**]**

F157**[**(15) The chief executive may at any time decide that a register established under *subsection (9)* is no longer to be maintained and, subject to Part 5 of the Data Protection Act 2018, where the chief executive so decides, the local authority shall cease to maintain the register.**]**

F157**[**(16) The Minister shall issue guidance for the purpose of assisting local authorities in the establishment and maintenance of a register referred to in *subsection (9)* and the appropriate use of the information contained in such a register and may from time to time revise or re-issue that guidance.**]**

F157**[**(17) A local authority shall have regard to any guidance issued, revised or re-issued under *subsection (16)*.**]**

F157**[**(18) (*a*) In establishing a register referred to in *subsection (9)*, a local authority shall consult with its data protection officer and shall ensure that a data protection impact assessment within the meaning of section 84 of the Data Protection Act 2018 is carried out in accordance with that section.

(*b*) A local authority shall ensure that any such register is maintained, and the information contained therein is used, in compliance with Part 5 of the Data Protection Act 2018.**]**

F157**[**(19) In this section—

"Act of 2011" means the Communications Regulation (Postal Services) Act 2011;

"chief executive" has the same meaning as it has in section 2 of the Local Government Act 2001;

"data protection officer" has the meaning given to it by section 88 (1) of the Data Protection Act 2018;

"postcode" has the meaning given to it by section 66 of the Act of 2011;

"postcode database" has the meaning given to it by section 65A(1) of the Act of 2011.**]**

Annotations

Amendments:

F154 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 39, S.I. No. 358 of 2015.

F155 Substituted (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 27(a), (b)(i), (c)-(e), S.I. No. 344 of 2023.

F156 Deleted (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 27(b)(ii), S.I. No. 344 of 2023.

F157 Inserted (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 27(f), S.I. No. 344 of 2023.

F158**[**Fit and proper person

34D.— (1) For the purposes of *sections 34*, *34A* and *34B* a person is a fit and proper person if—

(*a*) neither that person nor any person employed by him or her to direct or control the carrying on of the activity to which the waste collection permit relates or, as the case may be, may relate, has been convicted—

(i) summarily of an offence under—

(I) *subsection (6)* of *section 32* consisting of a contravention of *subsection (1)* of that section, or

(II) *section 55(8)*,

or

(ii) on indictment of an offence under this Act, the Environmental Protection Agency Acts 1992 to 2011, the Local Government (Water Pollution) Acts 1977 to 2007, or the Air Pollution Acts 1987 and 2011,

(*b*) in the reasonable opinion of the nominated authority, that person or, as appropriate, any person employed by him or her to direct or control the carrying on of the activity to which the waste collection permit relates or, as the case may be, may relate has the requisite technical knowledge or qualifications to carry on that activity in accordance with the waste collection permit and the other requirements of the Act,

(*c*) in the reasonable opinion of the nominated authority, that person is likely to be in a position to meet any financial commitments or liabilities that will be entered into or incurred by him or her in carrying on the activity to which the waste collection permit relates in accordance with the terms thereof or in consequence of ceasing to carry on that activity,

(*d*) that person has not had a waste collection permit revoked under *section 34A*, other than where the permit was surrendered, and

(*e*) that person has not had an order made against him or her under *section 57* or *58*.

(2) The Minister may make regulations providing for requirements in relation to the requisite technical knowledge or qualifications to carry on the activity to which the waste collection permit relates in accordance with the permit and any other requirements of this Act.**]**

Annotations

Amendments:

F158 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 39, S.I. No. 358 of 2015.

Presentation of waste for collection.

35.—(1) Whenever a local authority considers that, for the purpose of the proper management of waste or the prevention or control of environmental pollution, it is necessary so to do, it may, subject to *subsection (5)*, make bye-laws—

(*a*) requiring a holder of household waste to present such waste for collection by a person collecting waste in accordance with this Part,

(*b*) requiring a holder of household or commercial waste who presents such waste for collection as aforesaid (whether pursuant to a requirement of bye-laws under *paragraph (a)* or not) to so present the waste in a manner specified in the bye-laws.

(2) A bye-law under *subsection (1)* shall be made in accordance with, and construed as if it was made under, Part VII of the Local Government Act, 1994.

(3) Bye-laws under *subsection (1)* may, without prejudice to the generality of that subsection or of section 37 (4) of the Local Government Act, 1994, include provisions specifying—

(*a*) that waste shall only be placed for collection in receptacles of a particular kind and that different waste shall be placed in different receptacles,

(*b*) the quantity of waste which may or may not be placed in any receptacle,

(*c*) the waste, or the mixtures of waste, which may or may not be placed in a receptacle,

(*d*) the measures or precautions to be taken where particular waste, or mixtures thereof, is or are placed in a receptacle,

(*e*) the size, colour, construction or maintenance of receptacles,

(*f*) the location at which the waste is to be made available for collection,

(*g*) times during which the waste is to be made available for collection,

F159**[**(*gg*) that waste placed for collection shall bear evidence, in such a manner or form as is provided in the bye-laws, of the payment of any charge that has been made under section 75 in respect of the collection of the waste,**]**

(*h*) any matters consequential on, or incidental to, the foregoing.

(4) A local authority may provide or, where appropriate, may, in accordance with *section 34*, require the holder of a waste collection permit granted by the authority to provide, receptacles in which household or commercial waste (either generally or of a specified nature or type) presented for collection shall be placed for such collection, and the local authority or the said holder, as the case may be, may require

such reasonable payment, as it or he or she may determine, in respect of the provision of receptacles from the persons to whom they are provided.

(5) (*a*) The Minister may, if he or she considers it expedient so to do for the purpose of the prevention or control of environmental pollution, give a direction to a local authority requiring it to take specified steps (including the making of bye-laws under Part VII of the Local Government Act, 1994) to ensure that specified substances, products, materials or classes of waste arising in household or commercial waste are segregated for the purpose of and in the course of collection, and recovered or disposed of in a specified manner.

(*b*) A local authority concerned shall comply with any direction of the Minister given under this subsection within such period as may be specified in the direction.

Annotations

Amendments:

F159 Inserted (8.09.2003) by *Protection of the Environment Act 2003* (27/2003), s. 32, S.I. No. 393 of 2003.

Modifications (not altering text):

C23 References to "Part VII of the Local Government Act 1994", or any section of that Part, construed (10.07.2006) by *Local Government Act 2001* (37/2001), s. 209(2)(a), S.I. No. 361 of 2006.

Continuation in force of existing bye-laws, etc.

209.— ...

(2) Without prejudice to section 20 of the Interpretation Act, 1937, references in—

(*a*) section 35 of the Waste Management Act, 1996,

...

to Part VII of the Local Government Act, 1994, or any section of that Part shall be read as a reference to *Part 19* of this Act or to the corresponding section of *Part 19*, as the case may be.

...

Editorial Notes:

E388 Previous affecting provision: pursuant to section exercised (1.04.2010, 1.06.2010, 1.12.2010, 10.04.2010, and 1.06.2015) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2010* (S.I. No. 143 of 2010), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E389 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E390 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked (14.06.2014) by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2014) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

Regulations in relation to movement of waste.

36.—(1) For the purpose of preventing environmental pollution therefrom, the Minister may by regulations provide for the supervision and control of the movement of waste within, into or out of the State.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may provide for all or any of the following matters:

(*a*) the prohibition, prevention, limitation or control of the movement of waste and, in particular—

(i) requiring that any movement of waste or waste of a specified class or classes be authorised by the Agency or a local authority,

(ii) enabling conditions of a kind specified in the regulations to be attached by the Agency or a local authority, as the case may be, to any such authorisation;

(*b*) notifications, including documentation, to be given before and after the movement of waste, the form and content of such notifications, the persons required to give such notifications and the persons to whom such notifications are to be given;

(*c*) information, including documentation, to accompany any movement of waste, the form and content of such information and the persons required to prepare, hold or submit such information;

(*d*) enabling the inspection of consignments of waste and documentation relating thereto by persons authorised in that behalf by the Agency or a local authority;

(*e*) requirements as to the segregation, handling, packaging and labelling of waste and the containers in which waste may be moved;

(*f*) a requirement that shipments of waste may enter or leave the State at a specified place or places only within the State;

(*g*) requiring a person who undertakes the movement of waste to effect and maintain a policy of insurance insuring him or her as respects any liability on his or her part to pay damages or costs on account of injury to person or property arising from the movement of the waste;

(*h*) requiring an agreement or agreements to be entered into with one or more appropriate persons by a person exporting or importing waste whereby the first-mentioned person or persons agrees or agree to recover or dispose of the waste;

(*i*) the seizure, taking in charge, recovery or disposal of a consignment of waste or a part thereof by the Agency or a local authority or a person authorised by the Agency or a local authority in that behalf where any provision of regulations under this section or of any specified enactment has not been complied with as respects the consignment or a part thereof, as the case may be;

(*j*) the keeping of records by specified persons of the source of, and particulars concerning the movement, delivery and receipt of, waste and, as the case may be, the recovery or disposal thereof, and the persons to whom such records shall be made available;

(*k*) the prevention and control of litter and nuisance from odours that may arise from the movement of waste and generally with respect to the handling of waste whilst it is being moved;

(*l*) the imposition by the Agency or a local authority on a person undertaking the movement of waste of such charges as are necessary to defray any costs

reasonably incurred by the Agency or the local authority in performing any function under regulations under this section with respect to the waste;

(*m*) requiring a person to give such security to the Agency or a local authority for the payment of any charges he or she may be liable to pay to the Agency or the local authority (as the case may be) pursuant to regulations under *paragraph (l)* as the Agency or the local authority may request;

(*n*) requiring a person who undertakes the movement of waste to give security of a specified nature to the Agency, a local authority or any other specified person in respect of costs which may be incurred by the Agency, local authority or other person aforesaid in taking steps in relation to the waste in the event of a contravention by the first-mentioned person of any provision of regulations under this section as respects that waste;

(*o*) requiring a person who undertakes the movement of waste or who is the consignee of waste imported into the State or moved within the State to return, where the Agency or a local authority directs him or her to do so, the waste to its place of origin or to such other place as may be specified in the direction and to take such measures as may be so specified in relation to the waste, including the recovery or disposal of the waste in such manner or at such facility as may be so specified;

(*p*) specifying the circumstances in which the Agency or a local authority may give a direction to a person pursuant to regulations under *paragraph (o)*;

(*q*) any matters consequential on, or incidental to, the foregoing.

(3) A person who contravenes a provision of regulations under this section shall be guilty of an offence.

Annotations

Editorial Notes:

E391 Power pursuant to section exercised (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023).

E392 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E393 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E394 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E395 Power pursuant to section exercised (16.01.2016) by *Waste Management (Collection Permit) (Amendment) Regulations 2016* (S.I. No. 24 of 2016).

E396 Power pursuant to section exercised (7.05.2015) by *Waste Management (Food Waste) (Amendment) Regulations 2015* (S.I. No. 190 of 2015).

E397 Offence under subs. (3) prescribed for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a), (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 41(d).

E398 Power pursuant to section exercised (10.12.2009) by *Waste Management (Food Waste) Regulations 2009* (S.I. No. 508 of 2009).

E399 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) (Amendment) Regulations 2008* (S.I. No. 87 of 2008).

E400 Offence under subs. (3) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E401 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), in effect as per reg. 1(2).

E402 Offence under subs. (3) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E403 Power pursuant to section exercised (20.05.1998) by *Waste Management (Miscellaneous Provisions) Regulations 1998* (S.I. No. 164 of 1998), in effect as per reg. 1(2).

E404 Power pursuant to section exercised (20.05.1998) by *Waste Management (Hazardous Waste) Regulations 1998* (S.I. No. 163 of 1998), in effect as per reg. 2.

E405 Previous affecting provision; power pursuant to section exercised (14.02.2023) by *Waste Management (Collection Permit) (Amendment) Regulations 2023* (S.I. No. 63 of 2023); revoked (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023), reg. 8(1).

E406 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2014) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E407 Previous affecting provision: pursuant to section exercised (15.12.2007 and 31.03.2008) by *Waste Management (Packaging) Regulations 2007* (S.I. No. 798 of 2007), in effect as per reg. 3; revoked (21.06.2014) by *European Union (Packaging) Regulations 2014* (S.I. No. 282 of 2014), reg. 36(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 36(2) and (3).

E408 Previous affecting provision: power pursuant to section exercised (1.01.2008) by *Waste Management (Tyres and Waste Tyres) Regulations 2007* (S.I. No. 664 of 2007), in effect as per reg. 1(2); revoked (1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), in effect as per reg. 1(2).

E409 Previous affecting provision: offence under subs. (3) prescribed (12.07.2004) for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a) by *Environmental Protection Agency (Licensing) (Amendment) Regulations 2004* (S.I. No. 394 of 2004), reg. 6(d), in effect as per reg. 2; revoked (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 42(1) and sch. 2, subject to transitional provision in para. (2).

E410 Previous affecting provision: pursuant to section exercised (30.08.2001) by *Waste Management (Collection Permit) Regulations 2001* (S.I. No. 402 of 2001); revoked (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 2(1) and sch. 1, in effect as per reg. 1(2), subject to transitional provision in reg. 2(2).

E411 Previous affecting provision: pursuant to section exercised (20.05.1998) by *Waste Management (Transfrontier Shipment of Waste) Regulations 1998* (S.I. No. 149 of 1998), in effect as per reg. 1(2); revoked (12.07.2007) by *Waste Management (Shipments of Waste) Regulations 2007* (S.I. No. 419 of 2007), reg. 12, in effect as per reg. 1(2).

E412 Previous affecting provision: pursuant to section exercised (20.05.1998) by *Waste Management (Movement of Hazardous Waste) Regulations 1998* (S.I. No. 147 of 1998), in effect as per reg. 1(2); revoked (31.12.2011) by *European Communities (Shipments of Hazardous Waste exclusively within Ireland) Regulations 2011* (S.I. No. 324 of 2011), reg. 19(2), in effect as per reg. 19(2).

PART V

Recovery and Disposal of Waste

Annotations

Editorial Notes:

E413 Discharge by licence holder under Part is an activity governed by *European Communities (Environmental Liability) Regulations 2008* as provided (1.04.2009) by *European Communities (Environmental Liability) Regulations 2008* (S.I. No. 547 of 2008), reg. 3(1)(a) and sch. 3, in effect as per reg. 1(2).

Interpretation (*Part V*).

37.—In this Part, unless the context otherwise requires—

"civic waste facility" shall be construed in accordance with *section 38 (2)*;

"waste licence" includes a revised waste licence under *section 46 (2)*.

F160**[**Principles of self-sufficiency and proximity.

37A.— (1)(*a*) In carrying out their respective functions under this Act and related waste prevention and management legislation and policy, the Minister (in cooperation with other Member States where this is necessary or advisable), the Agency, An Bord Pleanála and the local authorities shall take appropriate measures to establish an integrated and adequate network of waste disposal installations and of installations for the recovery of mixed municipal waste collected from private households, including where such collection also covers such waste from other producers, taking into account best available techniques.

(*b*)(i) By way of derogation from the TFS Regulation, Dublin City Council may, following consultation with the Agency and any local authority concerned, in carrying out their respective functions under this Act in order to protect the national network, limit incoming shipments of waste destined to incinerators that are classified as recovery, where it has been established that such shipments would result in national waste having to be disposed of or waste having to be treated in a way that is not consistent with waste management plans.

(ii) Dublin City Council shall notify the Commission of any such decision.

(iii) Dublin City Council may also limit outgoing shipments of waste on environmental grounds as set out in the TFS Regulation.

(2) The network shall be designed to enable the Community as a whole to become self-sufficient in waste disposal as well as in the recovery of waste referred to in *subsection (1)*, and to enable the State to move towards that aim individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste.

(3) The network shall enable waste to be disposed of or waste referred to in *subsection (1)* to be recovered in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to ensure a high level of protection for the environment and public health.

(4) The principles of proximity and self-sufficiency shall not mean that the State has to possess the full range of final recovery facilities within the State.**]**

Annotations

Amendments:

F160 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 17.

Waste management facilities.

38.—(1) A local authority shall provide and operate, or arrange for the provision and operation of, such facilities as may be necessary for the recovery and disposal of household waste arising within its functional area.

(2) A local authority may provide and operate, or may arrange for or facilitate the provision and operation of—

(*a*) civic waste facilities, that is to say, facilities at which waste may be deposited by members of the public, and

(*b*) other facilities for—

(i) the segregation, mixing, baling, storage or treatment of waste prior to its recovery or disposal,

(ii) the recovery of waste, or

(iii) the disposal of waste (other than household waste).

(3) Without prejudice to the provisions of *subsection (2)*, a local authority, having made an examination of the matter, shall provide, or arrange for the provision of, such facility or facilities as appears or appear to it to be necessary and reasonable at which vehicles may be discarded.

(4) For the purpose of *subsections (1), (2)* and *(3)*, a local authority may enter into an agreement or otherwise make arrangements with any other local authority or other person for the recovery or disposal of waste by such authority or person on its behalf, or the joint provision or operation by it and that other authority or person, of any relevant facility.

F161**[**(5) Neither the provisions of this section nor the repeal of any enactment mentioned in Part I of the Fifth Schedule shall prejudice—

(*a*) the continued operation of waste disposal facilities by the corporation of a borough (other than a county borough) or the council of an urban district, or

(*b*) the use of such facilities by such a corporation or council at a more intensive level than the level of the use that was being made of them on the commencement of this section (whether the more intensive use is constituted by an increased input of waste into the facilities or the use of a larger proportion of the facilities than was being used on the commencement of this section or otherwise),

if—

(i) in a case falling solely within paragraph (*a*), the said facilities were in operation upon the commencement of this section, and

(ii) in a case falling within paragraphs (*a*) and (*b*), subparagraph (i) is complied with and the use of the facilities at that more intensive level is provided for in the waste management plan in force in relation to the borough or urban district concerned.**]**

F162**[**(5A)(*a*) It shall be the duty of waste producers and holders to ensure that, where recovery in accordance with *section 29(2A)(a)* is not undertaken, waste undergoes safe disposal operations which meet the requirements of *section 32(1)* on the protection of human health and the environment.

(*b*) A person who contravenes *paragraph (a)* shall be guilty of an offence.

(*c*) The Agency and the local authorities shall, in carrying out their functions under this Act, take the necessary measures to ensure that waste undergoes recovery operations in accordance with this section.**]**

(6) The Minister may take such measures as seem to him or her to be appropriate to promote and support the establishment of such facilities for the good management, including the recovery or disposal, of waste as he or she may consider to be necessary or desirable, and without prejudice to the generality of the foregoing, may for the purpose of this subsection provide, with the consent of the Minister for Finance, grants or other forms of financial assistance in respect of the establishment of such facilities.

(7) (*a*) Where it appears to a local authority or the Agency that it is necessary so to do for the purpose of the effective and orderly disposal of waste, a local authority or the Agency may, in such circumstances and subject to such conditions as may be prescribed, require a holder or producer of any class or classes of waste, other than household waste, to dispose, or arrange for the disposal, of that waste, in such manner, under such conditions and at such appropriate waste disposal facility as may be specified by it.

(*b*) A person who fails to comply with a requirement under this subsection shall be guilty of an offence.

(8) The Agency shall classify facilities that exist in the State for the disposal of waste in such manner and having regard to such criteria as may be prescribed.

(9) For the purpose of subsection (2), other than paragraph (b) (iii), and subsection *(3)*, "local authority" includes, as appropriate, the corporation of a borough of any kind and the council of an urban district.

(10) Section 3 (*c*) of the Derelict Sites Act, 1990, is hereby amended by the addition of "or under" after "conferred by".

(11) (*a*) A person shall not deposit or discard waste at a facility provided by a local authority under this section otherwise than in accordance with any conditions for the time being standing specified by the local authority as respects the nature, type and quantity of waste that may be so deposited or discarded or the use otherwise of such a facility.

(*b*) A local authority shall take such steps as are reasonable to bring to the notice of members of the public any conditions for the time being standing specified by it for the purposes of *paragraph (a)*.

(*c*) A person who contravenes *paragraph (a)* shall be guilty of an offence.

(*d*) Subject to *paragraph (e)*, waste deposited or discarded at a facility provided by a local authority under this section shall become the property of the authority.

(*e*) Without prejudice to *paragraph (c)*, where a person deposits or discards waste in contravention of *paragraph (a)*—

(i) the waste shall not become the property of the local authority concerned unless it decides to assume ownership of the waste,

(ii) any expenses incurred by the local authority concerned in recovering or disposing, or arranging for the recovery or disposal, of the waste shall be recoverable by it from the person as a simple contract debt in any court of competent jurisdiction.

Annotations

Amendments:

F161 Substituted (17.07.2001) by *Waste Management (Amendment) Act 2001* (10/1996), s. 7, commenced on enactment.

F162 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 17.

Modifications (not altering text):

C24 Functions transferred and reference to "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9.

...

3. The functions conferred on the Minister for Finance by or under the provisions of —

(a) the enactments specified in Schedule 1, and

(b) the statutory instruments specified in Schedule 2,

are transferred to the Minister for Public Expenditure and Reform.

...

5. References to the Minister for Finance contained in any Act or instrument under an Act and relating to any functions transferred by this Order shall, from the commencement of this Order, be construed as references to the Minister for Public Expenditure and Reform.

...

Schedule 1

Enactments

...

Part 2

1922 to 2011 Enactments

Number and Year (1)	Short Title (2)	Provision (3)
...	...	...
No. 10 of 1996	Waste Management Act 1996	Sections 38(6), 72 and 74
...	...	...

...

Editorial Notes:

E414 Power pursuant to section exercised (7.05.2015) by *Waste Management (Food Waste) (Amendment) Regulations 2015* (S.I. No. 190 of 2015).

E415 Power pursuant to section exercised (10.12.2009) by *Waste Management (Food Waste) Regulations 2009* (S.I. No. 508 of 2009).

Requirement to hold waste licence.

39.—(1) Subject to *subsections (4)* and *(7)*, a person shall not dispose of or undertake the recovery of waste F163**[**(including the treatment of waste)**]** at a facility, on or after such date as may be prescribed, save under and in accordance with a licence under this Part (in this Act referred to as a "waste licence") that is in force in relation to the carrying on of the activity concerned at that facility.

(2) For the purpose of *subsection (1)*, different dates may be prescribed in respect of different waste disposal or recovery activities, different classes of facility and different classes of waste.

(3) The recovery or disposal of waste shall, in the period before a waste licence in relation to such recovery or disposal is granted or refused, be deemed not to have

contravened the provisions of this Part if, before the date prescribed under *subsection (1)* in respect of the activity concerned—

(*a*) an application has been made for a waste licence in respect of that activity and the requirements of regulations under *sections 45* and *50* in relation to the application for a waste licence have been complied with by the applicant therefor, and

(*b*) in the case of a disposal of waste, other than one carried out by a local authority, the corporation of a borough that is not a county borough, or the council of an urban district, it is carried out in accordance with a permit issued under the European Communities (Waste) Regulations, 1979, F164**[**...**]** the European Communities (Toxic and Dangerous Waste) Regulations, 1982, F165**[**or the European Communities (Waste Oils) Regulations, 1992,**]** as appropriate.

F166**[**(4) The Minister may by regulations provide that *subsection (1)* shall not apply in respect of the recovery or disposal in a specified manner of a specified class or classes of waste F167**[**including a class or classes of household waste**]**, if and for so long as the person carrying out the recovery or disposal of the waste, as the case may be, complies with specified conditions in relation to the carrying out of such recovery or disposal.

(5) Without prejudice to the generality of *subsection (4)*, regulations under that subsection may specify conditions in relation to the following matters—

(*a*) the quantity of waste concerned which may be recovered or disposed of in a particular period,

F168**[**(*aa*) the nature or quantity of the waste, who delivers it for disposal or recovery or whether it is segregated,

(*ab*) a specified class or classes of facility where waste shall be delivered for disposal or recovery,

(*ac*) a specified class or classes of activity that shall be carried out at a place where waste shall be delivered for disposal or recovery,**]**

(*b*) the use of the best available techniques to prevent or eliminate or, where that is not practicable, to limit, abate or reduce, an emission from the recovery or disposal activity concerned,

(*c*) a requirement that the person concerned obtain from a local authority or the Agency a waste permit or such other authorisation or certificate as may be prescribed in respect of the carrying on by him or her of the activity concerned,

(*d*) the specification of controls to be exercised or measures to be taken by a local authority or the Agency in relation to the carrying on of an activity in respect of which such a permit, authorisation or certificate is required (which controls and measures a local authority or the Agency is hereby empowered to exercise or take, as the case may be),

(*e*) a requirement regarding the payment to a local authority or the Agency of a fee of a specified amount in respect of an application for such a permit, authorisation or certificate, or of such charges as are necessary to defray or contribute towards the cost of any investigation carried out or caused to be carried out by the local authority or the Agency in relation to such application,

(*f*) where a question arises as to whether or not a particular waste recovery or disposal activity falls within regulations under *subsection (4)*, enabling the Agency to determine that question and providing that that determination of the Agency shall be final,

(*g*) such other matters as the Minister considers are appropriate to ensure that the recovery or disposal activity concerned will not cause environmental F169**[**pollution,**]]**

F170**[**(*h*) specifying conditions in relation to such incidental, supplementary and consequential matters as appear to the Minister as necessary or expedient for the purpose of this subsection, *subsection (5A), (5B)* or *(5C)*.**]**

F171**[**(5A) Without prejudice to the generality of *subsection (4)*, regulations under that subsection providing for an exemption from waste licensing requirements, in relation to the disposal of non-hazardous waste at the place of production or in relation to the recovery of waste, through a process of certification shall ensure compliance with—

(*a*) general rules—

(i) ensuring that environmental pollution is not caused by the disposal or recovery activity,

(ii) specifying the types and quantities of waste covered by an exemption in relation to the carrying out of each type of such recovery or disposal activity,

(iii) specifying the method of treatment to be used,

(iv) ensuring that disposal operations should consider best available techniques,

and

(*b*) specific conditions for exemptions relating to hazardous waste specifying—

(i) the types of activity,

(ii) any other necessary requirements for carrying out the different forms of recovery,

(iii) where relevant, the limit values for the content of hazardous substances in the waste as well as emission limit values.**]**

F172**[**(5B) Without prejudice to the generality of *subsection (4)*, regulations under that subsection may specify conditions to be attached to a waste permit or such other authorisation of certificate referred to in *subsection (5)(c)* specifying requirements in relation to—

(*a*) the weighing of household waste accepted by a facility,

(*b*) reporting, to specified persons, the weight of household waste accepted by a facility,

(*c*) subject to *subsection (5C)*, charging of fees for acceptance of household waste, and services for its recovery or treatment,

(*d*) in relation to the acceptance of household waste, preparing and publishing a customer charter and its form and content,

(*e*) providing separate receptacles for different household waste or classes of household waste,

(*f*) providing to a local authority or nominated authority under *section 34(1)(aa)(ii)* —

(i) details of persons with regard to the deposition of separate collection of household waste,

(ii) details of persons who choose not to partake in the deposition of separate collection of household waste,

(iii) details of when household waste was last deposited, and

(iv) written confirmation of the structure of the fees being charged to persons depositing the household waste, including, where appropriate, billing information which indicates the pay by weight charge element of the fees charged for the deposition of household waste,

(*g*) as respects contamination that may be caused by the incorrect segregation of household waste in receptacles for segregated household waste:

(i) monitoring by a holder of levels of contamination;

(ii) recording and maintaining specified data on levels of contamination;

(iii) training to be provided for staff of a holder in relation to monitoring contamination;

(iv) protocols and procedures in the event that such contamination is detected by the holder, including informing the person who delivers the household waste to the facility being either the original waste producer or, as the case may be, the person who arranges, on behalf of more than one original waste producer occupying apartments, duplexes, maisonettes or any combination of such dwellings for delivery of their waste ("person who delivers household waste") or refusing to accept the waste,

and

(*h*) where a weighing system is used to determine weight-based collection charges, the submission of confirmation of an annual inspection of the weighing system used by the permit holder in accordance with the Legal Metrology (General) Regulations 2008 (S.I. No. 323 of 2008), in such form that may be specified on the waste permit or such other authorisation of certificate referred to in *subsection (5)(c)*.

(5C) (*a*) The Minister, where he or she considers that it is necessary for waste management in accordance with the principle that the costs of that management shall be borne by the original waste producer shall, by regulations under *subsection (4)*, specify a condition to be attached to a waste permit or such other authorisation of certificate referred to in *subsection (5)(c)*, specifying a requirement that the holder of such waste permit or such other authorisation of certificate ("holder") shall charge fees for accepting household waste, which would otherwise fall to be collected pursuant to a waste collection permit, delivered to the holder's facility by the person who delivers household waste.

(*b*) Regulations under *paragraph (a)* shall provide for the means by which fees for accepting waste shall be calculated by a holder and shall—

(i) require a holder to charge a fee for each kilogramme of household waste accepted by the holder,

(ii) prohibit a holder from charging any form of fee other than that referred to at *subparagraph (i)*, and, for the avoidance of doubt, methods of calculation of a fee based on pay by throw or a flat fee shall not be considered to be calculated by reference to weight of waste accepted, and

(iii) require a holder to demonstrate by prescribed means to a local authority or the Agency, as the case may be, if the fees charged for accepting the household waste concerned incentivise waste prevention and waste segregation.

(*c*) (i) For the purposes of *paragraph (b)(i)*, the Minister shall prescribe the minimum amount of the fee required to be charged for each kilogramme of household waste accepted by a holder and that minimum fee shall be based on the approximate cost per kilogramme of managing segregated household waste, including its acceptance by the holder from the person who delivers household waste and its recovery, disposal or final treatment, which in any event shall not exceed an amount of 30 cent per kilogramme of household waste.

(ii) The Minister shall review the costs of managing, recovering or disposal of household waste, on which the minimum charges prescribed under *subparagraph (i)* are based, at least every 12 months and may amend the amount of the fee prescribed under *subparagraph (i)*.

(iii) The Minister following a review under *subparagraph (ii)*, once and only once in each financial year beginning in the financial year that he or she first prescribes under *paragraph (g)(i)*, may substitute for the amount of the fee prescribed under *subparagraph (i)*, an amount which does not exceed the amount so prescribed by 5 cent.**]**

(6) The Minister may by regulations—

(*a*) require the producer of a specified class or classes of waste, other than household waste, to—

(i) comply with specified conditions in relation to the treatment or temporary storage by him or her of the waste at the premises where it is produced, including the obtaining of the prior written consent of the relevant local authority to such treatment or storage,

(ii) make a plan with respect to the taking of such measures, in the event of an incident occurring that involves the loss or release of the waste, as will prevent or minimise the risk of environmental pollution therefrom,

(iii) effect and maintain a policy of insurance insuring him or her to a specified extent as respects any liability on his or her part to pay damages or costs on account of injury to person or property arising from the production or holding of the waste,

(*b*) enable a local authority to attach specified conditions to a consent granted by it pursuant to regulations under *paragraph (a) (i)* and to revoke such a consent where any of the conditions so attached are not complied with,

(*c*) specify a maximum period for which the waste may be stored as aforesaid and deem storage of the waste beyond that period to be a disposal or recovery, as appropriate, F173**[**of the waste,**]**

F174**[**(*d*) prohibit, or limit to a specified extent, the recovery or disposal of a specified class or classes of waste in a specified manner or in a specified class or classes of facility.**]**

(7) F175**[**Subsection (1)**]** shall not apply in respect of—

F176**[**(*a*) the recovery or disposal of waste at a facility referred to in F177**[**paragraph 7.7.1, 7.7.2 or 11.1**]** of the First Schedule to the Act of 1992,**]**

(*b*) household waste produced and disposed of within the curtilage of the same dwelling,

(*c*) the deposit of litter in a litter bin,

(*d*) F178**[**...**]**,

(*e*) the transfer of waste to a local authority, the corporation of a borough that is not a county borough, the council of an urban district or any other person for the purpose of its being recovered or disposed of in accordance with this Act or a licence or revised licence under Part IV of the Act of 1992, F179**[**and**]**

(*f*) F180**[**...**]**

(*g*) such other activities as may be prescribed.

(8) The Minister may make regulations amending the First Schedule to the Act of 1992 by the addition thereto, subject to such modifications, if any, as he or she may determine and specifies in the regulations, of any of the activities specified in the *Third Schedule* or the *Fourth Schedule*.

(9) A person who contravenes *subsection (1)* or a provision of regulations under *subsection (4)* or *(6)* shall be guilty of an offence.

Annotations

Amendments:

F163 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg 19(a).

F164 Deleted (19.05.1998) by *European Communities (Amendment of Waste Management Act, 1996) Regulations 1998* (S.I. No. 166 of 1998), reg. 4(a).

F165 Inserted (19.05.1998) by *European Communities (Amendment of Waste Management Act, 1996) Regulations 1998* (S.I. No. 166 of 1998), reg. 4(b).

F166 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 33(a), S.I. No. 393 of 2004.

F167 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 40(a), S.I. No. 358 of 2015.

F168 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 40(b)(i), S.I. No. 358 of 2015.

F169 Substituted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 40(b)(ii), S.I. No. 358 of 2015.

F170 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 40(b)(iii), S.I. No. 358 of 2015.

F171 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 19(b).

F172 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 40(c), S.I. No. 358 of 2015.

F173 Substituted (17.07.2017) by *Waste Management (Amendment) Act 2001* (36/2001), s. 8(a), commenced on enactment.

F174 Inserted (17.07.2017) by *Waste Management (Amendment) Act 2001* (36/2001), s. 8(b), commenced on enactment.

F175 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 19(c)(i).

F176 Inserted (17.07.2017) by *Waste Management (Amendment) Act 2001* (36/2001), s. 13(2), commenced on enactment.

F177 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 33(b), S.I. No. 393 of 2004.

F178 Deleted (19.05.1998) by *European Communities (Amendment of Waste Management Act, 1996) Regulations 1998* (S.I. No. 166 of 1998), reg. 4(e).

F179 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 19(c)(ii).

F180 Deleted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 19(c)(iii).

Modifications (not altering text):

C25 Application of subs. (1) restricted (26.09.2008) by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2014), reg. 44(1) and (2), in effect as per reg. 44(1).

Non-application of section 39(1) of the Act

44. (1) Without prejudice to regulation 21(1)(*b*)(ii), on and from 26 September 2008, section 39(1) of the Act shall not apply in respect of the temporary storage of waste batteries at a—

(*a*) place where batteries are distributed, or a facility used by a distributor for the storage of batteries prior to their distribution, and where the quantities of waste batteries being stored at any one time does not exceed—

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

(ii) 250 kg of waste portable batteries provided they were accepted free of charge in accordance with the provisions of regulation 21, are managed in accordance with the provisions of regulation 22, and that such a place is registered and inspected or exempted from registration in accordance with the provisions of regulation 42,

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

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

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

(ii) 50 kg of waste portable batteries.

(2) The exemptions provided for in sub-regulation(1) shall not apply—

(*a*) to contaminated waste batteries that presents a health and safety risk, and

(*b*) unless the waste batteries will be eventually—

(i) treated at an appropriate facility in accordance with the requirements set out in Part A, and

(ii) recycled at an appropriate facility in accordance with the requirements set out in Part B of Annex III of the Directive, subject to any amendment that may be made to that Annex from time to time.

C26 Application of subs. (1) restricted (29.03.2014) by *European Union (Waste Electrical and Electronic Equipment) Regulations 2014* (S.I. No. 149 of 2014), reg. 42, in effect as per reg. 45; subject to limitation as provided in reg. 4.

Non-application of section 39(1) of the Act

42. (1) Without prejudice to regulation 14(1)(*b*), section 39(1) of the Act of 1996 shall not apply in respect of the temporary storage of waste electrical and electronic equipment at a place—

(*a*) where electrical and electronic equipment is distributed, or a facility used by a distributor for the storage of electrical and electronic equipment prior to its distribution, and where the quantities of waste electrical and electronic equipment being stored at any one time does not exceed—

(i)45 cubic metres of household waste electrical and electronic equipment, other than waste specified in paragraphs (ii) and (iii),

(ii)1,000 units of waste electrical and electronic equipment listed in category 5 of Schedule 1 without prejudice to regulation 4(1)(*b*) of these Regulations or,

(iii)25 kgs of mobile phones.

provided it is managed in accordance with the provisions of regulation 15, and that such a place is registered and inspected in accordance with the provisions of regulation 40, or

(*b*) owned or occupied by a body, which has been granted charitable recognition by the Revenue Commissioners, and issued with a Charity (CHY) Number and where the quantities being stored at any one time does not exceed—

(i)90 cubic metres of household waste electrical and electronic equipment other than waste electrical and electronic equipment listed in category 5 of Schedule 1 without prejudice to regulation 4(1)(*b*) of these Regulations and waste specified in paragraph (ii),

(ii)50 kgs of mobile phones,

(2) The exemptions provided for in sub-regulation (1) shall not apply—

(*a*) to contaminated waste electrical and electronic equipment that presents a health and safety risk,

(*b*) unless storage of the waste electrical and electronic equipment is in accordance with the technical requirements as set out in Schedule 8,

(*c*) unless the waste electrical and electronic equipment will be prepared for re-use or eventually treated at an authorised facility in accordance with the technical requirements as set out in Schedule 9.

(3) Waste electrical and electronic equipment from private households, deposited by final users or taken back by distributors in accordance with the provisions of regulation 14(1)(*b*)(i) through deliveries by commercial vehicles, may be accepted and stored at a collection point pending onward transport to an authorised facility, or a temporary facility established with the approval of, or designated by, the appropriate local authority, to which members of the public have access for the deposit of waste electrical and electronic equipment from private households, where—

(*a*) the quantities of waste electrical and electronic equipment being stored at any one time do not exceed—

(i)540 cubic metres of waste electrical and electronic equipment from private households, other than waste specified in paragraphs (ii) and (iii).

(ii)12,000 units of waste electrical and electronic equipment listed in Category 5 of Schedule 1 without prejudice to regulation 4(1)(*b*) of these Regulations or, as appropriate,

(iii)300 kgs of mobile phones, and

(*b*) the waste electrical and electronic equipment shall be stored for a period not exceeding 30 days.

(4) Sub-regulation 3 shall only apply where—

(*a*) the restrictions imposed on the sources, maximum quantities and duration of storage of waste electrical and electronic equipment from private households are not exceeded at any time, and a—

(i) licensed or, as appropriate, authorised facility has notified the Agency or, as appropriate, the relevant local authority of its intentions to accept waste electrical and electronic equipment from private households that will be deposited by final users or taken back by distributors in accordance with the provisions of regulation 14(1)(*b*)(i) through deliveries by commercial vehicles and has received written approval from the Agency or, as appropriate, the relevant local authority to this request, or

(ii) registration certificate has been granted under sub- regulation 5 by the Agency or, as appropriate, the relevant local authority in relation to the reception of waste

electrical and electronic equipment from private households that will be deposited by final users or taken back by distributors in accordance with the provisions of regulation 14(1)(*b*)(i) through deliveries by commercial vehicles at the facility, and

(*b*) the activity is being carried on in accordance with the technical requirements specified in Schedule 8 and the rules specified in—

(i) Part I of the Fourth Schedule of the Waste Management (Facility Permit and Registration) Regulations 2007 (S.I. No. 821 of 2007) as amended by the Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008 (S.I. No 86 of 2008) subject to any amendment that may be made to those regulations from time to time, and

(ii) Schedule 15 of these Regulations

and complies with the general requirements laid down in Article 10 of Directive 2008/98/EC.

(5)(*a*) A person may accept and store waste electrical and electronic equipment from private households, deposited by final users or taken back by distributors in accordance with the provisions of regulation 14(1)(*b*)(i), at a collection point through deliveries by commercial vehicles pending onward transport to an authorised facility, where a registration certificate has been granted in lieu of a waste permit in relation to the carrying on of the said activity at that facility.

(*b*) The Agency or, as appropriate, a local authority may, on application being made to it in accordance with these Regulations, grant a registration certificate (with or without conditions) or refuse to grant such a certificate, in relation to the carrying on at a facility of the said activity.

(*c*) An application for a registration certificate shall be made—

(i) in the case of an activity carried on by, or on behalf of, a local authority, to the Agency,

(ii) in the case of an activity carried on by a person other than a local authority, to a local authority in whose functional area the relevant facility is located.

(*d*) An application for a registration certificate must be made in writing and shall contain the information specified in Schedule 16, where appropriate.

(*e*) A fee of €300 shall accompany an application for a registration certificate.

(*f*) A local authority or, as appropriate, the Agency shall decide on an application for a registration certificate within four weeks from the date of submission of a valid application.

(*g*) Notwithstanding paragraph (*f*), where an applicant demonstrates that he or she has applied for a registration certificate to the Agency or, as appropriate, the relevant local authority in respect of a collection point prior to 13 February 2006, such a collection point shall, in the period before a registration certificate is granted or refused, be deemed to be registered in accordance with the terms of paragraph (*a*).

C27 Application of subs. (1) restricted (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), art. 6(1), in effect as per art. 2.

Non-application of section 39(1) of the Act

6. (1) Section 39(1) of the Act shall not apply in respect of the carrying on by a person of a waste recovery or disposal activity specified in Parts I or II of the third schedule of the Regulations if and for so long as the person carrying on the activity complies with the conditions specified in sub-article (2).

(2) The conditions specified for the purposes of sub-article (1) are that—

(*a*) in the case of an activity of a class specified in Part I of the third schedule, where—

(i) the activity is being carried on in a manner which does not cause, and is not likely to cause, environmental pollution,

(ii) there is in force in relation to the carrying on of the activity a waste facility permit granted by the local authority in whose functional area the facility is located, and

(iii) the activity is being carried on in accordance with the conditions attached to the aforementioned waste facility permit; and

(*b*) in the case of an activity relating to household waste of a class specified in Part II of the third schedule, where the—

(i) waste arises within the curtilage of the domestic dwelling, and

(ii) activity is carried out within the curtilage of the domestic dwelling, and

(iii) local authority in whose functional area the dwelling is situated or, as the case may be, the Agency considers, in its reasonable opinion, that the activity forms part of normal domestic activity, and

(iv) activity is carried out in accordance with all relevant legislative requirements; and

(*c*) in the case of an activity, other than covered in sub-article (*b*), of a class specified in Part II of the third schedule, where—

(i) there is in force in relation to the carrying on of the activity a certificate of registration granted by the Agency or, as the case may be, the local authority in whose functional area the facility is located, and

(ii) the activity—

(A) is being carried on in accordance with the rules specified in the fourth schedule, and

(B) complies with [requirements or articles 1, 4 and 13 of the Waste Directive].

(3) Notwithstanding sub-article (2), where a type or quantity of waste material has been deposited for the purposes of the improvement or development of land which has not been specifically authorised through—

(*a*) a waste licence granted under the Waste Management (Licencing) Regulations 2004 [50], as may be amended from time to time, [or]

(*b*) a waste facility permit granted in relation to classes of activity 5 or 6 of Part I of the third schedule, or

(*c*) a certificate of registration granted in relation to classes of activity 5 or 6 Part II of the third schedule, or

(*d*) the requirements of a planning permission granted in accordance with Part II of the Planning and Development Act 2000 [51],

the activity shall be regarded as an unauthorised landfill facility for the purposes of the Waste Management (Landfill Levy) (Amendment) Regulations, 2006 [52].

C28 Application of subs. (1) restricted (17.07.2001) by *Waste Management (Amendment) Act 2001* (36/2001), s. 13(3) and (4), commenced on enactment, for a period specified by the Environmental Protection Agency.

Relationship between Act of 1996 and Environmental Protection Agency Act, 1992, with regard to certain activities.

13.— ...

(3) Where, immediately before the passing of this Act, a licence or revised licence under Part IV of the Environmental Protection Agency Act, 1992 ("the Act of 1992") is in force in respect of an activity, being an activity which, immediately before that passing—

(*a*) fell within paragraph 11.1, 11.2, 11.3 or 11.4 of the First Schedule to the Act of 1992, and

(*b*) was not connected or associated with another activity specified in any other paragraph of that Schedule,

then, notwithstanding *subsections (1)* and *(2)* of this section but subject to *subsection (4)* thereof—

[50] S.I. No. 395 of 2004
[51] S.I. No. 30 of 2000
[52] S.I. No. 402 of 2006

(i) that licence or revised licence shall continue in force and the provisions of the Act of 1992 (apart from the amendment of them effected by the said *subsection (1)*) shall continue to apply in relation to it, and

(ii) section 39(1) of the Act of 1996 shall not apply in relation to that activity,

for such period as the Environmental Protection Agency may determine and specifies in writing.

(4) The period determined under *subsection (3)* of this section shall not, other than with the consent of the holder of the licence concerned, be less than 3 years from the passing of this Act.

Editorial Notes:

E416 Power pursuabnt to section exercised (22.09.2023) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2023* (S.I. No. 471 of 2023).

E417 Power pursuant to section exercised (27.01.2023) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations* 2023 (S.I. No. 16 of 2023).

E418 Power pursuant to section exercised (9.02.2022) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2022* (S.I. No. 51 of 2022).

E419 Power pursuant to section exercised (30.12.2020) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2020* (S.I. No. 738 of 2020).

E420 Power pursuant to section exercised (20.12.2019) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2019* (S.I. No. 684 of 2019).

E421 Power pursuant to section exercised (11.09.2019) by *Waste Management (Facility Permit And Registration) (Amendment) Regulations 2019* (S.I. No. 250 of 2019), in effect as per reg. 1(2).

E422 Power pursuant to section exercised (2.04.2018) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018), in effect as per reg. 2.

E423 Power pursuant to section exercised (19.12.2017) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2017* (S.I. No. 599 of 2017).

E424 Power pursuant to section exercised (19.12.2017) by *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017).

E425 Power pursuant to section exercised (14.09.2017 and 1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), part in effect on date of making, and part as per reg. 1(2).

E426 Power pursuant to section exercised (24.11.2015) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2015* (S.I. No. 538 of 2015).

E427 Power pursuant to section exercised (15.05.2015) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2015* (S.I. No. 198 of 2015).

E428 Power pursuant to section exercised (7.05.2015) by *Waste Management (Food Waste) (Amendment) Regulations 2015* (S.I. No. 190 of 2015).

E429 Power pursuant to section exercised (25.11.2014) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2014* (S.I. No. 546 of 2014).

E430 Power pursuant to section exercised (7.07.2014) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2014* (S.I. No. 320 of 2014).

E431 Power pursuant to section exercised (18.12.2013) by *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2013* (S.I. No. 504 of 2013).

E432 Contravention under subs. (1) prescribed for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a), (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 41(c).

E433 Power pursuant to section exercised (10.12.2009) by *Waste Management (Food Waste) Regulations 2009* (S.I. No. 508 of 2009).

E434 Power pursuant to section exercised (27.07.2009) by *Waste Management (Prohibition of Waste Disposal By Burning) Regulations 2009* (S.I. No. 286 of 2009).

E435 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008* (S.I. No. 86 of 2008).

E436 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), in effect as per reg. 2.

E437 Offence under subs. (9) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E438 Offence under subs. (9) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E439 Power pursuant to section exercised (1.07.2006) by *Waste Management (Packaging) (Amendment) Regulations 2006* (S.I. No. 308 of 2006), in effect as per reg. 1(2).

E440 Power pursuant to section exercised (30.12.2004) by *Waste Management (Packaging) (Amendment) Regulations 2004* (S.I. No. 871 of 2004), in effect as per reg. 1(2).

E441 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

E442 Power pursuant to section exercised (1.03.2003) by *Waste Management (Packaging) Regulations 2003* (S.I. No. 61 of 2003), in effect as per reg. 3.

E443 Power pursuant to section exercised (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000).

E444 Previous affecting provision: pursuant to section exercised (1.04.2010, 1.06.2010, 1.12.2010, 10.04.2010, and 1.06.2015) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2010* (S.I. No. 143 of 2010), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E445 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 282 of 2006, see below.

E446 Previous affecting provision: application of subs. (1) restricted (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 42, in effect as per reg. 45; revoked (29.03.2014) by *European Union (Waste Electrical and Electronic Equipment) Regulations 2014* (S.I. No. 149 of 2014), reg. 46, in effect as per reg. 45.

E447 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E448 Previous affecting provision: pursuant to section exercised (16.07.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008); revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2014) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E449 Previous affecting provision: application of subs. (1) restricted (26.09.2008) by *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008), reg. 44, in effect as per reg. 44(1); subject to limitation as provided in reg. 4; revoked by *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2008), reg. 49(1), subject to transitional provision in para. (2) and construed as per para. (3), as amended (30.07.2014) by *European Union (Batteries and Accumulators) (Amendment) Regulations 2014* (S.I. No. 349 of 2014), reg. 2.

E450 Previous affecting provision: pursuant to section exercised (15.12.2007 and 31.03.2008) by *Waste Management (Packaging) Regulations 2007* (S.I. No. 798 of 2007), in effect as per reg. 3; revoked (21.06.2014) by *European Union (Packaging) Regulations 2014* (S.I. No. 282 of 2014), reg. 36(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 36(2) and (3).

E451 Previous affecting provision: power pursuant to section exercised and application of subs. (1) restricted (1.01.2008) by *Waste Management (Tyres and Waste Tyres) Regulations 2007* (S.I. No. 664 of 2007), in effect as per reg. 1(2); revoked (1.10.2017) by *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017), in effect as per reg. 1(2).

E452 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

E453 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

E454 Previous affecting provision: application of subs. (1) restricted (13.08.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005), reg. 39, in effect as per regulation; revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

E455 Previous affecting provision: contravention under subs. (1) prescribed (12.07.2004) for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a) by *Environmental Protection Agency (Licensing) (Amendment) Regulations 2004* (S.I. No. 394 of 2004), reg. 6(c), in effect as per reg. 2; revoked (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 42(1) and sch. 2, subject to transitional provision in para. (2).

E456 Previous affecting provision: pursuant to section exercised (2.07.2002) by *Waste Management (Licensing) (Amendment) Regulations 2002* (S.I. No. 336 of 2002); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), reg. 2(1) and sch. 1, in effect as per reg. 1(2), subject to transitional provision in reg. 2(2).

E457 Previous affecting provision: pursuant to section exercised (23.08.2001) by *Waste Management (Licensing) (Amendment) Regulations 2001* (S.I. No. 397 of 2001); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), art. 2 and sch. 1, in effect as per art. 1(2).

E458 Previous affecting provision: application of subs. (1) restricted (20.05.1998) by *Waste Management (Permit) Regulations 1998* (S.I. No. 165 of 1998), reg. 4, in effect as per reg. 1(2); revoked (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 3(1) and sch. 1, in effect as per reg. 2, subject to transitional provisions in reg. 3(2), (3), and (4).

E459 Previous affecting provision: pursuant to section exercised (20.05.1998) by *Waste Management (Permit) Regulations 1998* (S.I. No. 165 of 1998), in effect as per reg. 1(2); revoked (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 3(1) and sch. 1, in effect as per reg. 2; subject to transitional provisions in reg. 3(2), (3), and (4).

E460 Previous affecting provision: subs. (4) substituted (19.05.1998) by *European Communities (Amendment of Waste Management Act 1996) Regulations 1998* (S.I. No. S.I. No. 166 of 1998), reg. 4(c); substituted as per F-note above.

E461 Previous affecting provision: subs. (5) amended (19.05.1998) by *European Communities (Amendment of Waste Management Act 1996) Regulations 1998* (S.I. No. S.I. No. 166 of 1998), reg. 4(d); substituted as per F-note above.

E462 Previous affecting provision: power pursuant to section exercised (19.05.1998) by *Waste Management (Licensing) (Amendment) Regulations 1998* (S.I. No. 162 of 1998); rendered obsolete by revocation of S.I. No. 133 of 1997, see below.

E463 Previous affecting provision: pursuant to section exercised (27.03.1997) by *Waste Management (Licensing) Regulations 1997* (S.I. No. 133 of 1997); revoked (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000), reg. 50; subject to transitional provision in reg. 51.

F181**[**Licensing under this Part and Part IV of Act of 1992.**]**

F181**[39A.**—(1) The purpose of this section is to provide that, in relation to activities which are related to one another in the manner mentioned in this section, a single licence under either this Part F182**[**or, in relation to an integrated pollution control activity, Part IV of the Act of 1992**]**, but not a licence under both those Parts, will be required for the carrying on of those activities and that this Part or that Part IV applies, accordingly, to those activities.

(2) This section has effect in relation to the following activities, namely—

(*a*) the recovery or disposal of waste ("the first activity"), and

(*b*) F183**[**an integrated pollution control activity**]** specified in the First Schedule to the Act of 1992 ("the second activity"),

where the first activity is carried on in a facility connected or associated with the second activity.

(3) If the Agency is of the opinion that the carrying on of the second activity will be subsidiary to the carrying on of the first activity and declares, in writing, that it is of that opinion then, notwithstanding anything in this Part or Part IV of, or the First Schedule to, the Act of 1992—

(*a*) the second activity (irrespective of whether it would otherwise be so regarded) shall be regarded as an activity falling within *section 39(1)* and, accordingly—

(i) the carrying on of it and of the first activity, shall require, and may be the subject of the grant of, a waste licence under that section, and

(ii) the provisions of this Part shall otherwise apply in relation to any such activity,

and

(*b*) neither the carrying on of the first activity, if it would otherwise be regarded, nor of the second activity shall be regarded as requiring the grant of a licence F184**[**for an integrated pollution control activity**]** under Part IV of the Act of 1992.

(4) If the Agency is of the opinion that the carrying on of the first activity will be subsidiary to the carrying on of the second activity and declares, in writing, that it is of that opinion then, notwithstanding anything in this Part or Part IV of the Act of 1992—

(*a*) the first activity (irrespective of whether it would otherwise be so regarded) F185**[**shall be regarded as an integrated pollution control activity**]** falling within section 82 of the Act of 1992 and, accordingly—

(i) the carrying on of it and of the second activity, shall require, and may be the subject of the grant of, F185**[**a licence for an integrated pollution control activity under Part IV**]** of that Act, and

(ii) the provisions of that Part shall otherwise apply in relation to any such activity,

and

(*b*) neither the carrying on of the second activity, if it would otherwise be regarded, nor of the first activity shall be regarded as requiring the grant of a waste licence under *section 39(1)*.

(5) For the purposes of this section "subsidiary" means subsidiary having regard to one or, as the Agency may consider appropriate, more than one, of the following, namely—

(*a*) the primary purpose of the activities concerned,

(*b*) the size of each of the activities concerned relative to one another and any change in that regard likely to occur during the time the proposed licence will be in force,

(*c*) the relative likely effects on the environment of each of the activities,

(*d*) whether one of the activities concerned is incidental to, or consequential on, the other.

(6) A declaration under *subsection (3)* or *(4)*—

(*a*) may be made by the Agency of its own volition, and

(*b*) shall be made by the Agency, on a request being made to it under *subsection (7)*, if the conditions specified in that subsection are complied with.

(7) A person, before making an application for a waste licence under *section 39(1)* or F186**[**or a licence for an integrated pollution control activity under section 82**]** of the Act of 1992 in relation to the carrying on of 2 or more activities, may request the Agency to make a declaration under *subsection (3)* or *(4)* in relation to those activities and the Agency shall accede to that request if the following conditions are complied with—

(*a*) the Agency is satisfied of the *bona fides* of the request,

(*b*) the person has supplied sufficient particulars to the Agency with respect to the activities, and

(*c*) the Agency determines that it is appropriate to accede to the request,

but, in the case of an application for a declaration under *subsection (3)*, the Agency may, instead, make a declaration under *subsection (4)* and, in the case of an application for a declaration under *subsection (4)*, the Agency may, instead, make a declaration under *subsection (3)*, where, in either case, it considers it appropriate to make the declaration under the other subsection.

(8) Nothing in this section operates to disapply *section 39(1)*, or section 82 of the Act of 1992, as the case may be, if the activities referred to in this section cease to be related to one another in the manner mentioned in this section.

(9) For the avoidance of doubt, this section shall apply and, in particular, a declaration under it may be made in respect of an application made before the commencement of section 34 of the Protection of the Environment Act 2003, for a waste licence under section 39 or for a licence or revised licence under section 82 of the Act of 1992.

(10) The Minister may by regulations make such incidental, consequential or supplementary provision as may appear to him or her to be necessary or proper to give full effect to any of the provisions of this section.**]**

Annotations

Amendments:

F181 Inserted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 34, S.I. No. 498 of 2003.

F182 Substituted (23.04.2013) by *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013), reg. 27(a).

F183 Substituted (23.04.2013) by *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013), reg. 27(b).

F184 Inserted (23.04.2013) by *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013), reg. 27(c).

F185 Substituted (23.04.2013) by *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013), reg. 27(d).

F186 Substituted (23.04.2013) by *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013), reg. 27(e).

Grant of waste licences.

40.—(1) (*a*) On application being made in that behalf to it, the Agency may grant to the applicant a waste licence subject to, or without, conditions or refuse to grant to the applicant such a licence.

(*b*) This subsection is subject to *sections 42* and *50* and regulations under *section 45*.

(2) Subject to *subsection (5)*, in considering an application for a waste licence or in reviewing, pursuant to this Part, a waste licence, the Agency shall—

(*a*) carry out or cause to be carried out such investigations as it deems necessary or as may otherwise be prescribed for the purposes of such consideration or review,

(*b*) have regard to—

(i) any relevant air quality management plan under section 46 of the Act of 1987, or water quality management plan under section 15 of the Local Government (Water Pollution) Act, 1977, or waste management plan or hazardous waste management plan under *Part II*,

(ii) F187**[**(I) the particulars submitted with the application including the F188**[**environmental impact assessment report**]** (if any) submitted under and in accordance with F189**[**this Part, or with**]** a requirement of, or made pursuant to regulations under, *section 45* and any other material including maps and plans,**]**

(II) any submissions or observations made to the Agency in relation to the F188**[**environmental impact assessment report**]**,

(III) such supplementary information (if any) relating to F190**[**such report**]** as may have been furnished to the Agency by the applicant or licence holder under and in accordance with F189**[**this Part, or with**]** a requirement of, or made pursuant to, regulations under *section 45*,

(IV) where appropriate, the views of other Member States of the European Communities in relation to the effects on the environment of the proposed activity,

F191**[**(iii) such other matters related to the prevention, limitation, elimination, abatement or reduction of environmental pollution from the activity concerned as it considers necessary,

(iv) the policies and objectives of the Minister or the Government in relation to waste management for the time being extant, and

(v) such other matters as may be prescribed.**]**

F192**[**(2A)(*a*) In this subsection:

"application for a waste licence" means an application made to the Agency—

(i) for a waste licence under *section 40*, or

(ii) by the holder of the waste licence for a review under *section 46* of the waste licence;

F193**[**"environmental impact assessment" in relation to an application for a waste licence, means a process in respect of the proposed activity—

(i) consisting of—

(I) the preparation of an environmental impact assessment report in accordance with *section 40(2A)(d)*,

(II) the carrying out of consultation with the public, public authorities and where applicable, another Member State,

(III) the examination by the Agency of the information presented in the environmental impact assessment report, any supplementary information provided by the applicant in accordance with *section 40(2A)(e)* and any relevant information received in written submissions made in accordance with regulations under *section 45*, or objections made to the Agency under *section 42(3)*,

(IV) the reaching by the Agency of a reasoned conclusion on the significant effects of the proposed activity on the environment, and

(V) the integration by the Agency of its reasoned conclusion into its decision under *section 42(11A)*,

and

(ii) including an examination by the Agency to identify, describe and assess the direct and indirect significant effects of the proposed activity, including the expected effects derived from the vulnerability of the activity to risks of major accidents and disasters relevant to it, on—

(I) population and human health,

(II) biodiversity, with particular attention to species and habitats protected under Council Directive 92/43/EEC of 21 May 1992[3] and Directive 2009/147/EC of the European Parliament and of the Council of 30 November 20094[4],

(III) land, soil, water, air and climate,

(IV) material assets, cultural heritage and the landscape, and

[3] OJ No. L 206, 22.7.1992, p. 7
[4] OJ No. L 20, 26.1.2010, p. 7

(V) the interaction between the factors mentioned in *clauses (I)* to *(IV)*;**]**

F194**[**"environmental impact assessment report" means a report prepared by competent experts which contains the following information:

(i) a description of the proposed activity comprising information on the site, design, size and other relevant features of the activity;

(ii) a description of the likely significant effects of the proposed activity on the environment;

(iii) a description of any features of the proposed activity and of any measures envisaged in order to avoid, prevent or reduce and if possible, offset likely significant adverse effects on the environment;

(iv) a description of the reasonable alternatives studied by the applicant which are relevant to the proposed activity and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed activity on the environment;

(v) any additional information specified in paragraph 2 of Schedule 6 to the Planning and Development Regulations 2001 (S.I. No. 600 of 2001) that is relevant to the specific characteristics of the proposed activity and to the environmental features likely to be affected;

(vi) a non-technical summary of the information referred to in *subparagraphs (i)* to *(v)*;

(vii) a reference list detailing the sources used for the descriptions and assessments included in the report.**]**

F194**[**(*aa*) In carrying out an environmental impact assessment under this subsection, the Agency shall, where appropriate, coordinate the assessment with any assessment of the proposed activity under Council Directive 92/43/EEC of 21 May 1992[3] or Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009[4].**]**

(*b*) The Agency as part of its consideration of an application for a waste licence shall ensure before a waste licence is granted, and where the activity to which such waste licence relates is likely to have significant effects on the environment by virtue, *inter alia*, of its nature, size or location, that, in accordance with this subsection and *section 42(1A)* to F195**[***(1I)***]**, the application is made subject to an environmental impact assessment as respects the matters that come within the functions of the Agency including the functions conferred on the Agency by or under this Act.

F193**[**(*c*) Subject to *paragraph (b)* and *section 42(1A)* to *(1I)*, an environmental impact assessment shall be carried out by the Agency in respect of an application for a waste licence relating to an activity, where development comprising or for the purpose of the activity is:

(i) of a class specified in Part 1 or Part 2 of Schedule 5 to the Planning and Development Regulations, 2001 and either—

(I) such development would equal or exceed, as the case may be, any relevant quantity, area or other limit specified in Part 1 or Part 2, or

(II) no quantity, area or other limit is specified in that Part in respect of the development concerned,

or

[3] OJ No. L 206, 22.7.1992, p. 7
[4] OJ No. L 20, 26.1.2010, p. 7

(ii) of a class specified in Part 2 of Schedule 5 to the Planning and Development Regulations 2001 but does not equal or exceed, as the case may be, the relevant quantity, area or other limit specified in that Part and the Agency, in exercise of the powers conferred on it by regulations under *section 45*, determines that the proposed activity is likely to have significant effects on the environment.**]**

F193**[**(*d*) Subject to *section 42(1A)* to *(1I)*, an applicant for a waste licence shall submit an environmental impact assessment report to the Agency in respect of an application that is subject to an environmental impact assessment under *paragraph (c)* and where applicable, such report shall—

(i) with a view to avoiding duplication of assessments, take into account the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation, and

(ii) be based on an opinion issued by the Agency in accordance with regulations under *section 45*.**]**

(*e*) The Agency shall request the production by the applicant of any additional or supplemental information F196**[**, including information specified in paragraph 2 of Schedule 6 to the Planning and Development Regulations 2001,**]** that it considers necessary to enable it to carry out an environmental impact assessment as required under this section.

(*f*) In relation to an application for a waste licence to which *paragraph (d)* refers—

(i) the Agency shall consider the content of the F188**[**environmental impact assessment report**]** and any other material including maps or plans submitted as part of the application for a waste licence and determine whether that content adequately identifies, describes, and assesses the direct and indirect effects of the proposed development, and

(ii) if the Agency determines that the F188**[**environmental impact assessment report**]** and other material does not so adequately identify, describe or assess, the Agency shall give notice in writing to the applicant for the licence requesting further information, which notice shall—

(I) identify the manner in which the content of the F188**[**environmental impact assessment report**]** and other material is inadequate, and

(II) require the applicant for the licence to furnish to the Agency additional information required to correct the inadequacy so identified.

(*g*) In carrying out its consideration of an application for a waste licence and in carrying out an environmental impact assessment F196**[**, the Agency shall ensure that it has, or has access as necessary to, sufficient expertise to examine the environmental impact assessment report, and**]** the Agency may have regard to, and adopt in whole or in part, any reports prepared by its officials or by consultants, experts or other advisors.**]**

(3) F197**[**...**]**

(4) The Agency shall not grant a waste licence unless it is satisfied that—

(*a*) any emissions from the recovery or disposal activity in question ("the activity concerned") will not result in the contravention of any relevant standard, including any standard for an environmental medium, or any relevant emission limit value, prescribed under any other enactment,

(*b*) the activity concerned, carried on in accordance with such conditions as may be attached to the licence, will not cause environmental pollution,

F198**[**(*bb*) if the activity concerned involves the landfill of waste, the activity, carried on in accordance with such conditions as may be attached to the licence, will comply with Council Directive 1999/31/EC on the landfill of waste,**]**

F199**[**(*bbb*) if the activity concerned involves the storage of metallic mercury considered as waste, the storage shall be—

(i) carried on in accordance with such conditions as may be attached to the licence, and

(ii) comply with Council Directive 2011/97/EU of 5 December 2011 amending Directive 1999/31/EC as regards specific criteria for the storage of metallic mercury considered as waste.**]**

(*c*) the F200**[**best available techniques**]** will be used to prevent or eliminate or, where that is not practicable, to limit, abate or reduce an emission from the activity concerned,

F201**[**(*cc*) the activity concerned is consistent with the objectives of the relevant waste management plan or the hazardous waste management plan, as the case may be, and will not prejudice measures taken or to be taken by the relevant local authority or authorities for the purpose of the implementation of any such plan,**]**

(*d*) if the applicant is not a local authority, the corporation of a borough that is not a county borough, or the council of an urban district, subject to *subsection (8)*, he or she is a fit and proper person to hold a waste licence,

(*e*) the applicant has complied with any requirements under F202**[***section 53*,**]**

F203**[**(*f*) energy will be used efficiently in the carrying on of the activity concerned,

(*g*) any noise from the activity concerned will comply with, or will not result in the contravention of, any regulations under section 106 of the Act of 1992,

(*h*) necessary measures will be taken to prevent accidents in the carrying on of the activity concerned and, where an accident occurs, to limit its consequences for the environment,

(*i*) necessary measures will be taken upon the permanent cessation of the activity concerned (including such a cessation resulting from the abandonment of the activity) to avoid any risk of environmental pollution and return the site of the activity to a F204**[**satisfactory state,**]]**

F205**[**(*j*) the intended method of treatment is acceptable from the point of view of environmental protection, in particular when the method is not in accordance with *section 32(1)*.**]**

(5) Where a waste licence is granted in relation to an activity, a licence under—

(*a*) Part III of the Act of 1987,

(*b*) section 4 or 16 of the Local Government (Water Pollution) Act, 1977, or

(*c*) section 171 of the Fisheries (Consolidation) Act, 1959,

shall not be granted in relation to such an activity, and any such licence that is in force in relation to such an activity shall thereupon cease to have effect in relation thereto.

(6) (*a*) Where a waste licence is granted in relation to an activity, and a foreshore licence has been granted under the Foreshore Act, 1933, in relation to the same activity, any conditions attached to that foreshore licence shall, in so

far as they are for the purpose of preventing environmental pollution, cease to have effect.

(*b*) The grant of a licence under the Foreshore Act, 1933, in relation to any activity shall not prejudice, affect or restrict in any way the application of any provision of this Act to such an activity.

(7) For the purpose of this Part, a person shall be regarded as a fit and proper person if—

(*a*) neither that person nor any other relevant person has been convicted of an offence under this Act F206**[**, the Act of 1992, the Local Government (Water Pollution) Acts 1977 and 1990 or the Act of 1987**]** prescribed for the purposes of this subsection,

(*b*) in the opinion of the Agency, that person or, as appropriate, any person or persons employed by him or her to direct or control the carrying on of the activity to which the waste licence will relate has or have the requisite technical knowledge or qualifications to carry on that activity in accordance with the licence and the other requirements of this Act,

(c) in the opinion of the Agency, that person is likely to be in a position to meet any financial commitments or liabilities that the Agency reasonably considers will be entered into or incurred by him or her in carrying on the activity to which the waste licence will relate in accordance with the terms thereof or in consequence of ceasing to carry on that activity.

(8) The Agency may, if it considers it proper to do so in any particular case, regard a person as a fit and proper person for the purposes of this Part notwithstanding that that person or any other relevant person is not a person to whom *subsection (7) (a)* applies.

(9) The references in *subsections (7)* and *(8)* to a relevant person are references to a person whom the Agency determines to be relevant for the purposes of considering the application concerned having had regard to any criteria that the Minister by regulations provides it is to have regard to in determining such a matter.

(10) A waste licence granted to a person under this Part may not be transferred to another person, other than under and in accordance with *section 47*.

(11) A person shall not be entitled solely by reason of a waste licence under this Part to make, cause or permit an emission to any environmental medium.

(12) It shall be a good defence—

(*a*) to a prosecution for an offence under any enactment other than this Part, or

(*b*) to proceedings under—

(i) section 10 or 11 of the Local Government (Water Pollution) Act, 1977,

(ii) section 20 of the Local Government (Water Pollution) (Amendment) Act, 1990,

(iii) section 28, 28A or 28B of the Act of 1987,

(iv) *section 57 or 58,*

to prove that the act complained of is authorised by a waste licence granted under this Part.

(13) (*a*) A holder of a waste licence shall, within a period of 1 month after the cesser of the activity to which the licence relates, give notice in writing of that fact to the Agency.

(*b*) A person who fails to comply with *paragraph (a)* shall be guilty of an offence.

Annotations

Amendments:

F187 Substituted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 5(1)(a), in effect as per reg. 1(2).

F188 Substituted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 4(a).

F189 Inserted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 8(a)(i), (ii).

F190 Substituted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 4(b).

F191 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 35(b), S.I. No. 393 of 2004.

F192 Inserted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 5(1)(b), in effect as per reg. 1(2).

F193 Substituted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 8(b)(i), (iv), (v).

F194 Inserted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 8(b)(ii), (iii).

F195 Substituted (26.11.2013) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2013* (S.I. No. 505 of 2013), reg. 3.

F196 Inserted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 8(b)(vi), (vii).

F197 Deleted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 35(c), S.I. No. 393 of 2004.

F198 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 35(d).

F199 Inserted (21.02.2013) by *European Communities (Metallic Mercury Waste) Regulations 2013* (S.I. No. 72 of 2013), reg. 2(b).

F200 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 21, S.I. No. 393 of 2004; subject to a saver in s. 59.

F201 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 35(e), S.I. No. 393 of 2004.

F202 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 35(f), S.I. No. 393 of 2004.

F203 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 35(g), S.I. No. 393 of 2004.

F204 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg 20(a).

F205 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg 20(b).

F206 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 35(h), S.I. No. 393 of 2004.

Editorial Notes:

E464 Application for waste licence under section made subject to *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* and *European Union (Environmental Impact Assessment) (Waste) Regulations 2013* (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 11, in effect as per reg. 1(2), and (26.11.2013) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2013* (S.I. No. 505 of 2013, reg. 7.

E465 Provisions concerning costs of certain proceedings relating to waste licences granted pursuant to section prescribed (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), ss. 3, 4, 6 and 7, S.I. No. 433 of 2011.

E466 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

E467 Power pursuant to section exercised (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000).

E468 Previous affecting provision: subs. (2)(b)(ii)(I) substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 35(a), S.I. No. 393 of 2004; substituted as per F-note above.

E469 Previous affecting provision: application of subs. (1) restricted (3.07.2003) by *European Communities (Incineration of Waste) Regulations 2003* (S.I. No. 275 of 2003), reg. 5; revoked (7.01.2014) by *European Union (Waste Incineration Plants and Waste Co-Incineration Plants) Regulations 2013* (S.I. No. 148 of 2013), reg. 25(b), in effect as per reg. 25(b).

E470 Previous affecting provision: pursuant to section exercised (23.08.2001) by *Waste Management (Licensing) (Amendment) Regulations 2001* (S.I. No. 397 of 2001); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), art. 2 and sch. 1, in effect as per art. 1(2).

E471 Previous affecting provision: power pursuant to section exercised (19.05.1998) by *Waste Management (Licensing) (Amendment) Regulations 1998* (S.I. No. 162 of 1998); rendered obsolete by revocation of S.I. No. 133 of 1997, see below.

E472 Previous affecting provision: pursuant to section exercised (27.03.1997) by *Waste Management (Licensing) Regulations 1997* (S.I. No. 133 of 1997); revoked (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000), reg. 50; subject to transitional provision in reg. 51.

E473 Previous affecting provision: subs. (2A)(c), (d) amended (26.11.2013) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2013* (S.I. No. 505 of 2013), reg. 3; subsection substituted as per F-note above.

Conditions attached to a waste licence.

41.—(1) A waste licence may provide as respects any condition attached to it that the condition shall be complied with before or after any activity to which the licence relates has been commenced or has ceased.

(2) Without prejudice to the generality of *section 40 (1) (a)*, conditions attached to a waste licence granted under this Part—

(*a*) F207**[**shall, as a minimum**]**—

(i) specify the waste recovery or disposal activity, as the case may be, to which the licence relates ("the activity concerned") and the types, nature, composition and quantity of waste permitted to be recovered F208**[**, disposed of or treated**]** during specified periods or otherwise,

(ii) specify the facility where waste may be recovered F208**[**, disposed of or treated**]** under the licence,

F209**[**(iia) for each type of operation permitted, the technical and any other requirements relevant to the site concerned,

(iib) the safety and precautionary measures to be taken,**]**

(iii) specify procedures or methods to be followed or employed with respect to F210**[**each type of operation involved in**]** the activity concerned, having regard to the nature and composition of the waste, the proximity to the facility concerned of water catchment areas and the characteristics of the receiving environment,

(iv) require specified measures to be taken to prevent the entry to waters of specified substances or to avoid pollution by specified substances,

(v) specify requirements of a technical nature to be complied with for the purpose of controlling emissions arising from, or which are a result of, the activity concerned, including—

(I) requirements relating to the design, construction, provision, operation or maintenance of the facility concerned, or any plant thereon,

(II) other requirements for the purposes aforesaid, including the use or employment of specified procedures or codes of practice,

(vi) require the monitoring, supervision and control F211**[**as may be necessary**]** of each aspect of the operation of the facility or any plant concerned by specified means and for that purpose require specified procedures or codes or practices to be followed or employed and precautions of a security nature to be taken,

F212**[**(vii) require the monitoring of such environmental media as, in the opinion of the Agency, may be affected by or as a result of the activity concerned, and require the Agency to be informed of the results of such monitoring and, without delay, of any incident or accident which causes, or is likely to cause, environmental pollution,**]**

(viii) require records to be kept F213**[**in accordance with *section 15(2)*,**]** of the quantity, nature and origin of waste accepted into the facility concerned, the treatment, recovery or disposal of such waste, and where relevant, the quantity, nature, destination, frequency of collection and mode of transport of waste leaving the facility concerned, and specify the period for which such records are to be preserved,

(ix) in the case of a waste disposal activity, require the recording and identification of a deposit of hazardous waste in the facility concerned,

(x) require the keeping of other specified records and require specified information to be supplied to the Agency, or any other specified person, in relation to the carrying on of the activity concerned, including a statement by the holder of the licence confirming whether or not he or she has complied with each of the conditions attached to the licence,

F214**[**(xi) specify requirements as may be necessary for the closure, restoration and remediation of, or the carrying out of aftercare in relation to, the facility concerned,

(xii) require that it shall be a condition of any waste licence covering incineration or co-incineration with energy recovery that the recovery of energy take place with a high level of energy efficiency,**]**

(*b*) may, as appropriate—

(i) specify requirements to be complied with as respects the nature, composition, temperature, volume, level, rate, method of treatment and

location of an emission arising from, or which is a result of, the activity concerned ("an emission concerned"),

(ii) specify the periods during which an emission concerned may, or may not, be made,

(iii) specify limits to the effects of an emission concerned,

(iv) specify the concentration of a pollutant in an environmental medium or a discharge rate which shall not be exceeded,

(v) require the provision, operation and maintenance of meters, gauges and other apparatus or means for monitoring the nature, extent and effects of an emission concerned,

(vi) specify requirements as to the training and qualifications of persons employed in carrying on the activity concerned,

(vii) specify the methods, vehicles and receptacles to be employed in transporting waste to, from or within the facility concerned,

(viii) require the taking and analysis of samples, the making of measurements and compliance with specified quality control procedures in connection with the activity concerned and for that purpose require—

(I) the use of specified analytical standards or the services of specified laboratories to be availed of,

(II) the keeping of records in relation to the samples, measurements or procedures,

(III) the furnishing of information to the Agency or any other specified person in relation to the samples, measurements or procedures,

(ix) require the making of a plan, and the revision thereof at specified intervals, setting out the measures to be taken in the event of any accident or incident (including any difficulty of an operational nature) occurring that involves the facility or any plant concerned,

(x) require specified measures to be taken in the event of a breakdown of any plant or other equipment which may affect an emission concerned,

(xi) where appropriate, specify the type of fuel to be, or not to be, used, as the case may be,

(xii) require the making and maintenance of such financial provision as may be required under *section 53 (1)*,

(xiii) require the holder of the licence to effect and maintain a policy of insurance insuring him or her as respects any liability on his or her part to pay damages or costs on account of injury to person or property arising from the carrying on of the activity concerned,

(xiv) require the making of payments by the holder of the licence to the Agency to defray costs which may be incurred by the Agency in monitoring or otherwise in performing any functions in relation to the activity concerned,

(xv) F215**[**...**]**

(xvi) require the holder of the licence to comply with such further requirements in relation to the closure, restoration, remediation and aftercare of the facility concerned, or otherwise as may in due course be determined under *section 46 (5)*,

(xvii) specify the latest date by which a condition attached to the licence is to be complied with.

F216**[**(2A) In relation to an application for a waste licence, within the meaning of *section 40(2A)(c)*, the Agency may attach such environmental conditions to the waste licence as it considers necessary to avoid, prevent, reduce or offset the significant adverse effects of the activity on the environment.**]**

F217**[**(2B) Where the Agency decides, in relation to an application for a waste licence, that an environmental impact assessment is not required on the basis of features or measures proposed by the applicant to avoid or prevent significant adverse effects on the environment, the Agency may attach such features or measures as environmental conditions to the waste licence.**]**

(3) The Minister may by regulations—

(*a*) require the Agency to attach as conditions to any waste licence that may be granted by it in respect of a specified class or classes of waste recovery or disposal activity, provisions requiring compliance with any specified standard, specification, procedure or other requirement, including any requirement the imposition of which is required or necessary to give effect to any Community act in relation to waste,

(*b*) require the Agency to attach as a condition to a waste licence of a specified class or classes a provision prohibiting the recovery or disposal of specified waste in a facility concerned or by means of a specified recovery or disposal activity, or

(*c*) require the Agency to take account of any other specified matter in attaching conditions to a waste licence.

F218**[**(*d*) for the purposes of acceptance of a class of household waste at a facility, from the original waste producer or the person who arranges on behalf of more than one original waste producer occupying apartments, duplexes, maisonettes or any combination of such dwellings for delivery of their household waste ("person who delivers household waste"), require the Agency to attach conditions to a waste licence—

(i) requiring the weighing of a class of household waste accepted by a facility,

(ii) requiring the reporting of the weight of a class of household waste accepted by a facility to the person who delivers household waste,

(iii) subject to *subsection (3A)*, requiring the charging of fees for acceptance, recovery or treatment services by a facility of a class of household waste,

(iv) in relation to acceptance of a class of household waste, requiring the preparation and publishing of a customer charter and specifying its form and content,

(v) requiring the provision of separate receptacles for different household waste or classes of household waste,

(vi) requiring the provision to a local authority or a nominated authority under *section 34(1)(aa)(ii)* of—

(I) details of persons with regard to the deposition of household waste,

(II) details of persons who choose not to partake in the deposition of household waste,

(III) details of when household waste was last deposited, and

(IV) written confirmation of the structure of the fees being charged to persons depositing the household waste, including, where appropriate,

billing information which indicates the pay by weight charge element of the fees charged for the deposition of household waste,

(vii) as respects contamination that may be caused by the incorrect segregation of specified household waste from other waste in receptacles for segregated household waste, requiring the holder of a waste licence:

(I) to monitor levels of contamination;

(II) to record and maintain specified data on levels of contamination;

(III) to provide training for staff in relation to monitoring contamination;

(IV) to prepare and maintain protocols and procedures in the event that such contamination is detected by the holder, including to inform the person who delivers household waste or to refuse to accept the waste,

and

(viii) where a weighing system is used to determine weight-based collection charges, requiring the submission of confirmation of an annual inspection of the weighing system used by the permit holder in accordance with the Legal Metrology (General) Regulations 2008 (S.I. No. 323 of 2008), in such form that may be specified on the waste licence.**]**

F219**[**(3A) (*a*) The Minister, where he or she considers that it is necessary for waste management in accordance with the principle that the costs of that management shall be borne by the original waste producer shall, by regulations, specify a condition to be attached to a waste licence specifying a requirement that the holder of the licence shall charge fees for accepting a class of household waste, which would otherwise fall to be collected pursuant to a waste collection permit, delivered to the facility of the holder of the waste licence by the person who delivers household waste.

(*b*) Regulations under *paragraph (a)* shall provide for the means by which fees for accepting household waste shall be calculated by a holder of a waste licence and shall—

(i) require a holder of a waste licence to charge a fee for each kilogramme of household waste accepted by the holder,

(ii) prohibit a holder of a waste licence from charging any form of fee other than that referred to at *subparagraph (i)*, and, for the avoidance of doubt, methods of calculation of a fee based on pay by throw or a flat fee shall not be considered to be calculated by reference to weight of waste accepted,

(iii) require a holder of a waste licence to demonstrate by prescribed means to a local authority or the Agency, as the case may be, if the fees charged for accepting the household waste concerned incentivise waste prevention and waste segregation.

(*c*) (i) For the purposes of *paragraph (b)(i)*, the Minister shall prescribe the minimum amount of the fee required to be charged for each kilogramme of household waste accepted by a holder of a waste licence and that minimum fee shall be based on the approximate cost per kilogramme of managing segregated household waste, including its acceptance by the holder of the licence, from the person who delivers that waste and its recovery, disposal or final treatment, which in any event shall not exceed an amount of 30 cent per kilogramme of household waste.

(ii) The Minister shall review the costs of managing, recovering or disposal of household waste, on which the minimum charges prescribed under

subparagraph (i) are based, at least every 12 months and may amend the amount of the fee prescribed under *subparagraph (i)*.

(iii) The Minister following a review under *subparagraph (ii)*, once and only once in each financial year beginning in the financial year that he or she first prescribes under *paragraph (g)(i)*, may substitute for the amount of the fee prescribed under *subparagraph (i)*, an amount which does not exceed the amount so prescribed by 5 cent.**]**

(4) Conditions attached to a waste licence may apply in respect of any plant, or land or any part of any land, which is, or has been, used for the purpose of, or incidental to, an activity to which the licence relates and any emission from the facility concerned.

(5) The Agency may recover the amount of any payment due to it arising from a condition attached to a waste licence as a simple contract debt in any court of competent jurisdiction.

(6) Prior to the commencement of the waste recovery or disposal activity to which a waste licence relates, as the case may be, or the coming into force of a waste licence in respect of an activity to which *section 39 (3)* applies, the Agency shall inspect the facility concerned in order to ensure that it complies F220**[**, or is capable of compliance,**]** with the relevant conditions attached to the waste licence.

Annotations

Amendments:

F207 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 21(a)(i).

F208 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 21(a)(ii).

F209 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 21(a)(iii).

F210 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 21(a)(iv).

F211 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 21(a)(v).

F212 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 36(a), S.I. No. 393 of 2004.

F213 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 21(a)(vi).

F214 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 21(a)(vii).

F215 Deleted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 21(b).

F216 Substituted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 9(a).

F217 Inserted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 9(b).

F218 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 41(a), S.I. No. 358 of 2015.

F219 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 41(b), S.I. No. 358 of 2015.

F220 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 36(b), S.I. No. 393 of 2004.

Editorial Notes:

E474 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

E475 Power pursuant to section exercised (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000).

E476 Previous affecting provision: subs. (2A) inserted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 6(1), in effect as per reg. 1(2); substituted as per F-note above.

E477 Previous affecting provision: application of section restricted (3.07.2003) by *European Communities (Incineration of Waste) Regulations 2003* (S.I. No. 275 of 2003), reg. 5; revoked (7.01.2014) by *European Union (Waste Incineration Plants and Waste Co-Incineration Plants) Regulations 2013* (S.I. No. 148 of 2013), reg. 25(b), in effect as per reg. 25(b).

E478 Previous affecting provision: pursuant to section exercised (2.07.2002) by *Waste Management (Licensing) (Amendment) Regulations 2002* (S.I. No. 336 of 2002); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), reg. 2(1) and sch. 1, in effect as per reg. 1(2), subject to transitional provision in reg. 2(2).

E479 Previous affecting provision: pursuant to section exercised (23.08.2001) by *Waste Management (Licensing) (Amendment) Regulations 2001* (S.I. No. 397 of 2001); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), art. 2 and sch. 1, in effect as per art. 1(2).

E480 Previous affecting provision: power pursuant to section exercised (19.05.1998) by *Waste Management (Licensing) (Amendment) Regulations 1998* (S.I. No. 162 of 1998); rendered obsolete by revocation of S.I. No. 133 of 1997, see below.

E481 Previous affecting provision: pursuant to section exercised (27.03.1997) by *Waste Management (Licensing) Regulations 1997* (S.I. No. 133 of 1997); revoked (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000), reg. 50; subject to transitional provision in reg. 51.

Application for a waste licence or review of a waste licence.

42.—(1) (*a*) Where a person proposes to make an application to the Agency for the grant of a waste licence under *section 40*or for the review of a waste licence under *section 46*, he or she shall publish or give notice of his or her intention to do so in such form and to such persons as may be prescribed under *section 45*.

(*b*) Where the Agency proposes to review a waste licence under *section 46 (1)*, it shall publish such notice as may be prescribed under *section 45*for the purposes of this section, and shall give notice in writing to the holder of the licence and, where appropriate, to the local authority in whose functional area the activity, the subject matter of the licence, is carried on, and to such other persons (if any) as may be so prescribed, of its intention to conduct such a review.

F221**[**(1A) In *subsections (1B)* to F222**[***(1I)*]—

"application for a licence" means an application made to the Agency—

(*a*) for a waste licence under *section 40*, or

(*b*) by the holder of a waste licence for a review under *section 46* of the waste licence;

"application for permission" means—

(*a*) an application for permission for development under Part III of the Planning and Development Act 2000,

(*b*) an application for approval for development under section 175, 177AE, 181A, 182A, 182C or 226 of the Planning and Development Act 2000, or

(*c*) an application for substitute consent under section 177E of the Planning and Development Act 2000;

"grant of permission" means—

(*a*) a grant of permission for development under Part III of the Planning and Development Act 2000,

(*b*) an approval for development under section 175, 177AE, 181B, 182B, 182D or 226 of the Planning and Development Act 2000, or

(*c*) a grant of substitute consent under section 177K of the Planning and Development Act 2000.

F223**[**(1AA) Unless the context otherwise requires, in *subsections (1B)* to *(1G)*, "environmental impact assessment" and "environmental impact assessment report" have the same meaning as they have in the Planning and Development Act 2000.**]**

(1B) Where an application for a licence is made to the Agency in respect of an activity that involves development or proposed development for which a grant of permission is required the applicant shall furnish to the Agency—

(*a*) confirmation in writing from a planning authority or An Bord Pleanála, as the case may be, that an application for permission comprising or for the purposes of the activity to which the application for a licence relates, is currently under consideration by the planning authority concerned or An Bord Pleanála, and in that case shall also furnish to the Agency either—

(i) a copy of the F224**[**environmental impact assessment report**]** where one is required by or under the Planning and Development Act 2000 relating to that application for permission, or

(ii) confirmation in writing from the planning authority or An Bord Pleanála that an environmental impact assessment is not required by or under the Planning and Development Act 2000,

or

(*b*) a copy of a grant of permission comprising or for the purposes of the activity to which the application for the licence relates that was issued by the planning authority concerned or An Bord Pleanála and in that case shall also furnish to the Agency either—

(i) where the planning authority or An Bord Pleanála, accepted or required the submission of an F224**[**environmental impact assessment report**]** in relation to the application for permission, a copy of the F224**[**environmental impact assessment report**]**, or

(ii) confirmation in writing from the planning authority or An Bord Pleanála that an environmental impact assessment was not required by or under the Planning and Development Act 2000.

(1C) Where an application for a licence is made to the Agency in respect of an activity that involves development or proposed development for which a grant of permission is required but the applicant does not comply with *subsection (1B)*, the Agency shall refuse to consider the application and shall inform the applicant accordingly.

(1D) The Agency, on receipt of an application for a waste licence where an F224**[**environmental impact assessment report**]** is required under *subsection (1B)(a)(i)* shall—

(*a*) within 2 weeks of the date of receipt of such application notify the planning authority in whose functional area the activity is or will be situate or An Bord Pleanála, as the case may be, that it has received an application to which *subsection (1B)(a)(i)* applies and request the planning authority or An Bord Pleanála to respond to the Agency within 4 weeks of receipt of the notice and furnish any observations that the planning authority or An Bord Pleanála has in relation to the application for a licence,

(*b*) consider any observations furnished to the Agency by the planning authority or An Bord Pleanála following a request under *paragraph (a)* before giving notice under *section 42(2)* of the decision it proposes to make in relation to the application for a licence,

(*c*) enter into consultations, as the Agency considers appropriate, with the planning authority or An Bord Pleanála in relation to any environmental impacts of the proposed development comprising or for the purposes of the activity to which the application for a licence relates,

(*d*) ensure that a grant of permission has been made or a decision has been made to refuse a grant of permission for development comprising or for the purposes of the activity to which the application for the licence relates and the period for any appeal under section 37 of the Planning and Development Act 2000 has expired without an appeal being made before giving notice under *section 42(2)* of the decision it proposes to make in relation to the application for a licence.

(1E) The Agency, on receipt of an application for a waste licence where an F224**[**environmental impact assessment report**]** is required under *subsection (1B)(b)(i)* shall—

(*a*) within 2 weeks of the date of receipt of such application notify the planning authority in whose functional area the activity is or will be situate or An Bord Pleanála, as the case may be, that it has received an application to which *subsection (1B)(b)(i)* applies and request the planning authority or An Bord Pleanála to respond to the Agency within 4 weeks of receipt of the notice—

(i) stating whether the activity to which the application for a licence relates is permitted by the grant of permission referred to in *subsection (1B)(b)*, and

(ii) furnishing all documents relating to the environmental impact assessment carried out by the planning authority or An Bord Pleanála in respect of the development or proposed development to which the grant of permission referred to in *subsection (1B)(b)* refers and any observations that the planning authority or An Bord Pleanála has in relation to the application for a licence,

(*b*) consider any observations furnished to the Agency by the planning authority or An Bord Pleanála following a request under *paragraph (a)* before giving notice under *section 42(2)* of the decision it proposes to make in relation to the application for a licence,

(*c*) enter into consultations, as the Agency considers appropriate, with the planning authority or An Bord Pleanála in relation to any environmental impacts of the proposed development or development in being, as the case may be, comprising or for the purposes of the activity to which the application for a licence relates.

(1F) Where—

(*a*) a planning authority concerned or An Bord Pleanála gives notice to the Agency of an application for permission comprising or for the purposes of an activity requiring a waste licence under *section 40* or a review, on the application of the holder of the licence, of a waste licence under *section 46*, and

(*b*) the application for permission is accompanied by an F224**[**environmental impact assessment report**]** or in relation to which an F224**[**environmental impact assessment report**]** was sought by the planning authority or An Bord Pleanála,

the Agency shall—

(i) satisfy itself that the development or proposed development the subject of the application for permission is development comprising or for the purposes of an activity requiring a licence under *section 40* or a review, on the application of the holder of the licence, of a waste licence under *section 46*,

(ii) forward to the planning authority or An Bord Pleanála, as the case may be, such observations as it has on the application for permission, including the F224**[**environmental impact assessment report**]**, and

(iii) enter into such consultations with the planning authority or An Bord Pleanála in relation to the environmental impacts of the proposed development as the Agency, or the planning authority or An Bord Pleanála, as the case may be, considers necessary to enable completion of the assessment.

(1G)(*a*) The environmental impact assessment required to be carried out by the Agency under *section 40(2A)*, where an application for a waste licence is in respect of an activity that involves development or proposed development that is the subject of an environmental impact assessment by the planning authority concerned or An Bord Pleanála under the Planning and Development Act 2000, may be carried out by the Agency in part or in whole by way of consultation with, or the submission of observations to, that planning authority or An Bord Pleanála.

(*b*) Where an application for permission relates to development or proposed development comprising or for the purposes of an activity in respect of which a waste licence under this Part is required—

F225**[**(i) in relation to which a grant of permission is required, where the development or the proposed development is of a class specified in Part 2 of Schedule 5 to the Planning and Development Regulations 2001 but does not equal or exceed, as the case may be, the relevant quantity, area or other limit specified in that Part, and**]**

(ii) in respect of which, the planning authority concerned or An Bord Pleanála is obliged under the Planning and Development Act 2000 to make a determination whether an environmental impact assessment is required,

the Agency shall, when requested by the planning authority concerned or An Bord Pleanála, consult with or provide observations to the planning authority or An Bord Pleanála to assist the planning authority or An Bord Pleanála in its deliberations in relation to the determination referred to in paragraph (ii) and shall accept the determination of the planning authority or An Bord Pleanála so made.

(1H)(*a*) Where the Agency receives an application for a licence in respect of an activity that involves development or proposed development for which a grant of permission is not required and the Agency, under *section 40(2A)*, decides that an environmental impact assessment is required in relation to the activity concerned, the Agency shall request the applicant to submit an F224**[**environmental impact assessment report**]** and where the applicant fails to submit F224**[**such report**]** within the period specified in the request, or

any additional period as may be specified by the Agency, the application for a licence shall be deemed to be withdrawn.

(*b*) Where an F224**[**environmental impact assessment report**]** is submitted to the Agency in accordance with a request under *paragraph (a)*, the application for a licence shall be deemed to be made on the date of receipt by the Agency of the F224**[**environmental impact assessment report**]**.

(*c*) Where an F224**[**environmental impact assessment report**]** is submitted to the Agency in accordance with a request under *paragraph (a)*, the Agency shall do the following—

(i) within 2 weeks of the date of receipt of F224**[**such report**]** notify the planning authority in whose functional area the activity is or will be situate that it has received an application to which this subsection applies and request the planning authority concerned to respond to the Agency within 4 weeks of the date of the notice and furnish any observations that the planning authority has in relation to the application including the F224**[**environmental impact assessment report**]**,

(ii) consider any observations furnished to the Agency following a request under *subparagraph (i)* by the planning authority before giving notice under *section 42(2)* of the decision it proposes to make in relation to the application for a licence, and

(iii) enter into consultations, as the Agency considers appropriate, with the planning authority in relation to any environmental impacts of the proposed activity to which the application for a licence relates.

(*d*) F226**[**...**]]**

F227**[**(1I)(*a*) This subsection applies—

(i) notwithstanding *subsections (1B)* to *(1H)*,

(ii) to an application for a licence made to the Agency before 30 September 2012,

(iii) where the Agency has not made a decision under *section 40(1)* or *section 46(2)*, including an application for a licence, within the meaning of *subsection (1A)*, to which *section 40(2A)* applies.

(*b*) Where the Agency is considering an application for a licence to which this subsection applies and the Agency under *section 40(2A)(c)(ii)* determines that an environmental impact assessment is required in relation to the activity concerned, the Agency shall, if an F224**[**environmental impact assessment report**]** was not submitted with the application for a licence, request the applicant to submit an F224**[**environmental impact assessment report**]** and where the applicant fails to submit F224**[**such report**]** within the period specified in the request, or any additional period as may be specified by the Agency, the application for a licence shall be deemed to be withdrawn.

(*c*) Where an F224**[**environmental impact assessment report**]** is submitted to the Agency in accordance with a request under *paragraph (b)*—

(i) the Agency shall consider the content of the F224**[**environmental impact assessment report**]** and any other material including maps or plans submitted as part of the application for a licence and determine whether that content adequately identifies, describes and assesses the direct and indirect effects of the proposed development on the environment, and

(ii) if the Agency determines that the F224**[**environmental impact assessment report**]** and other material does not so adequately identify, describe or

assess, the Agency shall give notice in writing to the applicant for the licence requesting further information, which notice shall—

(I) identify the manner in which the content of the F224**[**environmental impact assessment report**]** and other material is inadequate, and

(II) require the applicant for the licence to furnish, within the period specified in the notice, to the Agency, additional information required to correct the inadequacy so identified.

(*d*) Where the applicant concerned fails to comply with a requirement under *paragraph (c)*, the Agency may, as it considers it appropriate having regard to the extent of the failure, inform the applicant, by notice in writing, of such failure and that the application for a licence cannot be considered by the Agency.

(*e*) Where an F224**[**environmental impact assessment report**]** is submitted to the Agency in accordance with a request under *paragraph (b)* and having complied with the requirements under *paragraph (c)*, the Agency shall do the following—

(i) within 2 weeks of the date of receipt of F224**[**such report**]** notify the planning authority in whose functional area the activity is or will be situate that it has received an application to which this subsection applies and request the planning authority concerned to respond to the Agency within 4 weeks of the receipt of the notice and furnish any observations that the planning authority has in relation to the application for a licence including the F224**[**environmental impact assessment report**]**,

(ii) consider any observations furnished to the Agency following a request under *subparagraph (i)* by the planning authority before making its decision under *section 40(1)* or *section 46(2)* in relation to the application for a licence, and

(iii) enter into consultations, as the Agency considers appropriate, with the planning authority or any person or body that it considers appropriate in relation to any environmental impacts of the proposed activity to which the application for a licence relates.**]**

(2) Before making a decision under *section 40*in respect of an application made to it for the grant of a waste licence, or under *section 46 (2)* in consequence of a review of a waste licence that has been conducted by it under that section F228**[**including an application for a licence, within the meaning of *subsection (1A)*, to which *section 40(2A)* applies**]**, the Agency shall give notice in writing to—

(*a*) the applicant or the holder of the licence, as the case may be,

F228**[**(*aa*) where a planning authority concerned or An Bord Pleanála is considering or has considered an application for permission for development comprising or for the purposes of the activity in relation to which the application for a waste licence to which *section 40(2A)* applies is required, the planning authority or An Bord Pleanála,**]**

(*b*) any person who has made a written submission to it in relation to the application or the review, in accordance with regulations under this Part,

(*c*) where relevant, the local authority in whose functional area the activity, the subject matter of the proposed waste licence or the waste licence, as the case may be, is intended to be, or is, carried on, and

(*d*) such other persons as may be prescribed,

of the decision it proposes to make in respect of the application or in consequence of the review F225**[**and the Agency shall publish that decision on its website.**]**

(3) Any person may, subject to compliance with the requirements of any regulations under *sections 45* and *50*, and at any time before the expiration of the appropriate period, make an objection to the Agency in relation to a decision referred to in *subsection (2)* that it proposes to make.

(4) An objection shall—

(*a*) be made in writing,

(*b*) state the name and address of the objector,

(*c*) state the subject matter of the objection,

(*d*) state in full the grounds of objection and the reasons, considerations and arguments on which they are based, and

(*e*) be accompanied by such fee (if any) as may be payable in respect of the making of such objection in accordance with regulations under *section 50*.

(5) (*a*) An objection which does not comply with the requirements of *subsection (4)* shall be invalid.

(*b*) The requirement of *subsection (4) (d)* shall apply whether or not the objector requests, or proposes to request, under *subsection (9)* an oral hearing of the objection.

(6) An objection shall be accompanied by such documents, particulars, or other information relating to the objection as the objector considers necessary or appropriate.

(7) Without prejudice to the provisions of any regulations under*section 45*, an objector shall not be entitled to elaborate in writing upon, or make further submissions in writing in relation to, the grounds of objection stated in the objection, and any such elaboration, submissions or further grounds of objection that is or are received by the Agency shall not be considered by it.

(8) Any documents, particulars or other information submitted by an objector, other than such documents, particulars or other information which accompanied the objection or which were furnished to the Agency under and in accordance with a requirement of, or made pursuant to, regulations under *section 45*, shall not be considered by the Agency.

(9) (*a*) A person making an objection under *subsection (3)* may request an oral hearing of the objection.

(*b*) (i) A request for an oral hearing of an objection shall be made in writing to the Agency and shall be accompanied by such fee (if any) as may be payable in respect of such request in accordance with regulations under *section 50*.

(ii) A request for an oral hearing of an objection which is not accompanied by such fee (if any) as may be payable in respect of such request shall not be considered by the Agency.

(*c*) A request for an oral hearing of an objection shall be made within the appropriate period, and any request received by the Agency after the expiration of that period shall not be considered by it.

(10) An objection, or a request for an oral hearing under *subsection (9)*, shall be made—

(*a*) by sending the objection or request by prepaid post to the Agency, or

(*b*) by leaving the objection or request with an employee of the Agency, at the principal office of the Agency, during office hours, or

(*c*) by such other means as may be prescribed.

(11) (*a*) Where a request for an oral hearing of an objection is made in accordance with *subsection (9)*, or otherwise where an objection has been made, the Agency shall have an absolute discretion to hold an oral hearing in relation to the objection and, if it decides to hold such a hearing, it shall give notice in writing of that decision to—

(i) the applicant or the holder of the licence, as the case may be,

(ii) where relevant, the local authority in whose functional area the activity, the subject matter of the proposed waste licence or the waste licence, as the case may be, is intended to be, or is, carried on,

F229**[**(*aa*) where a planning authority concerned or An Bord Pleanála is considering or has considered an application for permission for development comprising or for the purposes of the activity in relation to which the application for a waste licence to which *section 40(2A)* applies is required, the planning authority or An Bord Pleanála,**]**

(iii) any person who requested an oral hearing, and

(iv) such other person as may be prescribed.

(*b*) Where the Agency decides not to hold an oral hearing under this subsection, it shall give notice in writing of its decision to the person who requested the oral hearing.

F230**[**(11A) When—

(*a*) in relation to an application for a waste licence under *section 40*, a decision to grant or refuse a waste licence has been taken, or

(*b*) a decision is made in consequence of a review on an application of the holder of the licence, of a waste licence under *section 46*,

the Agency, in accordance with regulations under *section 45*, shall inform the persons referred to in or prescribed under *subsection (2)*, including the public, of its decision and shall F225**[**make the following information available on its website:**]**

F225**[**(i) the decision and, where the application was subject to an environmental impact assessment by the Agency, the reasoned conclusion on the significant effects of the activity on the environment, taking into account the results of the Agency's examination of the environmental impact assessment report, and where appropriate, its own supplementary examination;

(ii) any environmental conditions attached to the decision, including conditions regarding monitoring measures, parameters to be monitored and the duration of the monitoring;

(iii) a description of the features, if any, of the activity and the measures, if any, envisaged to avoid, prevent, reduce or offset the significant adverse effects of the activity on the environment;

(iv) the main reasons and considerations on which the decision is based, including—

(I) information about the public participation process,

(II) a summary of the results of consultations and information gathered from the environmental impact assessment report (where applicable), written submissions made in accordance with regulations under *section 45*, or objections made to the Agency under *section 42(3)*, and

(III) a description of how the results referred to in *clause (II)* have been incorporated or otherwise addressed by the Agency;

(v) information on the procedures available to the persons referred to in or prescribed under *subsection (2)*, including the public, to review the substantive and procedural legality of the decision.**]]**

F223**[**(11AA) Where applicable, the Agency shall be satisfied that the reasoned conclusion referred to in *subsection (11A)(b)(i)* remains up-to-date when making its decision under this subsection.**]**

(12) In this section "the appropriate period" means the period of F231**[**30 days**]** beginning on the day on which notification is sent under *subsection (2)* in respect of the matter concerned.

Annotations

Amendments:

F221 Inserted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 7(1)(a), in effect as per reg. 1(2).

F222 Substituted (26.11.2013) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2013* (S.I. No. 505 of 2011), reg. 4(1)(a).

F223 Inserted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 10(a), (f).

F224 Substituted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 4(a), (b).

F225 Substituted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 10(b), (d), (e)(i), (ii).

F226 Deleted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 10(c).

F227 Inserted (26.11.2013) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2013* (S.I. No. 505 of 2011), reg. 4(1)(b).

F228 Inserted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 7(1)(b), in effect as per reg. 1(2).

F229 Inserted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 7(1)(c), in effect as per reg. 1(2).

F230 Inserted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 7(1)(d), in effect as per reg. 1(2).

F231 Substituted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 10(g).

Modifications (not altering text):

C29 Application of subs. (7) restricted (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), reg. 24, in effect as per reg. 1(2).

Power of Agency to request a further submission by an objector.

24. Where the Agency is of the opinion that, in the particular circumstances of an objection, it is appropriate in the interests of justice to enable the objector to make a further submission in relation to any matter which has arisen in relation to the objection, the Agency may, at its discretion and notwithstanding section 42(7) of the Act, give a notice under this article—

(*a*) requesting that objector, within a period specified in the notice (not being less than fourteen or more than twenty-eight days beginning on the date of the giving of the notice) to make to the Agency a submission in writing in relation to the matter in question, and

(*b*) stating that, if a submission in writing is not received before the expiration of the period specified in the notice, the Agency will, after the expiration of that period and without

further notice to the objector, proceed with its consideration of the objection and make a decision in respect of the application or in consequence of the review in question, as the case may be.

Editorial Notes:

E482 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

E483 Power pursuant to section exercised (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000).

E484 Previous affecting provision: pursuant to section exercised (23.08.2001) by *Waste Management (Licensing) (Amendment) Regulations 2001* (S.I. No. 397 of 2001); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), art. 2 and sch. 1, in effect as per art. 1(2).

E485 Previous affecting provision: power pursuant to section exercised (19.05.1998) by *Waste Management (Licensing) (Amendment) Regulations 1998* (S.I. No. 162 of 1998); rendered obsolete by revocation of S.I. No. 133 of 1997, see below.

E486 Previous affecting provision: pursuant to section exercised (27.03.1997) by *Waste Management (Licensing) Regulations 1997* (S.I. No. 133 of 1997); revoked (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000), reg. 50; subject to transitional provision in reg. 51.

F232[Calculation of appropriate period and other time limits over holidays.]

F232[**42A**.—When calculating the appropriate period (within the meaning of *section 42*) or any other time limit under this Act or in any regulations made under this Act, the period between the 24th day of December and the 1st day of January, both days inclusive, shall be disregarded.]

Annotations

Amendments:

F232 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 37, S.I. No. 393 of 2004.

F233[Amendments of waste licence of clerical or technical nature.]

F233[**42B**.—(1) The Agency may amend a waste licence for the purpose of—

(*a*) correcting any clerical error therein,

(*b*) facilitating the doing of any thing pursuant to a condition attached to the licence where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or the terms of the licence taken as a whole but which was not expressly provided for in the F234[condition,]

F235[(*bb*) facilitating compliance by the holder of a licence with technical requirements that may be established, or amended, arising from the introduction of new Community acts or amendments to existing Community acts, or]

(*c*) otherwise facilitating the operation of the licence and the making of the amendment does not result in the relevant requirements of *section 40(4)* ceasing to be satisfied.

(2) None of the requirements of *section 46* or of any other provision of this Part shall apply to the exercise of the power under *subsection (1)* but the Agency shall, where appropriate, consult with the holder of the licence before exercising the power.

(3) The Agency shall, as soon as may be after the exercise of the power under *subsection (1)*, notify particulars of the amendment effected by that exercise to each person who made an objection to the Agency under *section 42(3)* in relation to any exercise of the powers under *section 40* or *46* as respects the waste licence concerned.**]**

Annotations

Amendments:

F233 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 38, S.I. No. 393 of 2004.

F234 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 22(a).

F235 Inserted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 22(b).

Section 42: supplementary provisions.

43.—(1) (a) Where—

(i) no objection is made in accordance with *section 42 (3)* to the Agency in relation to a decision that it proposes to make in respect of an application made to it for the grant of a waste licence or in consequence of a review conducted by it of a waste licence, or

(ii) any objection or objections that has or have been so made to it in relation thereto is or are withdrawn,

the decision of the Agency in relation to that application or in consequence of the review shall be that as notified by it under *section 42 (2)*.

(*b*) Where the decision of the Agency is to grant a waste licence or a revised waste licence, such a licence shall be granted by it as soon as may be after the making of the decision.

(2) Without prejudice to *section 40 (4)*, where an objection has been made in accordance with *section 42 (3)* in relation to a decision referred to in *section 42 (2)*which it proposes to make, and has not been withdrawn, the Agency shall consider such objection and any submissions, plans, documents or other information and particulars furnished to the Agency in accordance with regulations under *section 45* in relation to such objection and, where an oral hearing has been held in relation to the objection, to the report on the hearing, and as soon as may be thereafter the Agency shall decide to grant or refuse to grant the relevant licence in accordance with *section 40 (1)*.

(3) For the purposes of *subsection (2)*, the Agency may consider an objection in relation to a decision referred to in *section 42 (2)*, notwithstanding a default of compliance on the part of an objector with a requirement of, or made pursuant to, regulations under *section 45* to furnish any submissions, plans, documents or other information and particulars, without further notice to that person.

(4) It shall be the duty of the Agency to ensure that—

(*a*) a decision by it under *section 42 (11)* to hold an oral hearing, or

(*b*) a decision by it in respect of an application made to it for the grant of a waste licence or in consequence of a review that has been conducted by it of a waste licence, whether or not an oral hearing has been held in relation to

any objection made to it in accordance with *section 42 (3)* in respect of that decision,

shall be given as expeditiously as may be, and for that purpose the Agency shall take all such steps as are open to it to ensure that, in so far as is practicable, there are no avoidable delays at any stage in the determination of any such application or the completion of any such review.

(5) (*a*) A person shall not question the validity of a decision of the Agency on an application made to it for the grant of a waste licence, or in consequence of a review conducted by it of such a licence, otherwise than by way of an application for judicial review under Order 84 of the Rules of the Superior Courts (S.I. No. 15 of 1986) (hereafter in this subsection referred to as "the Order").

(*b*) An application for leave to apply for judicial review under the Order in respect of a decision referred to in *paragraph (a)* shall—

(i) be made within the period of 2 months commencing on the date on which the decision is given,

(ii) be made by motion on notice (grounded in the manner specified in the Order in respect of an *ex parte* motion for leave) to—

(I) the Agency,

(II) where the applicant for leave is not the applicant for, or the holder of, the waste licence concerned, the applicant for or holder of that licence,

(III) any person who has made an objection in accordance with *section 42 (3)* to the Agency in relation to the matter concerned,

(IV) any other person specified for that purpose by order of the High Court,

and such leave shall not be granted unless the High Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed.

F236[(*ba*) The High Court shall not grant leave for judicial review unless it is satisfied that—

(i) the applicant has a sufficient interest in the matter which is the subject of the application, or

(ii) the applicant—

(I) is a body or organisation (other than a State authority, a public authority or governmental body or agency) the aims or objectives of which relate to the promotion of environmental protection, and

(II) has, during the period of 12 months preceding the date of the application, pursued those aims or objectives.

(*bb*) A sufficient interest for the purposes of *subparagraph (i)* of *paragraph (ba)* is not limited to an interest in land or other financial interest.

(*bc*) The Court, in determining either an application for leave for judicial review under this section, or an application for judicial review on foot of such leave under this section, shall act as expeditiously as possible consistent with the administration of justice.

(*bd*) In *paragraph (ba)*, "State authority, a public authority or governmental body or agency" means—

(i) a Minister of the Government;

(ii) the Commissioners of Public Works in Ireland;

(iii) a harbour authority within the meaning of the Harbours Act 1946;

(iv) a local authority within the meaning of the Local Government Act 2001;

(v) the Health Service Executive;

(vi) a person established—

(I) by or under any enactment (other than the Companies Acts),

(II) by any scheme administered by the Government, or

(III) under the Companies Acts, in pursuance of powers conferred by or under another enactment, and financed wholly or partly, whether directly or indirectly, by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or by subscription for shares held by or on behalf of a Minister of the Government.

(vii) A company (within the meaning of the Companies Acts), a majority of the shares in which are held by or on behalf of a Minister of the Government.**]**

(*c*) (i) The determination of the High Court of an application for leave to apply for judicial review as aforesaid or of an application for such judicial review shall be final and no appeal shall lie from the decision of the High Court to the Supreme Court in either case save with the leave of the High Court which leave shall only be granted where the High Court certifies that its decision involves a point of law of exceptional public importance and that it is desirable in the public interest that an appeal should be taken to the Supreme Court.

(ii) This paragraph shall not apply to a determination of the High Court in so far as it involves a question as to the validity of any law having regard to the provisions of the Constitution.

(*d*) References in this subsection to the Order shall be construed as including references to the Order as amended or re-enacted (with or without modification) by rules of court.

Annotations

Amendments:

F236 Inserted (23.07.2014) by *European Union (Access to Review of Decisions for Certain Bodies or Organisations promoting Environmental Protection) Regulations 2014* (S.I. No. 352 of 2014), reg. 11.

F237**[**Conduct of oral hearing and written report thereon.

44.—(1)(*a*) An oral hearing under *section 42* shall be conducted by a person or persons appointed for that purpose by the Agency.

(*b*) Subject to any regulations under *subsection (4)*, the manner in which a hearing aforesaid is conducted shall be at the discretion of the person or persons appointed under this subsection but it shall be the duty of the person or persons to ensure that the hearing is conducted without undue formality.

(2) The person or persons appointed under *subsection (1*) may take evidence on oath or affirmation at the oral hearing and for that purpose may administer oaths or

affirmations, and a person giving evidence at such a hearing shall be entitled to the same immunities and privileges as if he or she were a witness before the High Court.

(3) The person or persons appointed under *subsection (1)* shall make a written report on the objection or objections made under *section 42(3)* and the hearing to the Agency and shall include in the report a recommendation relating to the grant of a waste licence or a revised waste licence, as the case may be (including the conditions to be attached to such a licence) or to the refusal of such a licence.

(4)(*a*) The Minister may make regulations in relation to the conduct of an oral hearing under *section 42* and the procedures at such a hearing.

(*b*) Without prejudice to the generality of *paragraph (a)*, regulations under this subsection shall provide for all of the following—

(i) matters that may be raised at an oral hearing;

(ii) the persons who may be heard at an oral hearing;

(iii) enabling the person or persons conducting an oral hearing to require any person to attend the hearing and give evidence in relation to any matter in question at the hearing;

(iv) the publication or giving of notice of the holding of an oral hearing;

(v) the alteration of the time and place of the holding of an oral hearing;

(vi) the provision of submissions, plans, documents or other information and particulars to persons;

(vii) the adjournment or re-opening of an oral hearing, and the publication or giving of notice regarding such an adjournment or re-opening;

(viii) the replacement of a person or persons appointed to conduct an oral hearing or the conduct of a new oral hearing;

(ix) the withdrawal of a request for an oral hearing, and matters consequential thereon.**]**

Annotations

Amendments:

F237 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 39, S.I. No. 393 of 2004.

Editorial Notes:

E487 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

E488 Power pursuant to section exercised (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000).

E489 Previous affecting provision: pursuant to section exercised (23.08.2001) by *Waste Management (Licensing) (Amendment) Regulations 2001* (S.I. No. 397 of 2001); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), art. 2 and sch. 1, in effect as per art. 1(2).

E490 Previous affecting provision: power pursuant to section exercised (19.05.1998) by *Waste Management (Licensing) (Amendment) Regulations 1998* (S.I. No. 162 of 1998); rendered obsolete by revocation of S.I. No. 133 of 1997, see below.

E491 Previous affecting provision: pursuant to section exercised (27.03.1997) by *Waste Management (Licensing) Regulations 1997* (S.I. No. 133 of 1997); revoked (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000), reg. 50; subject to transitional provision in reg. 51.

Regulations regarding waste licences.

45.—(1) The Minister shall make regulations in relation to applications for the grant of waste licences or for the review of waste licences and in relation to the grant or review of such licences, and such regulations may contain different provisions in relation to different classes of such matters.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision for all or any of the following—

(*a*) the form in which an application for the grant of a waste licence ("a licence") or for the review of a licence shall be made and the form of a licence,

(*b*) the time within which an application for the grant or review of a licence shall be made relative to publication or giving of a notice under *section 42 (1)* in respect of such an application,

(*c*) the making of objections under *section 42 (3)*,

(*d*) the publication or giving by an applicant for the grant of a licence ("an applicant"), a holder of a licence, or the Agency of specified notices,

(*e*) requiring or enabling submissions, plans, documents and other information and particulars, including an F238**[**environmental impact assessment report**]**, to be furnished to the Agency or any other specified person by an applicant, a holder of a licence, a person making objections under *section 42 (3)* ("an objector") or any other person within such periods as may be specified,

F239**[**(*ea*) requiring applicants, licensees or other persons to furnish to the Agency or any other specified person, within such period as may be specified, any additional or supplemental information to enable the Agency to carry out an environmental impact assessment,

(*eb*) requiring applicants, licensees or other persons to furnish information to the Agency in response to a request for additional or further information under and for the purposes of *section 40(2A)(e)*,**]**

(*f*) requiring or enabling an applicant, a holder of a licence, an objector or any other person to furnish to the Agency or any other specified person, within such period as may be specified by the Agency, such additional information or particulars (including an F238**[**environmental impact assessment report**]**) relating to an application for the grant of a licence or for the review of a licence as the Agency may require or request,

(*g*) requiring the production to the Agency, within such period as may be specified by it, of such evidence as it may reasonably require in order to verify any information or particulars furnished to it by an applicant, a holder of a licence, an objector or any other person under and in accordance with regulations under this section,

(*h*) requiring the Agency to publish or make available for inspection or purchase by members of the public of a copy of an application for the grant of a licence or for the review of a licence or of any submissions, plans, documents or other information (including, where appropriate, an F238**[**environmental impact assessment report**]** and any supplementary information relating thereto), or any extract therefrom, that relate or relates to such an application,

(*i*) procedures to be followed by the Agency in dealing with an application for the grant of a licence or in conducting a review of a licence (including consultation procedures in relation to an F238**[**environmental impact assessment report**]**), whether or not an oral hearing is held in respect thereof, and the times within which the steps in such procedures shall be taken,

(*j*) without prejudice to *paragraph (i)*, the period within which a decision to grant a licence may be made,

(*k*) the publishing of a decision given by the Agency in respect of an application made to it for the grant of a licence or in consequence of a review conducted by it of a licence, and the reasons therefor, and of any specified documents or other information in relation to the decision,

(*l*) the information to be contained in an F238**[**environmental impact assessment report**]**,

(*m*) requiring an applicant or a holder of a licence to defray or contribute towards the cost of any investigation carried out or caused to be carried out by the Agency in relation to an application for the grant of a licence or a review of a licence, or

(*n*) specifying the conditions and circumstances under which an application for the grant of a licence may be deemed by the Agency to have been withdrawn.

(3) Regulations under this section may contain such incidental, supplementary, consequential and transitional provisions as appear to the Minister to be necessary for the purposes or in consequence of, or to give full effect to, such regulations.

(4) A person who, in relation to an application for a waste licence or for a review of a waste licence, makes a statement in writing which to his or her knowledge is false or misleading in a material respect shall be guilty of an offence.

(5) A defrayment or contribution, the payment of which is required under regulations under this section, shall be payable on demand and, in default of being so paid, shall be recoverable by the Agency from the person concerned as a simple contract debt in any court of competent jurisdiction.

Annotations

Amendments:

F238 Substituted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 4(a).

F239 Inserted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 8(1), in effect as per reg. 1(2).

Editorial Notes:

E492 Offence under subs. (4) prescribed for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a), (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 41(d).

E493 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

E494 Power pursuant to section exercised (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000).

E495 Previous affecting provision: offence under subs. (4) prescribed (12.07.2004) for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a) by *Environmental Protection Agency (Licensing) (Amendment) Regulations 2004* (S.I. No. 394 of 2004), reg. 6(d), in effect as per reg. 2; revoked (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 42(1) and sch. 2, subject to transitional provision in para. (2).

E496 Previous affecting provision: pursuant to section exercised (2.07.2002) by *Waste Management (Licensing) (Amendment) Regulations 2002* (S.I. No. 336 of 2002); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), reg. 2(1) and sch. 1, in effect as per reg. 1(2), subject to transitional provision in reg. 2(2).

E497 Previous affecting provision: pursuant to section exercised (23.08.2001) by *Waste Management (Licensing) (Amendment) Regulations 2001* (S.I. No. 397 of 2001); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), art. 2 and sch. 1, in effect as per art. 1(2).

E498 Previous affecting provision: power pursuant to section exercised (19.05.1998) by *Waste Management (Licensing) (Amendment) Regulations 1998* (S.I. No. 162 of 1998); rendered obsolete by revocation of S.I. No. 133 of 1997, see below.

E499 Previous affecting provision: pursuant to section exercised (27.03.1997) by *Waste Management (Licensing) Regulations 1997* (S.I. No. 133 of 1997); revoked (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000), reg. 50; subject to transitional provision in reg. 51.

Review of waste licences.

F240[**46**.—(1) Without prejudice to *subsections (2)* and *(5)*, the Agency may review a waste licence—

(*a*) on any of the grounds referred to in *subsection (3)*,

(*b*) with the consent of, or upon an application in that behalf being made by, the holder of the licence,

(*c*) upon receipt of a notification under *subsection (6)*, or

(*d*) at a time not less than 3 years from the date on which the licence was granted.

(2) The Agency shall review a waste licence if—

(*a*) it considers—

(i) that pollution arising from or as a result of the activity to which the waste licence relates is of such significance that the existing limit values specified in the waste licence need to be revised or new such values need to be specified in the waste licence,

(ii) that substantial changes in best available techniques make it possible to reduce emissions from the said activity significantly without imposing excessive costs,

(iii) that the operational safety of the said activity requires techniques, other than those currently being used in respect of it, to be used,

or

(*b*) new requirements (whether in the form of standards or otherwise) are prescribed, by or under any enactment or Community act, being requirements that relate to—

(i) the conduct or control of the activity to which the waste licence relates,

(ii) the content or nature of an emission concerned, or

(iii) the effects of the activity on such an emission.

(3) The grounds mentioned in *subsection (1)(a)* are:

(*a*) there has been a material change in the nature of the activity to which the waste licence relates, or in the nature or extent of an emission concerned, or of the location in which the said activity is carried on or an adjacent area,

(*b*) there has been a material change, which could not reasonably have been foreseen when the waste licence was granted, in the condition of the environment in the area in which the activity to which the licence relates is carried on,

(*c*) evidence, which was not available when the waste licence was granted and would have materially affected the decision of the Agency to grant the licence subject to the conditions to which it was granted, has become available.

(4) In the review of a waste licence under this section, the Agency shall have regard to—

(*a*) any change in the quality of the environment in the area in which the activity to which the waste licence relates is carried on, and

(*b*) the development of technical knowledge in relation to environmental pollution and the effects of such pollution,

since the waste licence was granted or last reviewed.

(5) (*a*)The Agency may review a waste licence upon receipt of a notification under *section 40(13)*, or on otherwise becoming aware of the cessation of the activity to which the licence relates, or following a refusal by it to accept the surrender of the licence under *section 48(7)*.

(*b*) In a review under this subsection, the Agency shall determine such measures as are in its opinion necessary for the purpose of, as appropriate—

(i) the closure, restoration, remediation or aftercare of any facility concerned for the recovery or disposal of waste,

(ii) environmental protection,

and may grant a revised waste licence accordingly, including such conditions as it deems appropriate as respects the matters aforesaid.

(6) A holder of a waste licence shall give notice in writing to the Agency of any proposal to effect a change in the nature, extent or function of an activity or facility to which that licence relates if the effecting of that change could have consequences for the environment.

(7) A change referred to in *subsection (6)* shall not be effected unless either—

(*a*) by notice in writing served on the holder concerned, the Agency states that the activity concerned could, if the change were to be effected, continue to be carried on in conformity with this Act without a review of the licence concerned under *subsection (1)* having to be carried out first and a revised licence granted thereunder, or

(*b*) a review of the licence concerned under *subsection (1)* is carried out first and a revised licence is granted thereunder that permits the activity concerned to continue to be carried on in conformity with this Act after the change has been effected.

(8) As soon as may be after it has completed a review of a waste licence under this section, the Agency may—

(*a*) grant to the holder thereof a waste licence ("a revised waste licence") the terms and conditions of which are, in such respects as the Agency thinks appropriate, different from those of the first-mentioned licence and the revised waste licence shall have effect in lieu of the first-mentioned licence, or

(*b*) refuse to grant to that holder such a licence.

(9) Without prejudice to the generality of *subsection (2)(b)*, the Minister may by regulations—

(*a*) prescribe specific circumstances in which the obligation under that provision to review a waste licence granted in respect of a specified class or classes of waste activity shall arise, the grounds for such review, the time within which such review shall be carried out, and relevant procedures to be followed, and

(*b*) require the taking by the Agency of specified measures consequent upon the completion of such a review.

(10) *Subsection (9)* shall not be construed as enabling the Minister to exercise any power or control in relation to the performance in particular circumstances by the Agency or a local authority of a function conferred on it by or under this Act in relation to a waste recovery or disposal activity.**]**

Annotations

Amendments:

F240 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 40, S.I. No. 393 of 2004.

Editorial Notes:

E500 Review of waste licence under section made subject to *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* and *European Union (Environmental Impact Assessment) (Waste) Regulations 2013* (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 11, in effect as per reg. 1(2), and (26.11.2013) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2013* (S.I. No. 505 of 2013, reg. 7.

E501 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

Transfer of waste licences.

47.—(1) A waste licence may be transferred from the holder to another person in accordance with this section.

(2) Where the holder of a waste licence desires that the licence be transferred to another person (hereafter in this section referred to as "the proposed transferee"), the holder of the licence and the proposed transferee shall jointly make an application to the Agency requesting that such a transfer be effected by the Agency.

(3) An application under *subsection (2)* shall be made in such form and include such information as may be prescribed and shall be accompanied by such fee as may be prescribed under *section 50* and the waste licence concerned.

(4) The Agency may require the provision of such further information by the holder of the licence or the proposed transferee as it considers appropriate for the purposes of dealing with an application made by them under this section.

(5) If, on consideration of an application under *subsection (2)*, and any relevant information provided in respect thereof, the Agency is satisfied—

(*a*) that the proposed transferee would, if he or she were an applicant for the licence, be regarded by it as a fit and proper person to be granted under *section 40* a like waste licence to the licence concerned,

(*b*) that the proposed transferee has complied with any requirements under *section 53*, and

(*c*) regarding such other matters as may be prescribed,

it shall effect a transfer of the licence to the proposed transferee in such manner as may be prescribed.

(6) A person to whom a waste licence is transferred under this section shall be deemed to have assumed and accepted all liabilities, requirements and obligations provided for in or arising under the licence, regardless of how and in respect of what period, including a period prior to the transfer of the licence, they may arise.

Surrender of waste licences.

48.—(1) A waste licence may be surrendered by its holder, but only if the Agency accepts the surrender.

(2) The holder of a waste licence who desires to surrender it shall make an application for that purpose to the Agency, in such form, giving such information and accompanied by such evidence as may be prescribed and accompanied by such fee as may be prescribed under *section 50*.

(3) Upon receiving an application for the surrender of a waste licence, the Agency—

(*a*) shall inspect the facility at which the activity to which the licence relates is carried on ("the relevant facility"), and

(*b*) may require the holder of the licence to furnish to it such further information or evidence as it may specify.

(4) For the purpose of *subsection (3)*, the Agency may, by notice in writing served on the person, require a person who has made an application to it under *subsection (2)* to carry out, or arrange to have carried out, in such manner as may be specified in the notice, such monitoring, sampling and investigations, in addition to those which may be required under a condition attached to the waste licence concerned, as the Agency considers necessary, and so specifies, and any requirement so made shall be regarded as a condition attaching to that licence.

(5) Where the Agency proposes to accept the surrender of a waste licence, it shall consult with such persons and in accordance with such procedures as may be prescribed.

(6) Having regard to such information or evidence as is furnished to it under *paragraph (b)* of *subsection (3)* and to the results of an inspection under *paragraph (a)* of that subsection and of any monitoring, sampling and investigation required to be carried out under *subsection (4)*, the Agency shall assess the condition of the relevant facility, so far as that condition is the result of the use of the facility for the recovery or disposal of waste (whether or not carried on in accordance with the waste licence concerned) and the likely effect on any environmental media of any emissions from the relevant facility that may occur.

(7) If the Agency is satisfied that the condition of the relevant facility is not causing or likely to cause environmental pollution, it shall accept the surrender of the waste licence, but otherwise shall refuse to accept the surrender of the licence.

(8) A decision of the Agency under *subsection (7)* shall be conveyed to—

(*a*) the applicant concerned,

(*b*) the local authority in whose functional area the activity, the subject matter of the waste licence, has been carried on, and

(*c*) any person concerned that it has consulted under *subsection (5)*,

by notice in writing, as soon as may be after the decision is made and where the decision is a decision to accept the surrender of a waste licence, that licence shall cease to have effect upon the service of the said notice.

(9) The making of an application for the surrender of a waste licence under this section or the cesser of the activity to which a waste licence relates, shall in no way affect or diminish such conditions, requirements or obligations applying to or falling on the holder of such licence as are specified in or arise under the licence.

F241**[**Revocation or suspension of waste licence in certain circumstances.**]**

F241**[48A**.—(1) The Agency may revoke, or suspend the operation of, a waste licence if it appears to the Agency that—

(*a*) the holder of the licence no longer satisfies the requirements specified in *section 40(7)* for his or her being regarded as a fit and proper person, and

(*b*) the circumstances occasioning his or her no longer satisfying those requirements are, in the opinion of the Agency, of such seriousness as to warrant the revocation of the licence or the suspension of its operation.

(2) References in this Act to the cessation of the activity to which a waste licence relates shall be construed as including references to such a cessation in consequence of the revocation of the licence.

(3) None of the requirements of *section 46* or of any other provision of this Part shall apply to the exercise of the power under *subsection (1)* but where the Agency proposes to exercise the power it shall afford the holder of the licence, and any other person whom it considers ought to be afforded such an opportunity, an opportunity to make representations to it in relation to the matter.

(4) The cesser of a waste licence's effect under this section shall in no way affect or diminish such conditions, requirements or obligations (being conditions, requirements or obligations that apply to, or fall on the holder of such licence by virtue of the licence) as may be specified by the Agency in exercising the powers under this section.

(5) The holder or former holder of the licence may appeal to the High Court against a revocation or suspension of a waste licence under this section and, on the hearing of the appeal, the High Court may confirm or annul the revocation or suspension or, in the case of a suspension, vary the period for which the suspension shall operate.

(6) The Minister may by regulations make such incidental, consequential or supplementary provision as may appear to him or her to be necessary to give full effect to any of the provisions of this section.**]**

Annotations

Amendments:

F241 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 41, S.I. No. 393 of 2004.

Limit on duration of waste licences.

49.—(1) Where the activity to which a waste licence relates has not been substantially commenced within the period of 3 years beginning on the date on which the licence was granted or, as may be appropriate, the period referred to in *paragraph (a)* or *(b)* of *subsection (2)*, then that licence shall cease to have effect on the expiry of the said period.

(2) The Agency may, having regard to the nature of the activity to which a waste licence to be granted or granted by it will relate or relates, as the case may be, and

any arrangements necessary to be made or made in connection with the carrying on of the activity and any other relevant consideration—

(*a*) specify for the purposes of *subsection (1)* a period of more than 3 years beginning on the date on which the licence is to be granted,

(*b*) in the case of a waste licence granted by it, on an application which complies with such requirements (if any) as may be prescribed being made by the holder of the licence in that behalf, extend for the purposes of *subsection (1)* the period referred to in that subsection or specified by it under *paragraph (a)*, as may be appropriate.

F242**[**(3) Where the activity to which a waste licence relates ceases to be carried on then, unless the activity is resumed within the period of 3 years beginning on the date of that cessation, the licence shall cease to have effect on the expiry of the said period.

(4) The cesser of a waste licence's effect under this section shall in no way affect or diminish the conditions, requirements or obligations that apply to, or fall on, the holder of such licence by virtue of the licence.**]**

Annotations

Amendments:

F242 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 42, S.I. No. 393 of 2004.

Fees.

50.—(1) The Minister shall make regulations providing for the, payment to a local authority or the Agency, as appropriate, of a fee of a specified amount in respect of—

F243**[**(a) an application made to the local authority for—

(i) the grant of a waste collection permit under *section 34*,

(ii) a review of a waste collection permit under *section 34A(1)(b)*, or

(iii) the transfer of a waste collection permit under *section 34B*,**]**

(*b*) an application made to the Agency for—

(i) the grant of a waste licence under *section 40*;

(ii) a review of such a licence under *section 46*;

(iii) the transfer of such a licence under *section 47*;

(iv) the surrender of such a licence under *section 48*; and

(v) the extension for the purposes of *section 49* of a period mentioned in that section,

(*c*) an objection made to the Agency under *section 42 (3)* or a request for an oral hearing in relation to such an objection made to it under *section 42 (9)*,

and such regulations may make provision for—

(I) the payment of fees of different amounts in respect of different classes of such applications or other matters as aforesaid,

(II) the exemption from the payment of any such fee in such circumstances as may be specified,

(III) the waiver, remission or refund (in whole or in part) of any such fee in such circumstances as may be specified, and

(IV) the manner in which such fees may be disposed of.

(2) Where, pursuant to regulations under this section, a fee is payable to a local authority or the Agency in respect of an application or request made to it, the local authority or the Agency, as the case may be, shall not consider or determine the application or request unless and until such fee is received.

Annotations

Amendments:

F243 Substituted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 42, S.I. No. 358 of 2015.

Editorial Notes:

E502 Power pursuant to section exercised (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023).

E503 Power pursuant to section exercised (16.01.2016) by *Waste Management (Collection Permit) (Amendment) Regulations 2016* (S.I. No. 24 of 2016).

E504 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) (Amendment) Regulations 2008* (S.I. No. 87 of 2008).

E505 Power pursuant to section exercised (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), in effect as per reg. 1(2).

E506 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

E507 Power pursuant to section exercised (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000).

E508 Previous affecting provision; power pursuant to section exercised (14.02.2023) by *Waste Management (Collection Permit) (Amendment) Regulations 2023* (S.I. No. 63 of 2023); revoked (7.03.2023) by *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023), reg. 8(1).

E509 Previous affecting provision: pursuant to section exercised (30.08.2001) by *Waste Management (Collection Permit) Regulations 2001* (S.I. No. 402 of 2001); revoked (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 2(1) and sch. 1, in effect as per reg. 1(2), subject to transitional provision in reg. 2(2).

E510 Previous affecting provision: pursuant to section exercised (23.08.2001) by *Waste Management (Licensing) (Amendment) Regulations 2001* (S.I. No. 397 of 2001); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), art. 2 and sch. 1, in effect as per art. 1(2).

E511 Previous affecting provision: power pursuant to section exercised (19.05.1998) by *Waste Management (Licensing) (Amendment) Regulations 1998* (S.I. No. 162 of 1998); rendered obsolete by revocation of S.I. No. 133 of 1997, see below.

E512 Previous affecting provision: pursuant to section exercised (27.03.1997) by *Waste Management (Licensing) Regulations 1997* (S.I. No. 133 of 1997); revoked (23.06.2000) by *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000), reg. 50; subject to transitional provision in reg. 51.

Recovery of sludges and agricultural waste.

51.—(1) The provisions of this section shall apply notwithstanding the provisions of any bye-law made under section 21 of the Local Government (Water Pollution) (Amendment) Act, 1990.

(2) F244**[**(*a*) subject to *paragraph (b)*, a waste licence under *section 39* shall not be required for the recovery of sludge for use in agriculture.**]**

(*b*) The Minister may make regulations amending *paragraph (a)* by adding or deleting to or from that provision any specified class or classes of waste or waste recovery activity.

(*c*) "Recovery", for the purpose of this section, includes the injection of waste into land for the purpose of benefiting the carrying on of any agricultural or silvicultural activity or an ecological system.

(3) The Minister may make regulations prohibiting, or limiting or controlling in a specified manner and to a specified extent, the recovery of any waste to which *subsection (2)* applies (hereafter in this section referred to as "relevant waste").

(4) Without prejudice to the generality of *subsection (3)*, regulations under this section may make provision in relation to all or any of the following matters:

(*a*) a requirement that the recovery of relevant waste shall not be carried out without the prior written consent of the local authority in whose functional area the proposed recovery activity is to take place, and enabling that local authority to attach such conditions to such a consent as it considers appropriate,

(*b*) the rate at which relevant waste may be spread on or injected into land,

(*c*) specifying—

(i) limits in respect of the constituent elements of relevant waste or of the concentration of such elements in land on which relevant waste is recovered, and

(ii) maximum annual quantities of the constituent elements of relevant waste which may be recovered on land,

(*d*) the treatment, sampling and analysis, in a specified manner, of relevant waste and the monitoring, sampling and analysis, in a specified manner, of land on which such waste is recovered,

(*e*) restricting the use of land on or in which relevant waste is recovered,

(*f*) (i) the keeping by a person of records containing specified particulars as respects—

(I) the production, treatment, recovery, or the transfer to another person, of relevant waste,

(II) the monitoring, sampling and analysis of relevant waste or of land on which such waste is recovered,

(ii) the entry in a register required to be established and maintained for the purpose by a local authority of particulars as aforesaid,

(iii) the furnishing of specified information to a local authority or any other specified person in relation to the matters referred to in *subparagraph (i)*,

(*g*) the furnishing by a local authority to the Agency of such information regarding waste referred to in *subsection (2) (a) (i)*, in such manner and at such times, as the Agency may require and the preparation and publication by the Agency—

(i) of a report, by a specified date, regarding the recovery and disposal of the said waste,

(ii) of further reports, at specified intervals after the said date, regarding the said recovery and disposal,

(*h*) the issue of directions or guidance to local authorities with respect to the performance of their functions under regulations under this section,

(*i*) requiring compliance by specified persons with specified codes of practice concerning the carrying on of any recovery activity in respect of relevant waste,

(*j*) any matters consequential on, or incidental to, the foregoing.

(5) A person who contravenes a provision of regulations under this section shall be guilty of an offence.

(6) For the purpose of this section, other than *subsection (4) (a)*, "local authority" includes the corporation of a borough of any kind and the council of an urban district.

Annotations

Amendments:

F244 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 23.

Editorial Notes:

E513 Power pursuant to section exercised (30.06.2001) by *Waste Management (Use of Sewage Sludge in Agriculture) (Amendment) Regulations 2001* (S.I. No. 267 of 2001), in effect as per reg. 1(3).

E514 Power pursuant to section exercised (20.05.1998) by *Waste Management (Use of Sewage Sludge in Agriculture) Regulations 1998* (S.I. No. 148 of 1998), in effect as per reg. 1(2).

E515 Power pursuant to section exercised (20.05.1998) by *Waste Management (Amendment of Waste Management Act 1996) Regulations 1998* (S.I. No. 146 of 1998), in effect as per reg. 1(2).

E516 Previous affecting provision: subs. (2)(a)(i) substituted (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 23, in effect as per reg. 2; substituted as per F-note above.

E517 Previous affecting provision: subs. (2)(a)(i) substituted (20.05.1998) by *Waste Management (Amendment of Waste Management Act 1996) Regulations 1998* (S.I. No. 146 of 1998), reg. 2, in effect as per reg. 1(2); substituted as per F-note above.

Discharges to sewers.

52.—Section 97 of the Act of 1992 shall apply in relation to the grant of a waste licence under this Part as if a reference in that section to a licence or revised licence were a reference to a waste licence under this Part.

Financial provisions regarding waste recovery and disposal.

53.—(1) The Agency may, before it does any of the following things, namely—

(*a*) decides whether to—

(i) grant a waste licence,

(ii) transfer such a licence,

(*b*) conducts a review of a waste licence,

require the applicant for, or the holder of, the licence or the proposed transferee, as the case may be, to—

(i) furnish to it such particulars in respect of such matters affecting his or her ability to meet the financial commitments or liabilities that the Agency reasonably considers will be entered into or incurred by him or her in carrying on the activity to which the licence relates or will relate, as the case may be, in accordance with the terms of the licence or in consequence of ceasing to carry on that activity as it may specify, and

(ii) make, and furnish evidence of having so made, such financial provision as it may specify (which may include the entering into a bond or other form of security) as will, in the opinion of the Agency, be adequate to discharge the said financial commitments or liabilities.

(2) A person who, pursuant to a requirement made of him or her under *subsection (1)*, furnishes to the Agency any particulars or evidence which he or she knows to be false or misleading in a material respect shall be guilty of an offence.

(3) The Minister may make regulations for the purposes of this section.

(4) Without prejudice to the generality of *subsection (3)*, regulations under this section may specify by reference to the type of activity to which the waste licence concerned relates or will relate—

(*a*) the nature of the financial provision that the Agency may require a person to make under *subsection (1) (ii)*,

(*b*) the matters to be had regard to by the Agency in determining the amount of financial provision that it may require a person to make under *subsection (1) (ii)*.

Annotations

Editorial Notes:

E518 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

E519 Previous affecting provision: pursuant to section exercised (2.07.2002) by *Waste Management (Licensing) (Amendment) Regulations 2002* (S.I. No. 336 of 2002); revoked (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), reg. 2(1) and sch. 1, in effect as per reg. 1(2), subject to transitional provision in reg. 2(2).

F245[Operator of landfill facility to impose charge for disposals.

53A.—(1) The operator of a landfill facility (other than an internal landfill facility), or such other facility for the disposal of waste as may be prescribed for the purposes of this subsection, shall impose charges in respect of the disposal of waste at the facility.

(2) Subject to *subsection (3)*, different amounts of charges may be imposed under *subsection (1)* in respect of different disposals of waste at the facility concerned.

(3) The amount or amounts of charges imposed under *subsection (1)* shall be such as the operator of the facility concerned determines is likely to ensure that the result specified in *subsection (4)* is achieved.

(4) The result referred to in *subsection (3)* is that the aggregate of the amount of charges imposed by the operator, in relation to the facility concerned, during the relevant period will not be less than the amount that would meet the total of the following costs (irrespective of whether those costs, or any of them, have been or will be met from other financial measures available to the operator), namely—

(*a*) the costs incurred by the operator in the acquisition or development, or both (as the case may be), of the facility,

(*b*) the costs of operating the facility during the relevant period (including the costs of making any financial provision under *section 53*), and

(*c*) the estimated costs, during a period of not less than 30 years or such greater period as may be prescribed, of the closure, restoration, remediation or aftercare of the facility.

(5) The operator of the facility concerned shall prepare a statement in writing in respect of the determination he or she makes under *subsection (3)* in each year of the amounts of charges and that statement shall specify the method he or she has employed in making that determination and the assumptions and any relevant accounting principles he or she has used for the purpose of that method.

(6) A copy of a statement prepared under *subsection (5)* shall be furnished by the operator to the Agency not later than 1 month following the end of the year to which the statement relates.

(7) An operator who fails to comply with *subsection (6)* shall be guilty of an offence.

(8) The Agency shall not grant a licence or revised licence in respect of the disposal of waste at a facility referred to in *subsection (1)* unless it is satisfied that the proposed licensee or licensee will take or will continue to take steps to comply with this section.

(9) The Minister may by regulations make such incidental, consequential or supplementary provision as may appear to him or her to be necessary or proper to give full effect to any of the provisions of this section.

(10) In this section—

"internal landfill facility" means a landfill facility that is used solely for the disposal of waste produced by an activity (other than one involving the sorting, mixing or segregation of waste or the recovery of materials from waste) and is operated by or on behalf of the person carrying on that activity;

"relevant period" means such period as the Agency determines to be appropriate for the purposes of Article 10 of the Council Directive 99/31/EC[1] in relation to the facility concerned and specifies in writing for the purposes of this section.**]**

Annotations

Amendments:

F245 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 43, S.I. No. 393 of 2004.

Editorial Notes:

E520 Power pursuant to section exercised (12.07.2004) by *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004), in effect as per reg. 1(2).

Application of the Act of 1963 and related regulations.

54.—(1) Where a waste licence is granted under this Act in relation to an activity, and a permission has been granted under Part IV of the Act of 1963 in respect of development comprising or for the purposes of that activity, any conditions attached to that permission shall, in so far as they are for the purposes of the prevention, limitation, elimination, abatement or reduction of environmental pollution, cease to have effect.

[1] O.J. No. L182. 16.07.1999, p.1.

(2) The grant of a permission under Part IV of the Act of 1963 in relation to any development comprising or for the purposes of a waste recovery or disposal activity shall not prejudice, affect or restrict in any way the application of any provision of this Act to such an activity.

F246**[**(3) Notwithstanding section 34 of the Planning and Development Act, 2000, or any other provision of that Act, where a waste licence has been granted or is or will be required in relation to an activity, a planning authority or An Bord Pleanála shall not, where it decides to grant a permission under section 34 F247**[**or, substitute consent as defined in section 177T,**]** of that Act in respect of any development comprising the activity or for the purposes of the activity, subject the permission to conditions which are for the purposes of—

(*a*) controlling emissions from the operation of the activity, including the prevention, limitation, elimination, abatement or reduction of those emissions, or

(*b*) controlling emissions related to or following the cessation of the operation of the activity.

(3A) Where a waste licence has been granted under this Part or is or will be required in relation to an activity, a planning authority or An Bord Pleanála may, in respect of any development comprising the activity or for the purposes of the activity, decide to refuse a grant of permission under section 34 F248**[**or refuse a grant of substitute consent**]** of the Planning and Development Act 2000, where the authority or An Bord Pleanála considers that the development, notwithstanding the licensing of the activity under this Part, is unacceptable F249**[**on environmental grounds or on the grounds of adverse effects to the integrity of a European site (within the meaning of that Act),**]** having regard to the proper planning and sustainable development of the area in which the development is or will be situate.

(3B) F250**[**...**]**

(3C) F250**[**...**]**

(3D) The Minister may make regulations making such incidental, consequential, or supplementary provision as may appear to him or her to be necessary or proper to give full effect to any of the provisions of this section.

(3E) Without prejudice to the generality of *subsection (3D)*, regulations made under this section may provide for matters of procedure in relation to the request for or the making of observations from or by the Agency under this section and related matters.

(3F) The making of observations by the Agency under this section shall not prejudice any other function of the Agency under this Act.**]**

(4) Where a permission under F251**[**section 34 of the Planning and Development Act, 2000**]** has been granted or an application has been made for such permission in relation to any development comprising or for the purposes of a waste recovery or disposal activity, the carrying on of which requires the grant of a waste licence, the Agency—

(*a*) F252**[**may**]** consult with the planning authority in whose functional area the activity is or will be carried on in relation to any development which—

(i) is necessary to give effect to any conditions to be attached to a waste licence in respect of the activity, and

(ii) the Agency considers is not the subject of a permission or an application for a permission under F251**[**section 34 of the Planning and Development Act, 2000**]**, and

(*b*) may attach to the waste licence such conditions related to the development aforesaid as may be specified by the said planning authority for the purposes of the proper planning and development of its functional area, or more stringent conditions as the Agency may consider necessary for the prevention, limitation, elimination, abatement or reduction of environmental pollution from the activity.

(5) Works consisting of or incidental to the carrying out of development referred to in *subsection (4) (a)* F253**[**that were the subject of consultation in accordance with that provision and in respect of which a condition has been attached to a waste licence in accordance with *subsection (4)*] and the provision of waste collection receptacles in accordance with regulations under *section 29 (4) (o)* shall each be exempted development within the meaning, and for the purposes, of F254**[**the Planning and Development Act, 2000, and a condition attached to a permission under section 34 of that Act] shall not prejudice, affect or restrict in any way the provision of waste collection receptacles as aforesaid.

(6) References in sections 25, 26 and 41 of the Act of 1963 to an activity in relation to which a licence under Part IV of the Act of 1992 is required shall be construed as including references to an activity in relation to which a waste licence under this Act is required.

(7) F255**[**(a) In exceptional cases, the Minister may, by order, exempt an application for a waste licence, within the meaning of *section 40(2A)*, made by or on behalf of a local authority in its functional area from a requirement to prepare an environmental impact assessment report, where such a report would adversely affect the purpose of the proposed activity.

(*b*) The Minister, in making an order under this subsection, shall ensure that the objectives of the EIA Directive are met and the Minister shall comply with Article 2(4) of the EIA Directive.]

(*c*) Without prejudice to *paragraph (b)*, the Minister shall, where he or she considers it necessary to do so for the purpose of F255**[**paragraph 4] of Article 2 of the aforesaid Directive, specify in an order under this subsection requirements to be complied with by the local authority concerned or, as the case may be, the person who proposes to carry out the development on its behalf in relation to the matters specified in the said paragraph.

(d) The Minister shall cause an order under this subsection to be published F256**[**on the website of the Department of Communications, Climate Action and Environment and] in the Iris Oifigiúil.

(*e*) The reference in this subsection to a local authority's functional area is a reference to its functional area in its capacity as a planning authority.

F256**[**(f) The Minister shall, every 2 years, inform the Commission of the European Union of any orders made under this subsection.]

(8) The Minister may make regulations specifying the time within which an application for a waste licence shall be made relative to an application for a permission under Part IV of the Act of 1963.

Annotations

Amendments:

F246 Substituted (11.03.2002) by *Planning and Development Act 2000* (30/2000), s. 257(a), S.I. No. 599 of 2001.

F247 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 80(a), S.I. No. 475 of 2011; subject to transitional provision in s. 80A, inserted (21.09.2011) by *European*

Union (Environmental Impact Assessment and Habitats) Regulations 2011 (S.I. No. 473 of 2011), reg. 17(5), in effect as per reg. 1(b).

F248 Inserted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 80(b), S.I. No. 475 of 2011; subject to transitional provision in s. 80A, inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 17(5), in effect as per reg. 1(b).

F249 Substituted (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 80(b), S.I. No. 475 of 2011; subject to transitional provision in s. 80A, inserted (21.09.2011) by *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011), reg. 17(5), in effect as per reg. 1(b).

F250 Deleted (30.09.2012) by *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012), reg. 9, in effect as per reg. 1(2).

F251 Substituted (11.03.2002) by *Planning and Development Act 2000* (30/2000), s. 257(b), S.I. No. 599 of 2001.

F252 Substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 45(a), S.I. No. 393 of 2004; subject to a saver in s. 59.

F253 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 45(b), S.I. No. 393 of 2004.

F254 Substituted (11.03.2002) by *Planning and Development Act 2000* (30/2000), s. 257(c), S.I. No. 599 of 2001.

F255 Substituted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 11(a), (b).

F256 Inserted (14.04.2020) by *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020), reg. 11(c), (d).

Editorial Notes:

E521 Previous affecting provision: subs. (3B) amended (21.09.2011) by *Planning and Development (Amendment) Act 2010* (30/2010), s. 80(c), S.I. No. 475 of 2011; deleted as per F-note above.

F257[PART VA

RECOVERY OF END-OF-LIFE VEHICLES]

Annotations

Amendments:

F257 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 44, S.I. No. 393 of 2004.

Editorial Notes:

E522 This part is inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 44, S.I. No. 393 of 2004, following s. 53A. This is despite the fact that s. 54 remains in Part V. Part VA and s. 53B therefore appear after s. 54 in this revision.

F258[Interpretation and supplemental (Part VA).

53B.—(1) In this Part—

"Act of 1952" means the Finance (Excise Duties) (Vehicles) Act 1952;

"Act of 1992" means the Finance Act 1992;

"appropriate treatment and recovery", in relation to a vehicle, means the treatment and recovery of the vehicle in accordance with the requirements of *section 39*;

"authorised recovery facility" means a facility at which the appropriate treatment and recovery of vehicles may take place;

"Directive" means the European Parliament and Council Directive 2000/53/EC of 18 September, 2000 on end-of-life vehicles;

"end-of-life vehicle" means a specified vehicle which is discarded or is to be discarded by its registered owner as waste;

"mechanically propelled vehicle" has the same meaning as it has in Chapter IV of Part II of the Act of 1992;

"producer", in relation to a vehicle, means the person who imports into, or manufactures in, the State the vehicle;

"registered", in relation to a vehicle, shall be construed in accordance with section 131 of the Act of 1992;

"registered owner" has the meaning assigned to it by the Road Vehicles (Registration and Licensing) (Amendment) Regulations 1992 (S.I. No. 385 of 1992) as amended for the time being, but, if those regulations should be revoked, it shall have the meaning assigned to it by such regulations corresponding to those regulations as may be for the time being in force;

"specified vehicle" means—

(*a*) a category A vehicle or a category B vehicle within the meaning of Chapter IV of Part II of the Act of 1992, other than such a vehicle that falls within a class of vehicle specified in regulations under *subsection (2)* as being a class of vehicle excepted from this definition, and

(*b*) a vehicle that falls within a class of vehicle specified in regulations under *subsection (2)* as being a class of vehicle included in this definition.

(2) The Minister may make regulations specifying a class of mechanically propelled vehicle to be a class of vehicle excepted from, or included in, the definition of "specified vehicle" in this section (and such specification shall be made only where the Minister considers it necessary or expedient to do so in consequence of a Community act).**]**

Annotations

Amendments:

F258 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 44, S.I. No. 393 of 2004.

Editorial Notes:

E523 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 282 of 2006, see below.

E524 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

F259[Producer responsibility for free treatment and recovery of end-of-life vehicles.

53C.—(1) The Minister may make regulations imposing the obligation specified in *subsection (2)* with effect from—

(*a*) the commencement of section 43 of the Protection of the Environment Act 2003 where the vehicle mentioned in that subsection is a vehicle registered on or after 1 July 2002,

(*b*) 1 January 2007 where the vehicle mentioned in that subsection is a vehicle registered before, on or after 1 July 2002.

(2) The obligation mentioned in *subsection (1)* is an obligation on the producer of the vehicle concerned to ensure that the registered owner of an end-of-life vehicle can deposit the vehicle at an authorised treatment facility for the purpose of its being the subject of appropriate treatment and recovery without (subject to *section 53D(4)*) any cost being incurred by the owner in respect of such deposit, treatment or recovery.

(3) Regulations under this section may provide for—

(*a*) the making of arrangements by producers of specified vehicles for the purpose of ensuring that the foregoing obligations of each of them under the regulations are fulfilled,

(*b*) the provision by producers of the financial resources (the "resources") necessary to ensure that those foregoing obligations are fulfilled,

(*c*) the following matters in relation to the provision of the resources—

(i) the conferral of powers on a specified person or persons (who or each of whom is referred to in this section as a "collection authority") with respect to securing and recovering the resources,

(ii) requiring the making of a declaration to a collection authority by a producer and specifying the particulars to be included in such a declaration,

(iii) the time at which an amount of resources shall be made available by a producer and the form and manner in which they shall be made available,

(iv) requiring specified records to be kept by specified persons in respect of matters connected with the making available of the resources and specifying the form of such records,

(v) enabling the making available of resources by specified producers to be deferred in specified circumstances,

(vi) requiring specified records and accounts to be kept by a collection authority in respect of resources made available or to be made available to it,

(vii) enabling the refund of resources made available by specified producers to be made to them,

(viii) enabling a collection authority to enter into arrangements with one or more specified persons whereby that person or those persons remit to the collection authority amounts by way of financial resources within a specified period of time after liability in respect of the making available of those amounts arises,

(ix) providing for the payment into the Environment Fund by a collection authority of amounts received by it by way of resources (subject to the deduction from such amounts of any amounts specified as being capable of being deducted therefrom for the purpose of defraying expenses incurred by it in securing or recovering the resources),

(*d*) the exemption of a person from all or any of the requirements of regulations under this section who is certified by an association or body corporate that is formed or established for the purpose of the carrying on of relevant activities, that is to say, ensuring that end-of-life vehicles can be deposited by their registered owners for the purpose of their being the subject of appropriate treatment and recovery in accordance with *subsection (2)*, and is approved by the Minister in accordance with regulations under *paragraph (a)*, to be either—

(i) a member or shareholder of that association or body corporate, as the case may be, or

(ii) participating, in a satisfactory manner, in a scheme for the carrying on of the relevant activities referred to in this paragraph or complying with any requirements specified by that association or body corporate, as the case may be, in relation to the carrying on of those activities,

(*e*)(i) the granting by the Minister of approvals for the purpose of regulations under *paragraph (d)* and the conditions which he or she may attach to such approvals, including conditions relating to—

(I) the financial and administrative arrangements to be made by the association or body corporate concerned,

(II) the relevant activities referred to in *paragraph (d)* to be carried on by the association or body corporate concerned and the manner in which they are to be carried on,

(III) targets to be achieved by the association or body corporate concerned with respect to the carrying on of those activities by it,

(ii) enabling the Minister to vary as he or she thinks fit any condition attached to an approval aforesaid or to revoke such an approval in specified circumstances,

(iii) the means by which an association or body corporate shall determine, for the purpose of regulations under *paragraph (d)*, whether a person is participating, in a satisfactory manner, in a scheme referred to in that paragraph or, as the case may be, is complying with requirements referred to in that paragraph,

(iv) the grant and revocation by an association or body corporate of a certificate for the purpose of regulations under *paragraph (d)* and the notifications to be given by it in respect of such a grant or revocation to the person concerned and other specified persons,

(*f*) the exemption of a producer from all or any of the requirements of regulations under this section (being a producer who is not otherwise so exempted by virtue of regulations under *paragraph (d)*) where he or she shows to the satisfaction of the Minister or another person specified for this purpose that he or she has put arrangements in place to ensure that each end-of-life vehicle produced by him or her can be deposited by the registered owner thereof for the purpose of its being the subject of appropriate treatment and recovery in accordance with *subsection (2)*,

(*g*) any matters consequential on, or incidental to, the foregoing.

(4) A person who fails to comply with a provision of regulations under this section shall be guilty of an offence.**]**

Annotations

Amendments:

F259 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 44, S.I. No. 393 of 2004.

Editorial Notes:

E525 Offence under subs. (4) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E526 Offence under subs. (4) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E527 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 282 of 2006, see below.

E528 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

F260**[**Requirement to deposit mechanically propelled vehicle for recovery, etc.

53D.—(1) In this section—

"essential components of a vehicle" means the engine and coachwork of a vehicle;

"national vehicle records" means the records established and maintained under section 60 of the Finance Act 1993.

(2) Where the registered owner of a mechanically propelled vehicle decides to discard the vehicle as waste he or she shall deposit the vehicle at an authorised treatment facility for the purpose of its being the subject of appropriate treatment and recovery.

(3) Subject to *subsection (4)*, that deposit, treatment and recovery shall, if the vehicle is a specified vehicle, occur without any cost being incurred by the registered owner.

(4) The Minister may make regulations providing that—

(*a*) *subsection (3)* shall not apply where the specified vehicle to be deposited—

(i) does not contain the essential components or other specified components of a vehicle,

(ii) contains waste which has been added to the vehicle, or

(iii) was not the subject of a licence taken out under section 1 of the Act of 1952 or, as the case may be, section 21(3) of the Finance (No. 2) Act 1992 for such period or periods as may be specified preceding the deposit,

(*b*) *subsection (3)*, in so far as it provides that the deposit of the specified vehicle shall occur without any cost being incurred by the registered owner, shall not apply unless specified conditions are complied with.

(5) Subject to any regulations under this section, the operator of an authorised treatment facility shall—

(*a*) issue, in relation to the vehicle, a certificate (in this section referred to as a "certificate of destruction") to the registered owner on the deposit by him or her of a mechanically propelled vehicle at the facility for appropriate treatment and recovery,

(*b*) notify, in such form as the Minister may determine, the Minister of the fact of that certificate having been issued and of such particulars contained in it as the Minister may determine (and the form that is so determined may be a form that is not legible if it is capable of being converted into a legible form).

(6) The Minister shall note on the national vehicle records such of the particulars contained in certificates of destruction as he or she considers appropriate and which have been notified to him or her under *subsection (5)(b)*.

(7) The operator of an authorised treatment facility shall not transfer a mechanically propelled vehicle which has been deposited with him or her in accordance with *subsection (2)* to any other person save for the purpose of its being the subject of appropriate treatment and recovery at another authorised treatment facility.

(8) A mechanically propelled vehicle in respect of which a certificate of destruction has been issued shall not be subsequently—

(*a*) registered,

(*b*) licensed under section 1 of the Act of 1952 or section 21(3) of the Finance (No. 2) Act 1992,

(*c*) used in a public place, or

(*d*) exported.**]**

Annotations

Amendments:

F260 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 44, S.I. No. 393 of 2004.

Editorial Notes:

E529 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 282 of 2006, see below.

E530 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

F261**[**Regulations for purposes of section 53D, etc.

53E.—(1) The Minister may make—

(*a*) regulations for the purposes of *section 53D*, and

(*b*) regulations providing for such supplementary, consequential or incidental provisions as the Minister considers necessary or expedient for the purpose of giving full effect to the provisions of the Directive to which that section relates.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision in relation to all or any of the following matters—

(*a*) requiring specified documentation, information and particulars to be submitted by the registered owner of a mechanically propelled vehicle on the occasion of the vehicle being deposited at an authorised treatment facility pursuant to *section 53D(2)*,

(*b*) requiring specified documentation, information and particulars to be submitted by the operator of an authorised treatment facility to specified persons on the occasion of a mechanically propelled vehicle being deposited at that facility pursuant to *section 53D(2)*,

(*c*) requiring specified documentation, information and particulars to be submitted by the operator of an authorised treatment facility to specified persons on the occasion of a mechanically propelled vehicle's appropriate treatment and recovery at that facility being completed,

(*d*) specifying the period within which a mechanically propelled vehicle deposited at an authorised treatment facility pursuant to *section 53D(2)* must undergo appropriate treatment and recovery,

(*e*) the form of a certificate of destruction,

(*f*) the keeping and preservation of records and information relating to certificates of destruction issued by operators of authorised treatment facilities,

(*g*) the recognition in the State of certificates of destruction (being certificates issued under the laws of another Member State of the European Union implementing the Directive) in respect of mechanically propelled vehicles registered in the State,

(*h*) specifying the persons to whom specified information and particulars derived from national vehicle records may be provided,

(*i*) any matters consequential on, or incidental to, the foregoing.**]**

Annotations

Amendments:

F261 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 44, S.I. No. 393 of 2004.

Editorial Notes:

E531 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008* (S.I. No. 86 of 2008).

E532 Power pursuant to section exercised (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), in effect as per reg. 2.

E533 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 282 of 2006, see below.

E534 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

F262[Offences for failure to comply with section 53D, etc.

53F.—A person who fails to comply with—

(*a*) *subsection (2), (3), (5), (7)* or *(8)* of *section 53D*, or

(*b*) a provision of regulations under *section 53E*,

shall be guilty of an offence.]

Annotations

Amendments:

F262 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 44, S.I. No. 393 of 2004.

Editorial Notes:

E535 Offence under section prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E536 Offence under section prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E537 Previous affecting provision: power pursuant to section exercised (1.04.2010, 10.04.2010, and 1.12.2010) by *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 282 of 2006, see below.

E538 Previous affecting provision: pursuant to section exercised (8.06.2006) by *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006), in effect as per reg. 3; revoked (21.06.2014) by *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014), reg. 37(1), in effect as per reg. 3; subject to transitional provision and construed as per reg. 37(2) and (3).

F263[PART VB

Waste Electrical and Electronic Equipment]

Annotations

Amendments:

F263 Inserted (1.07.2005) by *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005), reg. 5, in effect as per reg. 2.

F264[Interpretation (Part VB)

53G.—In this Part save where the context otherwise requires—

"civic amenity facility" means a purpose-designed facility operated by or on behalf of a local authority or a private sector operator which is provided for the efficient

reception and temporary storage of recyclable and non-recyclable waste materials, including segregated waste electrical and electronic equipment arising from private households;

"collection point" means —

(i) a civic amenity facility, or

(ii) other facility for the receipt, storage or recovery of waste electrical and electronic equipment

subject to such a facility being appropriately licensed, permitted or registered under Regulations made pursuant to *Section 39* of the Act, or other such facilities as may be prescribed in Regulations;

"dangerous substance or preparation" means any substance or preparation which has to be considered dangerous under Council Directive 67/548/EEC[2] or, as appropriate, Directive 1999/45/EC of the European Parliament and of the Council[3];

"distance communication" is as defined in Article 2(4) of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts[4] or, as appropriate, means sales and marketing services by electronic communication, voice telephony services, including telesales and telemarketing or non-electronic direct marketing services, including mail order;

"distributor" means any person who provides electrical and electronic equipment on a commercial basis to the party who is going to use it;

"electrical and electronic equipment" means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields falling under the categories set out in Annex IA of European Parliament and Council Directive 2002/96/EC on waste electrical and electronic equipment and designed for use with a voltage rating not exceeding 1,000 volt for alternating current and 1,500 volt for direct current;

"environmental management costs" means the costs of the environmentally sound management of waste electrical and electronic equipment from private households arising from electrical and electronic equipment placed on the market prior to 13 August 2005;

"environmentally sound management of waste electrical and electronic equipment" means the collection, storage, treatment and recovery or, as appropriate, disposal of waste electrical and electronic equipment in an environmentally sound manner;

"final user" means any person who discards electrical and electronic equipment, for which they have no further use or, as appropriate, who intends to or is required to discard it, but shall not include any person who on behalf of or as a service to any other person—

(*a*) buys, sells or arranges for the purchase, sale or transfer of waste from one person to another, or

(*b*) arranges for the collection, recovery or disposal of waste;

"finance agreement" means any loan, lease, hiring or deferred sale agreement or arrangement relating to any equipment whether or not the terms of that agreement or arrangement or any collateral agreement or arrangement provide that a transfer of ownership of that equipment will or may take place;

[2] O.J. No. L 196/1, 16 August, 1967
[3] O.J. No. L 200/1, 30 July, 1999
[4] O.J. No. L 144/19, 04 June, 1997

"producer" means any person who, irrespective of the selling technique used, including by means of distance communication—

(*a*) manufactures and sells electrical and electronic equipment under his or her own brand,

(*b*) resells electrical and electronic equipment produced by other suppliers under his or her own brand,

(*c*) imports electrical and electronic equipment on a professional basis into the State,

(*d*) exports electrical and electronic equipment on a professional basis from the State to another Member State of the European Union, or

(*e*) distributes electrical and electronic equipment from a producer who is deemed not to be registered under the provisions of regulations made in accordance with *section 53J*;

with the exception of a person or persons exclusively engaged in the provision of financing under or pursuant to any finance agreement unless also acting as a producer within the meaning of *subparagraphs (a)* to *(e)*;

"recovery" means any of the applicable operations provided for in Annex IIB to Council Directive 75/442/EEC of 15 July 1975 on waste[1];

"recycling" means the reprocessing in a production process of the waste materials for the original purpose or for other purposes, but excluding energy recovery which means the use of combustible waste as a means of generating energy through direct incineration with or without other waste but with recovery of the heat;

"reuse" means any operation by which waste electrical and electronic equipment or components thereof are used for the same purpose for which they were conceived, including the continued use of the equipment or components thereof which are returned to collection points, distributors, recyclers or manufacturers;

"RoHS Directive" means European Parliament and Council Directive 2002/95/EC of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment;

"treatment" means any activity after the waste electrical and electronic equipment has been handed over to a facility for de-pollution, disassembly, shredding, recovery or preparation for disposal and any other operation carried out for the recovery or, as appropriate, the disposal of the waste electrical and electronic equipment;

"waste electrical and electronic equipment" means electrical and electronic equipment, which is waste within the meaning of article 1(a) of Council Directive 75/442/EEC of 15 July 1975 on waste, including all components, subassemblies and consumables which are part of the product at the time of discarding;

"waste electrical and electronic equipment from private households" means waste electrical and electronic equipment which comes from private households, and from commercial, industrial, institutional and other sources which, because of its nature and quantity, is similar to that from private households;

"WEEE Directive" means European Parliament and Council Directive 2002/96/EC of 27 January 2003 on waste electrical and electronic equipment and shall be read in accordance with European Parliament and Council Directive 2003/108/EC of 8 December 2003 amending Directive 2002/96/EC on waste electrical and electronic equipment.**]**

[1] O.J. No. L194/39, 25 July, 1975

Annotations

Amendments:

F264 Inserted (1.07.2005) by *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005), reg. 5, in effect as per reg. 2.

Editorial Notes:

E539 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E540 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

F265**[**Regulations for purposes of promoting, supporting or facilitating the prevention, minimisation, or restriction of hazardous substances in waste

53H.—(1) The Minister may, following consultation with the Minister for Enterprise, Trade and Employment, make regulations—

(*a*) prohibiting, or restricting the use of specified hazardous substances, in any electrical and electronic equipment, including electric light bulbs and luminaires placed on the market,

(*b*) imposing the obligation specified in *subsection (2)*, and

(*c*) providing for the removal of electrical and electronic equipment containing specified hazardous substances from the market.

(2) The obligation mentioned in *subsection (1)* is an obligation on a producer with effect from a date specified in regulations, or in an order made by the Minister, to—

(*a*) take into account and facilitate the dismantling and recovery and, in particular, the reuse and recycling of waste electrical and electronic equipment, including materials and components contained therein, in the design and production of electrical and electronic equipment,

(*b*) encourage waste electrical and electronic equipment, including materials and components contained therein, to be reused through specific design features or manufacturing processes, unless such specific design features or manufacturing processes present overriding advantages with regard to the protection of the environment or, as appropriate, safety requirements, and

(*c*) ensure that electrical and electronic equipment, including materials and components contained therein, placed on the market does not contain substances specified in regulations under this section.

(3) The provisions of *subsection (2)* shall also apply to distributors or producers, as appropriate, operating from within the European Union or from third countries supplying electrical and electronic equipment in or into the State by means of distance communication or otherwise.

(4) A person who fails to comply with a provision of regulations under this section, shall be guilty of an offence.**]**

Annotations

Amendments:

F265 Inserted (1.07.2005) by *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005), reg. 5, in effect as per reg. 2.

Editorial Notes:

E541 Offence under subs. (4) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E542 Previous affecting provision: pursuant to section exercised (26.09.2008) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 376 of 2008), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 341 of 2005, see below.

E543 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 341 of 2005); revoked (2.01.2013) by *European Union (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2012* (S.I. No. 513 of 2012), reg. 35(1), in effect as per reg. 34; subject to transitional provision and construed as per reg. 35(2) and (3).

F266[Distributor and producer responsibility for the take back, treatment and recovery of waste electrical and electronic equipment

53I.—(1) The Minister may, following consultation with the Minister for Enterprise, Trade and Employment, make regulations —

(*a*) imposing the obligation specified in *subsection (2)*; and

(*b*) providing that *subsection 2(a)* may not apply where the waste electrical and electronic equipment contains waste other than that deriving from electrical and electronic equipment.

(2) The obligation mentioned in *subsection (1)* is an obligation, with effect from a date to be specified in regulations, or in an order made by the Minister, on—

(*a*) a distributor to take back from the final user on a one-for-one basis at least free of charge waste electrical and electronic equipment from private households that is replaced by equipment of equivalent type or has fulfilled the same functions as the supplied electrical and electronic equipment, other than contaminated waste electrical and electronic equipment that presents a health and safety risk, unless such contamination is on account of a distributor's liability under the Sale of Goods and Supply of Services Act, 1980 (No. 16 of 1980);

(*b*) a producer to finance the environmentally sound management of—

(i) waste electrical and electronic equipment arising from private households deposited at a collection point in respect of electrical and electronic equipment which that producer originally—

(I) places on the market on or after 13 August 2005, and

(II) placed on the market prior to 13 August 2005 in proportion to that producer's respective share of the market by type of equipment when the respective costs occur,

(ii) waste electrical and electronic equipment from users other than private households in respect of electrical and electronic equipment which—

(I) that producer places on the market on or after 13 August 2005, and

(II) was placed on the market prior to 13 August 2005, and that producer replaces with new products of equivalent type or new products fulfilling the same function,

(*c*) a final user to finance the environmentally sound management of waste electrical and electronic equipment other than from private households, that is not being replaced with new products of equivalent type or new products fulfilling the same function.

(3) The provisions of *subsection (2)* shall also apply to distributors or producers, as appropriate, operating from within the European Union or from third countries supplying electrical and electronic equipment in or into the State by means of distance communication or otherwise.

(4) Regulations under this section may provide for—

(*a*) the making of arrangements by distributors or producers, separately or in combination, for the purpose of ensuring that the obligations of each of them under the regulations are fulfilled,

(*b*) the provision by distributors or producers, as appropriate, of the financial resources (the "resources") necessary to ensure that those foregoing obligations are fulfilled,

(*c*) the following matters in relation to the provision of the resources—

(i) the conferral of powers on a specified person or persons for the purpose of operating a scheme to provide for the environmentally sound disposal of waste electrical and electronic equipment (here and after is referred to in this section as an "approved body") with respect to securing and recovering the resources,

(ii) requiring the submission of information by a distributor or producer, as appropriate, as may be prescribed in regulations made under this section to the approved body,

(iii) the time at which an amount of resources shall be made available by a distributor or producer, as appropriate, and the form and manner in which they shall be made available,

(iv) requiring specified records to be kept by specified persons in respect of matters connected with the making available of the resources and specifying the form of such records,

(v) enabling the making available of resources by specified distributors or producers, as appropriate, to be deferred in specified circumstances,

(vi) requiring specified records and accounts to be kept by an approved body in respect of the resources made available to it or to be made available to it,

(vii) enabling the refund of resources made available by specified distributors or producers, as appropriate, to be made to them,

(viii) enabling an approved body to enter into arrangements with a producer or, as appropriate, a distributor whereby that producer or, as appropriate, that distributor remits to the approved body amounts by way of financial resources within a specified period of time after liability in respect of the making available of those amounts arises,

(*d*) the exemption of a person or persons from all or any of the requirements of regulations under this section who is certified by an approved body to be either—

(i) a member or shareholder of that approved body, as the case may be, or

(ii) participating in a satisfactory manner, in a scheme for the carrying on of the relevant activities referred to in this paragraph or complying with any requirements specified by that approved body.

(*e*)(i) the granting by the Minister of approvals for the purpose of regulations under *paragraph (d)* and the conditions which he or she may attach to such approvals, including conditions relating to—

(I) the financial and administrative arrangements to be made by the approved body concerned,

(II) the relevant activities referred to in *paragraph (d)* to be carried out by an approved body and the manner in which they are to be carried out,

(III) targets to be achieved by the approved body concerned with respect to the carrying on of those activities by it,

(ii) enabling the Minister to vary as he or she thinks fit any condition attached to an approval aforesaid or to revoke such an approval in specified circumstances,

(iii) the means by which an approved body shall determine, for the purpose of regulations under *paragraph (d)*, whether a person is participating, in a satisfactory manner, in a scheme referred to in that paragraph or, as the case may be, is complying with requirements referred to in that paragraph,

(iv) the grant and revocation by an approved body of a certificate for the purpose of regulations under *paragraph (d)* and the notifications to be given by it in respect of such grant or revocation to the person concerned and other specified persons,

(*f*) the exemption of a distributor or producer, as appropriate, from all or any of the requirements of regulations under this section (being a distributor or producer, as appropriate, who is not otherwise exempted by virtue of regulations under *paragraph (d)*) where he or she shows to the satisfaction of the Minister or another person specified for this purpose that he or she has put arrangements in place to ensure that the take back of each item of waste electrical and electronic equipment can be deposited by the final user thereof for the purpose of its being deposited at a collection point or, as appropriate, at a civic amenity facility or for the purposes of the environmentally sound management of that waste electrical and electronic equipment, as appropriate in accordance with *subsection (2)*,

(*g*) the making of arrangements relating to the display of environmental management costs, for a period of time specified in regulations made under *paragraph (d)*, by a distributor or producer, as appropriate, to the purchasers of electrical and electronic equipment,

(*h*) any matters consequential on, or incidental to the foregoing.

(5) Nothing in *subsection 4(a)* shall be construed as authorising distributors or, as appropriate, producers to —

(*a*) make arrangements which are prohibited by section 4(1) of the Competition Act, 2002 (No. 14 of 2002) or, as appropriate, by Article 81 of the Treaty of Rome, or, as appropriate,

(*b*) act in a manner prohibited by section 5(1) of the Competition Act 2002 (No. 14 of 2002) or, as appropriate, by Article 82 of the Treaty of Rome.

(6) A person who fails to comply with a provision of regulations made under this section, shall be guilty of an offence.**]**

Annotations

Amendments:

F266 Inserted (1.07.2005) by *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005), reg. 5, in effect as per reg. 2.

Editorial Notes:

E544 Offence under subs. (6) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E545 Offence under subs. (6) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E546 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E547 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

F267**[**Registration **53J**.—(1) The Minister, following consultation with the Minister for Enterprise, Trade and Employment, may make regulations relating to the granting of an approval by the Minister to any person, association or body corporate (who is referred to in this section as the "registration body") including himself or herself for the purpose of carrying out of certain registration functions as provided for in regulations made under this Section.

(2) Regulations under this section may provide for—

(*a*) the requirement of each producer to register with the registration body,

(i) to fulfil his or her obligations under the WEEE Directive, and provide to the registration body specified —

(I) details of a third party who may be authorised to act on his or her behalf in relation to the recovery of waste electrical and electronic equipment,

(II) details of financial guarantees as required under Article 8.2 of the WEEE Directive,

(III) data relating to the quantities of products placed on the market and the form and manner in which the data shall be made available, and

(IV) details of any environmental management costs applied on electrical and electronic equipment.

(ii) to submit evidence verifying his or her compliance with the requirements of the RoHS Directive by providing to the satisfaction of the registration body, as appropriate, all or any information and data pertaining thereof;

(*b*) the requirement of each producer to satisfy the registration body that he or she or a third party acting on his or her behalf contributes in full to his or her share of the costs of the environmentally sound management of waste electrical and electronic equipment;

(*c*) the provision by producers of the financial resources (the "fees") necessary to ensure that those foregoing obligations are fulfilled;

(*d*) the collection arrangements relating to the fees remitted by producers for the purposes of registering, including—

(i) the conferral of powers on any specified person or persons to collect and recover fees relating to registration,

(ii) the time at which the payment of the registration fees shall be made by producers and the form and manner of such payment, and

(iii) enabling the registration body to enter into arrangements with one or more specified persons whereby that person or those persons remit to the registration body amounts by way of the fees within a specified period of time after liability in respect of the making available of those amounts arises,

(*e*) empowering the registration body to—

(i) examine the audited accounts of a producer or an approved body, as appropriate, or require a producer to submit to the registration body documentary evidence in order to verify, validate or require a producer to submit documentary evidence of market share;

(ii) take whatever action is deemed appropriate by the registration body to ensure compliance with the RoHS Directive and the WEEE Directive; and

(iii) keep and preserve records and particulars relating to information submitted by a producer or an approved body for the purposes of registration;

(f) enabling the refund of registration fees paid by specified producers to be made to the relevant producers;

(g) the submission of specified documentation, information and particulars to a specified person or, as appropriate, specified persons;

(h) the removal from the register of any producer who does not comply with a provision of regulations under this section;

(i) the granting of a certificate of registration or, as appropriate, a certificate of renewal of registration by the registration body;

(j) the refusal of the registration body to grant a certificate of registration or, as appropriate, a certificate of renewal of registration;

(k) requiring the acceptance of decisions made by the registration body;

(l) enabling the Minister to monitor the activities of the registration body and seek the submission of reports which the Minister may require from time to time; and

(m) any matters consequential on, or incidental to the foregoing.

(3) The provisions of *subsection (2)* shall also apply to producers operating from within the European Union or from third countries supplying electrical and electronic equipment in or into the State by means of distance communication or otherwise.

(4) Without prejudice to *sub-section (1)* where a person or persons, or association, or body corporate undertakes the registration function only one registration body shall be permitted to perform these functions at any one time.

(5) Without prejudice to *sub-section (2)* where a person or persons, or association, or body corporate undertakes the registration function it may procure any or all of the functions allotted in accordance with regulations under this section.

(6) A person who fails to comply with a provision of regulations under this section, shall be guilty of an offence.**]**

Annotations

Amendments:

F267 Inserted (1.07.2005) by *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005), reg. 5, in effect as per reg. 2.

Editorial Notes:

E548 Offence under subs. (6) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E549 Offence under subs. (6) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E550 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E551 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

F268**[**Obligation to mark electrical and electronic equipment placed on the market

53K.—(1) The Minister may, following consultation with the Minister for Enterprise, Trade and Employment, make regulations imposing the obligation specified in *subsection (2)*.

(2) The obligation mentioned in *subsection (1)* is an obligation on a producer to ensure that each item of electrical and electronic equipment placed on the market with effect from a date or dates to be specified in regulations, or in an order or orders made by the Minister, made under this section, incorporates a mark to—

(*a*) indicate it should not be disposed of as unsorted municipal waste

(*b*) identify the producer,

(*c*) indicate that the electrical and electronic equipment is placed on the market after a specific date, or, as appropriate,

(*d*) indicate that the electrical and electronic equipment placed on the market after a specific date does not contain specified hazardous substances.

(3) The provisions of *subsection (2)* shall also apply to producers operating from within the European Union or from third countries supplying electrical and electronic equipment in or into the State by means of distance communication or otherwise.

(4) Regulations under this section may provide for—

(*a*) the appropriate application of symbols and marks on—

(i) electrical and electronic equipment, or

(ii) the packaging, the instructions for use and the warranty of the equipment concerned

(*b*) any matters consequential on, or incidental to, the foregoing.

(5) A person who fails to comply with a provision of regulations under this section, shall be guilty of an offence.**]**

Annotations

Amendments:

F268 Inserted (1.07.2005) by *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005), reg. 5, in effect as per reg. 2.

Editorial Notes:

E552 Offence under subs. (5) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E553 Offence under subs. (5) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E554 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E555 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

F269**[**Obligation to provide information to users of electrical and electronic equipment

53L.—(1)The Minister may, following consultation with the Minister for Enterprise, Trade and Employment, make regulations imposing the obligation specified in *subsection (2)*.

(2) The obligation mentioned in *subsection (1)* is an obligation on a distributor or producer, as appropriate, to ensure that purchasers of electrical and electronic equipment with effect from a date to be specified in regulations, or in an order made by the Minister, are informed of—

(*a*) the environmental benefits of not disposing of waste electrical and electronic equipment as unsorted municipal waste and of transferring such waste electrical and electronic equipment for appropriate reuse, treatment, recycling and recovery,

(*b*) the return and collection systems available to them,

(*c*) their role in contributing to reuse, recycling and other forms of recovery of waste electrical and electronic equipment,

(*d*) the potential effects on the environment and human health as a result of the presence of hazardous substances in electrical and electronic equipment, and

(*e*) the meaning of any symbols specified in regulations made under section 53K.

(3) The provisions of *subsection (2)* shall also apply to distributors or producers, as appropriate, operating from within the European Union or from third countries supplying electrical and electronic equipment in or into the State by means of distance communication or otherwise.

(4) Regulations under this section may provide for—

(*a*) specified requirements relating to the provision of information to purchasers of electrical and electronic equipment placed on the market,

(*b*) any matters consequential on, or incidental to, the foregoing.

(5) A person who fails to comply with a provision of regulations under this section, shall be guilty of an offence.**]**

Annotations

Amendments:

F269 Inserted (1.07.2005) by *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005), reg. 5, in effect as per reg. 2.

Editorial Notes:

E556 Offence under subs. (5) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E557 Offence under subs. (5) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E558 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E559 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

F270**[**Obligation to provide information to recovery facilities

53M.—(1) The Minister may following consultation with the Minister for Enterprise, Trade and Employment, make regulations imposing the obligation specified in *subsection (2)* with effect from a date specified in the regulations, or in an order made by the Minister.

(2) The obligation mentioned in *subsection (1)* is an obligation on a producer to ensure that reuse and treatment information, the different components and materials, including the location of dangerous substances and preparations for each type of electrical and electronic equipment placed on the market from the date specified in the regulations, or in the order made by the Minister, is furnished to recovery facilities carrying out the maintenance, upgrade, refurbishment, treatment, recycling and recovery of waste electrical and electronic equipment.

(3) The provisions of *subsection (2)* shall also apply to producers operating from within the European Union or from third countries supplying electrical and electronic equipment in or into the State by means of distance communication or otherwise.

(4) Regulations under this section may provide for—

(*a*) specified requirements relating to the provision of information to recovery facilities carrying out the maintenance, upgrade, refurbishment, treatment recycling and recovery of waste electrical and electronic equipment,

(*b*) any matters consequential on, or incidental to, the foregoing.

(5) A person who fails to comply with a provision of regulations under this section, shall be guilty of an offence.**]**

Annotations

Amendments:

F270 Inserted (1.07.2005) by *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005), reg. 5, in effect as per reg. 2.

Editorial Notes:

E560 Offence under subs. (5) prescribed as offence for purposes of *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), regs. 36 and 38, (31.03.2008) by *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007), reg. 22(g), in effect as per reg. 2.

E561 Offence under subs. (5) prescribed as offence for purposes of s. 34(5)(a) (31.03.2008) by *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007), reg. 21(g), in effect as per reg. 1(2).

E562 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E563 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

PART VI

General Provisions Regarding Environmental Protection

Annotations

Editorial Notes:

E564 Section 54 appears at the end of Part V, before s. 53B; see note under Part V.

Power of local authority to require measures to be taken in relation to the holding, recovery or disposal of waste.

55.—(1) (*a*) Where it appears to a local authority, as respects its functional area, that it is necessary so to do in order to prevent or limit environmental pollution caused, or likely to be caused, by the holding, recovery or disposal of waste, the local authority may serve a notice under this section on a person who is or was holding, recovering or disposing of the waste, as the case may be.

(*b*) *Paragraph (a)*shall not apply in respect of the recovery or disposal of waste carried on in accordance with a waste licence, or a licence or revised licence granted under Part IV of the Act of 1992.

(2) A notice under this section may require—

(*a*) the taking of specified measures which the local authority considers necessary in order to prevent or limit the environmental pollution concerned or prevent a recurrence thereof,

(*b*) the cesser of the holding, recovery or disposal concerned,

(*c*) the mitigation or remedying of any effects of any activity aforesaid in a specified manner,

within a specified period (not being less than 14 days commencing on the date of the service of the notice).

(3) A notice under this section—

(*a*) may be served whether or not there has been a prosecution for an offence under this Act in relation to the activity concerned;

(*b*) shall not prejudice the initiation of a prosecution for an offence under this Act in relation to the activity concerned.

(4) A person on whom a notice under this section has been served may, within such period as may be specified in the notice for the purpose, make representations in writing to the local authority concerned regarding the terms of the notice, and the local authority, having considered any such representations, may amend the terms of the notice or confirm or revoke the notice, and shall inform the person of such amendment, confirmation or revocation.

(5) A person on whom a notice under this section has been served shall, within the period specified in the notice, comply with the terms thereof.

(6) If a person on whom a notice under this section has been served does not, within the period specified in the notice, comply with the terms thereof, the local authority concerned may take such steps as it considers reasonable and necessary to secure compliance with the notice, and may recover any expense thereby incurred from the said person as a simple contract debt in any court of competent jurisdiction.

(7) Without prejudice to the generality of *subsection (2)*, a notice under this section may require—

(*a*) the removal of waste to any location or locations,

(b) the disposal of waste in a specified manner or at a specified facility,

(*c*) the taking of measures to prevent the continuance of the activity to which the notice relates,

(*d*) the treatment of affected lands or waters so as to mitigate or remedy the effects of the activity concerned,

(*e*) the taking of such other action as may be necessary to counteract any risk of environmental pollution arising from the activity concerned.

(8) A person who fails to comply with a notice under this section shall be guilty of an offence.

(9) Save where the context does not admit such a construction, references in this section to a notice thereunder shall, if the notice has been amended under *subsection (4)*, be construed as references to the notice as so amended.

F271**[**Powers under section 55 also exercisable by Agency.

55A.—On and from the commencement of section 46 of the Protection of the Environment Act 2003, the powers under *section 55* shall, in addition to being exercisable by a local authority, be exercisable by the Agency (but, as respects the Agency, without the limitation imposed on *subsection (1)(a)* of that section by *subsection (1)(b)* thereof) and, accordingly, for that purpose—

(*a*) the references in *subsection (1)(a)* of that section to a local authority shall be construed as including references to the Agency and that subsection, in its application to the Agency, shall have effect as if the words, "as respects its functional area," were omitted, and

(*b*) each subsequent reference in that section to a local authority shall, where the power under that *subsection (1)(a)* has been exercised by the Agency in relation to a particular matter, be construed, in relation to that matter, as a reference to the Agency.**]**

Annotations

Amendments:

F271 Inserted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 46, S.I. No. 498 of 2003.

Powers of local authority to take measures to prevent or limit environmental pollution caused by waste.

56.—(1) Where it appears to a local authority that measures are required to be taken in order to prevent or limit environmental pollution in its functional area caused, or likely to be caused, by the holding, recovery or disposal of waste, the local authority may take such steps, carry out such operations, recover or dispose of, or arrange for the recovery or disposal of, such waste or give such assistance as it considers necessary to prevent or limit such pollution or to mitigate or remedy the effects on the environment of any such activity.

(2) Where a local authority takes steps, carries out operations, recovers or disposes of, or arranges for the recovery or disposal of, waste or gives assistance under this section, the local authority may recover the costs of such steps, operations, recovery, disposal or assistance as a simple contract debt in a court of competent jurisdiction from such person as the local authority satisfies the court is a person whose act or omission necessitated such steps, operations, recovery, disposal or assistance.

(3) Nothing in this Act or an instrument made thereunder or any other enactment shall prejudice the taking of necessary action by a local authority in pursuance of the powers under this section.

F272**[**Powers under section 56 also exercisable by Agency and clarification of that section.

56A.—(1) On and from the commencement of section 47 of the Protection of the Environment Act 2003, the powers under *section 56* of the Act of 1996 shall, in addition to being exercisable by a local authority, be exercisable by the Agency and, accordingly, for that purpose—

(*a*) the references in *subsection (1)* of that section to a local authority shall be construed as including references to the Agency and that subsection, in its application to the Agency, shall have effect as if the words "in its functional area" were omitted, and

(*b*) each subsequent reference in that section to a local authority shall, where the power under that *subsection (1)* has been exercised by the Agency in relation to a particular matter, be construed, in relation to that matter, as a reference to the Agency.

(2) Nothing in this section shall be construed as imposing on a local authority or the Agency, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject.**]**

Annotations

Amendments:

F272 Inserted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 47, S.I. No. 498 of 2003.

Powers of High Court in relation to the holding, recovery or disposal of waste.

57.—(1) Where, on application by any person to the High Court, that Court is satisfied that waste is being held, recovered or disposed of in a manner that causes or is likely to cause environmental pollution F273**[**or *section 34* or *39(1)* to be contravened**]**, it may by order—

(*a*) require the person holding, recovering or disposing of such waste to carry out specified measures to prevent or limit, or prevent a recurrence of, such pollution F273**[**or contravention**]**, within a specified period,

(*b*) require the person holding, recovering or disposing of such waste to do, refrain from or cease doing any specified act, or to refrain from or cease making any specified omission,

(*c*) make such other provision, including provision in relation to the payment of costs, F273**[**including costs incurred by the Agency in relation to the carrying out of relevant inspections or surveys and the taking of relevant samples and the analysis of the results of any such activities,**]** as the Court considers appropriate.

(2) An application for an order under this section shall be by motion, and the High Court when considering the matter may make such interim or interlocutory order as it considers appropriate.

(3) An application for an order under this section may be made whether or not there has been a prosecution for an offence under this Act in relation to the activity concerned and shall not prejudice the initiation of a prosecution for an offence under this Act in relation to the activity concerned.

(4) Without prejudice to the powers of the High Court to enforce an order under this section, a person who fails to comply with an order under this section shall be guilty of an offence.

Annotations

Amendments:

F273 Inserted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 48, S.I. No. 498 of 2003.

Editorial Notes:

E565 Offence under subs. (4) prescribed for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a), (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 41(d).

E566 Defence to proceedings brought under section provided by *Environmental Protection Agency Act 1992* (7/1992), s. 84(3)(b)(iv), as inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 15, S.I. No. 393 of 2004.

E567 Previous affecting provision: offence under subs. (4) prescribed (12.07.2004) for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a) by *Environmental Protection Agency (Licensing) (Amendment) Regulations 2004* (S.I. No. 394 of 2004), reg. 6(d), in effect as per reg. 2; revoked (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 42(1) and sch. 2, subject to transitional provision in para. (2).

Remedies for unauthorised holding, recovery or disposal of waste.

58.—(1) (*a*) Where, on application by any person to the appropriate court, that court is satisfied that another person is holding, recovering or disposing of, or has held, recovered or disposed of, waste, in a manner that is causing, or has caused, environmental pollution F274**[**or *section 34* or *39(1)* to be contravened**]**, that court may make an order requiring that other person to do one or more of the following, that is to say:

(i) to discontinue the said holding, recovery or disposal of waste within a specified period, or

(ii) to mitigate or remedy any effects of the said holding, recovery or disposal of waste in a specified manner and within a specified period.

(*b*) In this subsection, "appropriate court", in relation to an application under *paragraph (a)* means—

(i) in case the estimated cost of complying with the order to which the application relates does not exceed F275**[**€15,000**]**, the District Court,

(ii) in case the estimated cost aforesaid does not exceed F276**[**€75,000**]**, the Circuit Court, and

(iii) in any case, the High Court.

(*c*) (i) If, in relation to an application under this section to the District Court, that court becomes of opinion during the hearing of the application that the estimated cost aforesaid will exceed F275**[**€15,000**]**, it may, if it so thinks fit, transfer the application to the Circuit Court or the High Court, whichever it considers appropriate having regard to the estimated cost aforesaid.

(ii) If, in relation to an application under this section to the Circuit Court, that court becomes of opinion during the hearing of the application that the estimated cost aforesaid will exceed F276**[**€75,000**]**, it may, if it so thinks fit, transfer the application to the High Court.

(iii) This paragraph is without prejudice to the jurisdiction of a court (being either the District Court or the Circuit Court) to determine an application under this section in relation to which it was, at the time of the making of the application, the appropriate court.

(2) (*a*) An application for an order under this section shall be brought in a summary manner and the court when considering the matter may make such interim or interlocutory order as it considers appropriate.

(*b*) Where an application is transferred under *paragraph (c)* of *subsection (1)*, the court to which it was transferred shall be deemed to have made any order made under this subsection by the court from which it is so transferred in the proceedings in relation to the application.

(3) (*a*) An order shall not be made by a court under this section unless the person named in the order has been given an opportunity of being heard by the court in the proceedings relating to the application for the order.

(*b*) The court concerned may make such order as to the costs of the parties to or persons heard by the court in proceedings relating to an application for an order under this section as it considers appropriate.

(4) (*a*) Where a person does not comply with an order under *subsection (1)*, a local authority, as respects its functional area, or the Agency, may take any steps specified in the order to mitigate or remedy any effects of the activity concerned.

(*b*) The amount of any expenditure incurred by a local authority or the Agency in relation to steps taken by it under *paragraph (a)* shall be a simple contract debt owed by the person in respect of whom the order under *subsection (1)* was made to the authority or the Agency, as the case may be, and may be recovered by it from the person as a simple contract debt in any court of competent jurisdiction.

(5) (*a*) An application under *subsection (1)* to the District Court shall be made to the judge of the District Court for the District Court district in which the activity concerned takes place.

(*b*) An application under *subsection (1)* to the Circuit Court shall be made to the judge of the Circuit Court for the circuit in which the activity concerned takes place.

(6) An application under *subsection (1)*may be made whether or not there has been a prosecution for an offence under this Act in relation to the activity concerned and shall not prejudice the initiation of a prosecution for an offence under this Act in relation to the activity concerned.

(7) Without prejudice to any powers of the court concerned to enforce an order under *subsection (1)*, a person who fails to comply with an order under that subsection shall be guilty of an offence.

Annotations

Amendments:

F274 Inserted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 49, S.I. No. 498 of 2003.

F275 Substituted (3.02.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 15 and sch. part 2 item 11, S.I. No. 566 of 2013.

F276 Substituted (3.02.2014) by *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013), s. 14 and sch. part 1 item 7, S.I. No. 566 of 2013.

Editorial Notes:

E568 Offence under subs. (7) prescribed for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a), (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 41(d).

E569 Defence to proceedings brought under section provided by *Environmental Protection Agency Act 1992* (7/1992), s. 84(3)(b)(iv), as inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 15, S.I. No. 393 of 2004.

E570 Previous affecting provision: offence under subs. (7) prescribed (12.07.2004) for purposes of *Environmental Protection Agency Act 1992* (7/1992), s. 84(4)(a) by *Environmental Protection Agency (Licensing) (Amendment) Regulations 2004* (S.I. No. 394 of 2004), reg. 6(d), in effect as per reg. 2; revoked (24.07.2013) by *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013), reg. 42(1) and sch. 2, subject to transitional provision in para. (2).

E571 Previous affecting provision: subss. (1)(b)(i) and (1)(c)(i) amended *Courts and Court Officers Act 2002* (15/2002), s. 14 and sch. 2 part 2, not commenced; substituted as per F-note above.

E572 Previous affecting provision: subss. (1)(b)(ii) and (1)(c)(ii) amended *Courts and Court Officers Act 2002* (15/2002), s. 13 and sch. 2 part 1, not commenced; substituted as per F-note above.

Functions of local authorities in regard to waste.

59.—(1) Each local authority shall, save in a particular case where a provision of this Act provides to the contrary, be responsible for the supervision of, and the enforcement of the relevant provisions of this Act in relation to, the holding, recovery and disposal of waste within its functional area.

(2) Nothing in *subsection (1)* shall be construed as prejudicing the right of the Agency or any other person to perform any functions conferred on it or him or her by or under any provision of this Act.

PART VII

Miscellaneous

Policy directions by Minister in relation to waste licensing, the movement of waste and other matters.

60.—(1) The Minister may, whenever he or she thinks proper, give general directions in writing to the Agency or each local authority as to policy in relation to, as appropriate—

(*a*) the making or review of the hazardous waste management plan or a waste management plan,

(*b*) the management of waste recovery or disposal activities carried on otherwise than under a waste licence,

(*c*) the granting of waste licences,

(*d*) the performance by the Agency or local authority of its functions under this Act with respect to movements of waste,

(*e*) matters related to matters aforesaid.

(2) In performing its functions under this Act, the Agency or each local authority concerned, as the case may be, shall have regard to any directions given to it by the Minister under this section.

F277**[**(3) Save as respects the matters referred to in *subsection (1)(a)* and subject to *subsection (3A)*, *subsection (1)* shall not be construed as enabling the Minister to exercise any power or control in relation to the performance in particular circum stances by the Agency or a local authority of a function con ferred on it by or under this Act.

(3A) *Subsection (3)* shall not affect the performance by the Minister of functions transferred (whether before or after the passing of the Minister for the Environment and Local Govern ment (Performance of Certain Functions) Act 2002) to him or her from the Minister for Community, Rural and Gaeltacht Affairs by an order under section 6(1) of the Ministers and Secretaries (Amendment) Act 1939.**]**

(4) Whenever the Minister gives a direction under this section, he or she shall—

(*a*) as soon as may be cause a copy of the direction to be laid before each House of the Oireachtas;

(*b*) cause a copy of the direction to be transmitted to the Agency or each local authority concerned, as the case may be;

(*c*) cause to be published in the *Iris Oifigiúil* a notice of the giving of the direction.

(5) A notice under *subsection (4)(c)* shall specify where a copy of the direction to which it relates may be obtained and the fee (if any) payable in respect of such a copy (which the Minister is hereby empowered to charge).

Annotations

Amendments:

F277 Substituted and inserted (3.07.2002) by *Minister for the Environment and Local Government (Performance of Certain Functions) Act 2002* (24/2002), s. 3, commenced on enactment.

Detention and forfeiture of certain vehicles and equipment.

61.—(1) (*a*) Where proceedings are instituted for an offence under *section 36*, *39* or *51* and those proceedings are to be prosecuted on indictment, a judge of the District Court for the appropriate District Court district may, on application to him or her in that behalf by the local authority in whose functional area the offence is alleged to have been committed, or by the Agency, make an order requiring the defendant in those proceedings to enter into a bond of an amount equal to the value which the judge estimates to be the value of any vehicle or equipment owned by the defendant that is alleged by the local authority or by the Agency to have been used in the commission of the offence.

(*b*) In this subsection "appropriate District Court district" means the District Court district in which the offence concerned is alleged to have been committed or the defendant concerned resides or carries on business.

(2) If a defendant fails to comply with an order of a judge of the District Court under *subsection (1)*, the judge may (without prejudice to any other means of enforcing the order) make an order authorising the local authority concerned or the Agency to detain any vehicle or equipment in respect of which the first-mentioned order was made pending the determination of the proceedings for the offence concerned.

(3) If a person is convicted on indictment of an offence under *section 36*, *39* or *51*, the court before which the person is convicted may order the forfeiture to the local authority in whose functional area the offence was committed or the Agency of any vehicle or equipment owned by the defendant that was used in the commission of the offence or the amount of any bond entered into by the defendant in compliance with an order under *subsection (1)*.

(4) An order under *subsection (3)* shall not take effect until the ordinary time for instituting an appeal against the conviction or order concerned has expired or, where such an appeal is instituted, until it or any further appeal is finally decided or abandoned or the ordinary time for instituting any further appeal has expired.

(5) A local authority or the Agency may deal with or (as appropriate) dispose of, as it thinks fit, any vehicle or equipment, or the amount of any bond, forfeited to it under *subsection (3)*.

Power to give effect to Community acts.

62.—F278**[...]**

Annotations

Amendments:

F278 Repealed (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 46, S.I. No. 433 of 2011.

Editorial Notes:

E573 Previous affecting provision: pursuant to section exercised (26.09.2008) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 376 of 2008), in effect as per reg. 3; rendered obsolete by revocation of S.I. No. 341 of 2005, see below.

E574 Previous affecting provision: pursuant to section exercised (23.09.2008, 26.09.2008, and 1.01.2009) by *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008), in effect as per reg. 3; revoked (13.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011), reg. 46, in effect as per reg. 45.

E575 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 341 of 2005); revoked (2.01.2013) by *European Union (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2012* (S.I. No. 513 of 2012), reg. 35(1), in effect as per reg. 34; subject to transitional provision and construed as per reg. 35(2) and (3).

E576 Previous affecting provision: pursuant to section exercised (5.07.2005) by *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005); revoked (30.07.2011) by *European Communities (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2011* (S.I. No. 397 of 2011), reg. 3, in effect as per reg. 2.

E577 Previous affecting provision: power pursuant to section exercised (1.07.2005) by *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005), in effect as per reg. 2; section repealed as per F-note above. These regulations continue in force under s. 7.

Agreements between Agency and other public authorities.

63.—(1) Subject to *subsection (2)*, section 45 of the Act of 1992 shall apply in respect of any functions which may be performed by the Agency under this Act.

(2) *Subsection (1)* shall not be construed as enabling the Agency to authorise a public authority to perform any functions under *Part II* or to grant or refuse to grant a waste licence under *Part V*.

Mass balances of specified substances.

64.—F279**[**...**]**

Annotations

Amendments:

F279 Repealed (1.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 3(1) and sch. 2 part 1, S.I. No. 393 of 2004.

Amendment of Act of 1992 and Act of 1987.

65.—(1) F280**[**...**]**

(2) Section 30 of the Act of 1987 is hereby amended by the substitution, in subsections (1) and (2), for "unless a licence under this Act is in force in relation to the plant", in each place where those words occur, of the following:

"save under and in accordance with a licence under this Act that is in force in relation to the plant".

Annotations

Amendments:

F280 Repealed (1.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 3(1) and sch. 2 part 1, S.I. No. 393 of 2004.

Amendment of Local Government (Water Pollution) Act, 1977.

66.—(1) The Local Government (Water Pollution) Act, 1977, is hereby amended by the insertion of the following section after section 26:

"Regulations for the prevention or limitation of water pollution.

26A.—(1) For the purpose of preventing or limiting water pollution, the Minister may, by regulations, prohibit or limit or control in a specified manner and to a specified extent, the production, treatment, use (in a process or otherwise), importation, distribution, storage, transport, supply or sale of any specified substance or of any article containing any specified substance.

(2) Without prejudice to the generality of subsection (1), regulations under this section may—

(*a*) make different provisions for different substances or articles,

(*b*) require local authorities or other specified persons to take specified steps for the purposes of securing compliance with the regulations,

(*c*) contain such incidental, consequential and supplementary provisions as appear to the Minister to be necessary or expedient for the purposes of such regulations.

(3) (*a*) A person who contravenes a provision of regulations under this section shall be guilty of an offence.

(*b*) A person guilty of an offence under this section shall be liable—

(i) on summary conviction, to a fine not exceeding £1,000 or imprisonment for a term not exceeding 6 months or, at the discretion of the court, to both such fine and such imprisonment, or

(ii) on conviction on indictment, to a fine not exceeding £25,000 or imprisonment for a term not exceeding 5 years or, at the discretion of the court, to both such fine and such imprisonment.

(4) A prosecution for an offence under this section may be taken by the Minister, a local authority, or such other person as may be specified in regulations under this section.".

(2) Section 3 of the Local Government (Water Pollution) Act, 1977, is hereby amended by the substitution for subsection (3) (inserted by the Local Government (Water Pollution) (Amendment) Act, 1990) of the following subsection:

"(3) It shall be a defence to a charge of committing an offence under this section for the accused to prove that he took all reasonable care to prevent the entry to waters to which the charge relates by providing, maintaining, using, operating and supervising facilities, or by employing practices or methods of operation, that were suitable for the purpose of such prevention, and, where appropriate, that the entry to waters to which the charge relates arose from an activity carried on in accordance with a nutrient management

plan approved under section 21A (inserted by the *Waste Management Act, 1996*) of the Local Government (Water Pollution) (Amendment) Act, 1990.".

(3) The Local Government (Water Pollution) (Amendment) Act, 1990, is hereby amended by the insertion of the following section after section 21:

"Nutrient Management Plans.

21A.—(1) Subject to subsection (2), whenever a local authority considers that, for the purposes of preventing, eliminating or minimising the entry of polluting matter to waters from an activity referred to in section 21 (1) (*b*) (being an activity that is carried on in its functional area) it is necessary to do so, it may serve a notice in writing under this section on—

(*a*) the owner of the land on which the activity is carried on, or

(*b*) if the owner of the said land is not in occupation thereof, the person who is in occupation of the said land, requiring the person to prepare and furnish to it for its approval under this section a plan (in this section referred to as a 'nutrient management plan') in relation to the activity within a specified period, being a period of not less than 5 months beginning on the date of service of the notice.

(2) A notice under subsection (1) shall not be served on a person in relation to an activity the carrying on of which requires the grant of a licence under Part IV of the Environmental Protection Agency Act, 1992.

(3) Before a local authority decides to exercise the power conferred by subsection (1), (whether generally as respects activities referred to in section 21 (1) (*b*) carried on on lands in its functional area or as respects such activities carried on on lands in a particular part of its functional area) it shall consult with such body or bodies as may be prescribed for the purposes of this subsection.

(4) A notice under this section—

(*a*) shall require that the nutrient management plan—

(i) provide such particulars of the activity concerned as are specified in the notice,

(ii) specify the quantities of such nutrients in animal and other waste as are specified in the notice (which may include nutrients in waste as aforesaid produced from sources other than the land concerned) which it is estimated will be used in each year of the relevant period on the land concerned,

(iii) provide that a determination of the types and concentration of nutrients in the soil of the land concerned shall be made in accordance with a programme of sampling and analysis to be determined by the local authority after consultation with the person on whom the notice is served (hereafter in this section referred to as 'the relevant person'),

(iv) specify the maximum quantities of such nutrients as are specified in the notice that, in the opinion of the relevant person, having regard to each of the matters referred to in subsection (5), ought, in each year of the relevant period, to be applied to, or injected into, the land concerned, or such parts thereof as are specified in the notice, or applied to crops growing on that land or such parts as are so specified,

(v) specify the times during the relevant period when the application to, or the injection into, the land concerned, or the application to

crops growing thereon, of animal and other waste and chemical fertiliser ought, and ought not, in the opinion of the relevant person, to be carried out, having regard to any crop requirements and the objective of preventing, eliminating or minimising the loss of nutrients to waters,

(vi) require the keeping and maintenance of records in respect of each year, or, in the case of the matters referred to in clause (III), the year or years concerned, of the relevant period, containing such particulars as may be determined by the local authority after consultation with the relevant person in relation to—

(I) the doing of the following things during the year concerned by the said person, namely—

(A) the production, treatment, receiving from, or transfer to, another person by him of animal or other waste,

(B) the application to, or the injection into, the land concerned or the application to crops growing thereon, by him of animal or other waste and the times and rates at which such application or injection is carried out,

(II) the types and quantities of chemical fertiliser applied to the land concerned during the year concerned and the times and rates at which such application is carried out,

(III) the results of the determination referred to in subparagraph (iii) made in relation to the land concerned and, as the case may be, of any further determination of such kind made, pursuant to a requirement under paragraph (*b*) (ii), during the year concerned,

(vii) require such information in relation to the matters referred to in this paragraph and, as the case may be, paragraph (*b*), as is specified in the notice to be furnished to the local authority,

(*b*) may require that the nutrient management plan—

(i) shall require the keeping and maintenance of records in respect of each year of the relevant period containing particulars as may be determined by the local authority after consultation with the relevant person of the concentration of such nutrients in animal or other waste as are specified in the notice that have been applied to, or injected into, the land concerned during the year concerned,

(ii) shall provide that a further determination of the kind referred to in paragraph (*a*) (iii) (whether in respect of nutrients generally or nutrients of a class specified in a notice served by the local authority on the relevant person for the purposes of this sub-paragraph) shall be made at specified intervals after the determination referred to in that provision has been made,

(iii) shall address such other matters as the local authority considers necessary for the purpose of preventing, eliminating or minimising the entry of nutrients to waters from the activity concerned and specifies in the notice.

(5) The matters referred to in subsection (4) (*a*) (iv) are—

(*a*) the nature of the activity concerned,

(*b*) the type of soil concerned and the types and concentration of nutrients in that soil,

(*c*) the types of crop previously grown on the land concerned and the types of nutrient previously applied to, or injected into, that land and the rates of such application or injection, where relevant,

(*d*) the types of crop grown or to be grown on the land concerned,

(*e*) the intensity of the stocking of animals (if any) on the land concerned and of any other agricultural activities carried on on that land, and

(*f*) the need to make efficient use of nutrients having regard to any crop requirements and the objective of preventing, eliminating or minimising the loss of nutrients to waters.

(6) In subsection (4) and the subsequent provisions of this section 'the relevant period' means the period of 12 months, or such longer period as may be specified in the notice concerned under subsection (1) or (8), as appropriate, beginning on the date that is 2 months after the approval of the nutrient management plan concerned under this section by the relevant local authority.

(7) A local authority may, as respects a nutrient management plan prepared and furnished to it in accordance with a notice under subsection (1), refuse to approve of the plan or approve thereof without modifications or make such modifications therein as it considers proper and approve of the plan as so modified.

(8) (*a*) A local authority, where it refuses to approve of a nutrient management plan under subsection (7), may, by service of a notice in writing on the person who furnished the plan to it, require that person to prepare and furnish to it another such plan and subsection (3) and the other provisions of this section shall apply to such a notice and such a plan as they apply to a notice under subsection (1) and a plan furnished to it pursuant to a notice under that subsection.

(*b*) The reference in subsection (2) to a notice under subsection (1) includes a reference to a notice under this subsection.

(9) If, upon the expiration of the period of 2 months from the date of receipt by it of a nutrient management plan prepared and furnished in accordance with a notice under this section, the local authority concerned has neither given a decision under subsection (7) to refuse to approve of the plan nor a decision thereunder to approve of the plan (by either of the means referred to in that subsection), the local authority shall be deemed to have approved of the plan under that subsection.

(10) A nutrient management plan may, with the prior written consent of the local authority which approved of the plan under this section, be varied during the relevant period.

(11) A person who fails to comply with a notice under subsection (1) or (8) within the period specified in the notice shall be guilty of an offence and be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 6 months, or to both.

(12) Proceedings for an offence under this section may be brought by the local authority which served the notice concerned.".

Immunity of the Agency and local authorities.

67.—(1) No action or other proceeding shall lie or be maintainable against the Agency or a local authority for the recovery of damages in respect of any injury to persons, damage to property or other loss alleged to have been caused or contributed to by a failure to exercise any power or carry out any duty conferred or imposed on the Agency or local authority by or under this Act.

(2) Where a local authority or the Agency is satisfied that any authorised person appointed by that local authority or the Agency, or any officer or employee of that local authority or the Agency, has carried out his or her duties in relation to the performance by that local authority or the Agency of its functions under this Act in a *bona fide* manner, the local authority or the Agency, as the case may be, shall indemnify the authorised person, officer or other employee against all actions or claims howsoever arising in respect of the carrying out by him or her of his or her said duties.

F281**[**(3) *Subsections (1)* and *(2)* shall not be construed as enabling a local authority or the Agency to avoid the consequences under EU law of any failure to comply with the Community acts given effect to by this Act.**]**

Annotations

Amendments:

F281 Inserted (8.12.2008) by *Waste Management (Certification of Historic Unlicenced Waste Disposal and Recovery Activity) Regulations 2008* (S.I. No. 524 of 2008), reg. 11(2).

Adaptation of certain references and transitional provisions.

68.—(1) References in any enactment (other than this Act) to a permit under—

(*a*) the European Communities (Waste) Regulations, 1979,

(*b*) the European Communities (Toxic and Dangerous Waste) Regulations, 1982, or

(*c*) the European Communities (Waste Oils) Regulations, 1992,

shall be construed as references to, as appropriate—

(i) such a permit that is for the time being in force by virtue of *subsection (6)*,

(ii) a waste collection permit under *Part IV*,

(iii) a waste licence under *Part V*.

(2) F282**[**...**]**

(3) The provisions of section 62 of the Act of 1992 shall, in so far as they apply or have effect in relation to a particular landfill facility, cease to have effect upon the grant of a waste licence under *section 40* in respect of that facility.

(4) F282**[**...**]**

(5) Section 102 of the Act of 1992 is hereby amended by—

(*a*) the insertion in subsection (1), after "Local Government (Water Pollution) Act, 1977", of "or a waste management plan under *section 22* of the *Waste Management Act, 1996*",

(*b*) the insertion in subsection (2), after "Local Government (Water Pollution) Act, 1977,", of "or *sections 22, 23* and *25* of the *Waste Management Act, 1996*,".

(6) (*a*) A permit issued under the European Communities (Waste) Regulations, 1979, the European Communities (Toxic and Dangerous Waste) Regulations, 1982, or the European Communities (Waste Oils) Regulations, 1992, being a permit to which this subsection applies, shall, notwithstanding the revocation of the said Regulations by this Act, continue in force in accordance with its terms but shall cease to have effect upon, as the case may be—

(i) the grant to the holder of the permit of, as appropriate—

(I) a waste collection permit referred to in *paragraph (b)*, or

(II) a waste licence referred to in the said paragraph, or

(ii) the making of a decision by the Agency or the local authority concerned to refuse to grant to the said holder such a permit or licence.

(*b*) This subsection applies to an aforesaid permit if—

(i) the holder thereof has applied before the appropriate date referred to in *section 39 (1)* for the grant of a waste licence, or, as the case may be, applied before the date referred to in *section 34 (1)* for a waste collection permit, in respect of the activity to which the first-mentioned permit relates, and

(ii) the said application is made in accordance with the requirements of regulations under this Act F283**[**and has not been withdrawn by the applicant**]**.

F284**[**(*c*) A permit which is continued in force by virtue of this subsection shall not cease to have effect solely by reason of the expiry of the period in relation to which the permit was granted and *paragraph (a)* shall be construed accordingly. **]**

F285**[**(7) A reference in *subsection (1)* or *(6)* to a waste licence shall be construed as including a reference to a waste permit or such other authorisation or certificate as may be prescribed under *section 39(4)*.**]**

Annotations

Amendments:

F282 Repealed (1.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 3(1) and sch. 2 part 1, S.I. No. 393 of 2004.

F283 Inserted (19.05.1998) by *European Communities (Amendment of Waste Management Act 1996) Regulations 1998* (S.I. No. 166 of 1998), reg. 5(a).

F284 Inserted (19.05.1998) by *European Communities (Amendment of Waste Management Act 1996) Regulations 1998* (S.I. No. 166 of 1998), reg. 5(b).

F285 Inserted (19.05.1998) by *European Communities (Amendment of Waste Management Act 1996) Regulations 1998* (S.I. No. 166 of 1998), reg. 5(c).

Transfer of functions in relation to waste licences.

69.—(1) The Minister may by order transfer the functions of the Agency under this Act to a local authority in so far as those functions relate to waste licences authorising the carrying on within the functional area of that local authority of such activity or activities as is or are specified in the order.

(2) An order under this section may contain such ancillary, subsidiary and incidental provisions as the Minister may determine, including provisions modifying or adapting any provision of this Act for the purpose of enabling the order to have full effect.

(3) Without prejudice to the generality of *subsection (2)*, an order under this section may specify terms, conditions and restrictions upon and subject to which a function transferred by the order is to be performed by the local authority to which the function is transferred.

(4) If an order under this section is revoked the functions to which it relates shall thereupon become and be vested in the Agency.

(5) The Minister shall cause an order under this section to be published in the *Iris Oifigiúil*.

Exclusion of certain enactments relating to public health.

70.—Section 107 of the Public Health (Ireland) Act, 1878, and section 27 of the Public Health Acts Amendment Act, 1890, shall not apply in relation to waste within the meaning of this Act.

Abandoned vehicles.

71.—(1) A vehicle shall not be abandoned on any land.

(2) Where there is a contravention of *subsection (1)*—

(*a*) the person who placed the vehicle at the place where it was abandoned, and

(*b*) if there is a registered owner of the vehicle and the person aforesaid is not its registered owner, the registered owner,

shall each be guilty of an offence.

(3) In a prosecution for an offence under *subsection (2)*, it shall be a good defence to prove—

(*a*) that the act complained of constituted the transfer of control of the vehicle concerned to a person, with his or her consent, at a facility provided by or on behalf of that person for the purpose of the recovery or disposal of vehicles (including a facility referred to in *section 38 (3)*) and that such transfer of control was not effected in contravention of *section 32*, or

(*b*) in case the defendant is the registered owner of the vehicle concerned, that the abandonment of the vehicle was not authorised by him or her.

(4) Without prejudice to the provisions of *sections 55 (6)* and *56*, and notwithstanding the provisions of any regulations made under section 97 (inserted by section 63 of the Road Traffic Act, 1968) of the Road Traffic Act, 1961, a local authority may enter on any land upon which a vehicle has been abandoned and remove the said vehicle; a local authority shall not, other than with the consent of the occupier, enter into a private dwelling under this subsection unless it has given to the occupier of the dwelling not less than 24 hours notice in writing of its intended entry.

(5) Where, in relation to a vehicle removed from land by a local authority under *subsection (4)*—

(*a*) the local authority is of the opinion that the condition of the vehicle is such that it is capable of being used as a vehicle or can, by the expenditure of a reasonable amount of money, be rendered capable of being so used, and

(*b*) the local authority can, by reasonable inquiry, ascertain the name and address of the owner of the vehicle,

the local authority shall store or arrange for the storage of the vehicle and shall serve a notice on the owner informing him or her of the removal and storage and of the address of the place where the vehicle may be claimed or recovered, and such a notice shall require the owner to claim or recover it within 2 weeks of the date of the service of the notice and inform him or her of the consequences specified in *subsection (7)* of his or her failure to do so.

(6) A vehicle to which *subsection (5)* applies shall be given to a person claiming the vehicle if, but only if, he or she makes a declaration in such form as may be specified by the local authority concerned or in a form to the like effect, stating that he or she is the owner of the vehicle or is authorised by its owner to claim it, and pays to the local authority the amount of the expenditure reasonably incurred by the local authority in respect of the removal and storage of the vehicle.

(7) Where a vehicle is removed from land by a local authority under *subsection (4)*, and—

(*a*) *subsection (5) (a)* does not apply in respect of the vehicle, or

(*b*) the name and address of the owner of the vehicle cannot be ascertained by the local authority by reasonable inquiry, or

(*c*) the said owner fails to claim the vehicle and remove it from the place where it is stored within 4 weeks of the date on which a notice under *subsection (5)* has been served on him or her,

the vehicle shall become the property of the local authority.

(8) No action shall lie in respect of anything done in good faith and without negligence in the course of the removal or storage of a vehicle under this section.

(9) A person who makes a declaration under *subsection (6)* which to his or her knowledge is false or misleading in a material respect shall be guilty of an offence.

(10) For the purposes of this section—

"abandoned", in relation to a vehicle, includes left in such circumstances or for such period that it is reasonable to assume that the vehicle has been abandoned, and cognate words shall be construed accordingly;

"local authority" includes the corporation of a borough of any kind and the council of an urban district;

"registered owner" has the meaning assigned to it by the Road Traffic Act, 1961.

F286[Power to impose environmental levy.

72.—F287[...]]

Annotations

Amendments:

F286 Inserted (17.07.2001) by *Waste Management (Amendment) Act 2001* (36/2001), s. 9, commenced on enactment.

F287 Repealed (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 5(1), S.I. No. 344 of 2023.

Editorial Notes:

E578 The section heading is taken from the amending section in the absence of one included in the amendment.

E579 Previous affecting provision: subs. (3) substituted and subss. (3A)-(3D) inserted (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 12(a), S.I. No. 433 of 2011; section repealed (1.07.2023) as per F-note above.

E580 Previous affecting provision: subss. (4E), (7), (8), (12)(a)(ii)(II) deleted (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 12(b)-(d), S.I. No. 433 of 2011; section repealed (1.07.2023) as per F-note above.

E581 Previous affecting provision: functions transferred and reference to "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9; section repealed (1.07.2023) as per F-note above.

E582 Previous affecting provision: power pursuant to section exercised (1.07.2007) by *Waste Management (Environmental Levy) (Plastic Bag) (Amendment) (No. 2) Regulations 2007* (S.I. No. 167 of 2007), in effect as per reg. 3; section repealed (1.07.2023) as per F-note above.

E583 Previous affecting provision: power pursuant to section exercised (1.07.2007) by *Waste Management (Environmental Levy) (Plastic Bag) (Amendment) Regulations 2007* (S.I. No. 66 of 2007), in effect as per reg. 3; revoked on same date (1.07.2007) by *Waste Management (Environmental Levy) (Plastic Bag) (Amendment) (No. 2) Regulations 2007* (S.I. No. 167 of 2007), reg. 6, in effect as per reg. 3.

E584 Previous affecting provision: subs. (3) amended (20.02.2007) by *Waste Management (Environment Levy) (Plastic Bag) Order 2007* (S.I. No. 62 of 2007), reg. 4, in effect as per reg. 3; subsection substituted as per F-note above.

E585 Previous affecting provision: power pursuant to section exercised (20.02.2007) by *Waste Management (Environmental Levy) (Plastic Bag) Order 2007* (S.I. No. 62 of 2007), in effect as per reg. 3; revoked (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 5(3)(a), S.I. No. 344 of 2023.

E586 Previous affecting provision: subss. (4A)-(4E) inserted (22.10.2003) by *Protection of the Environment Act 2003* (27/2003), s. 50, S.I. No. 498 of 2003; section repealed (1.07.2023) as per F-note above.

E587 Previous affecting provision: power pursuant to section exercised (19.12.2001) by *Waste Management (Environmental Levy) (Plastic Bag) Regulations 2001* (S.I. No. 605 of 2001); revoked (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 5(3)(b), S.I. No. 344 of 2023.

F288**[**Power to impose landfill levy.

73.—(1) The Minister may, after consultation with F289**[**such other Minister of the Government, if any, as the Minister considers appropriate**]**, make regulations providing that there shall be chargeable, leviable and payable a levy (which shall be known as a "landfill levy" and is in this section referred to as the "levy") in respect of—

(*a*) the carrying on of a specified class or classes of waste disposal activity (being an activity referred to in F290**[***paragraph D1* or *D5* of the *Third Schedule***]**), or

(*b*) the disposal by means of a waste disposal activity referred to in F291**[***paragraph D1* or *D5* of the *Third Schedule***]**, or a specified class or classes of such activity, of a specified class or classes of waste, or

(*c*) subject to *subsection (2)*, both the carrying on of an activity referred to in *paragraph (a)* and an activity referred to in *paragraph (b)*.

(2) Regulations under *subsection (1)(c)* shall not result in levy being payable twice in respect of a particular disposal of a particular quantity of waste.

F292**[**(3) The amount of the levy shall be specified in the regulations under *subsection (1)* but shall not exceed an amount of €120 for each tonne of waste disposed of.

(3A) The Minister may, subject to *subsections (3)* and *(3B)*, amend the amount of the levy standing specified in regulations under *subsection (1)* for the purposes of promoting—

(*a*) the prevention of the generation of waste, and

(*b*) the reduction of the quantity of waste disposed of by means of an activity referred to in *subsection (1)*,

once and once only in each financial year beginning with the financial year in which the Environment (Miscellaneous Provisions) Act 2011 is passed.

(3B) The Minister shall, when amending the amount of levy standing specified in regulations under *subsection (1)*, substitute an amount that does not exceed the amount so standing specified by €50.**]**

(4) Subject to *subsection (3)*, regulations under *subsection (1)* may specify, as respects the amount of the levy payable under them, different such amounts by

reference to different activities referred to in any of *paragraphs (a)*, *(b)* and *(c)* of *subsection (1)* in respect of which the levy is so payable.

(5) The levy shall be payable by the person who carries on the waste disposal activity concerned.

F293**[**(5A) Where any amount of levy becomes payable in accordance with regulations made under this section and is not paid, simple interest on the amount shall be paid by the person liable to pay the levy and such interest shall be calculated from the date on which the levy became payable and at a rate of 0.0322 per cent for each day or part of a day during which the amount remains unpaid.

(5B) Interest due in accordance with *subsection (5A)* shall be payable to the Environment Fund in the manner specified in the regulations under subsection (1) and the provisions of those regulations relating to the recovery of the levy shall apply to the interest as if it were levy.

(5C) Interest paid in accordance with *subsection (5A)* shall be treated as levy for the purposes of—

(*a*) *subsection (8)*, in relation to provision under that subsection for levy by virtue of F294**[**paragraph (n) of section 12 (3) of the Act of 2022**]**, and

F294**[***(b)* section 8 (7) of the Act of 2022.**]]**

(6) Regulations under *subsection (1)* shall—

(*a*) provide that the levy (not being levy chargeable by virtue of those regulations on the local authority) shall be payable to the local authority in whose functional area the waste disposal activity concerned is carried on, and

(*b*) confer on that local authority powers with respect to the collection and recovery of the levy (and, for this purpose, the regulations may adapt, with or without modifications, the provisions of any enactment relating to the estimation, collection and recovery of, or the inspection of records or the furnishing of information in relation to, any tax charged or imposed by that enactment).

(7) (*a*) Regulations under *subsection (1)* may, for the purpose mentioned in *paragraph (b)*, restrict the extent to which a local authority may exercise a power to make a charge for the provision by it of any service in circumstances where, in the opinion of the Minister, such exercise is so as to enable the local authority to recoup amounts paid by it by way of levy.

(*b*) The purpose mentioned in *paragraph (a)* is ensuring that the exercise of the power referred to in that paragraph does not result in one or more categories of person paying a disproportionate amount of the total amount of charges a local authority could reasonably be expected to make in respect of the provision of services in the circumstances concerned.

(*c*) For so long as regulations under *subsection (1)* restrict the exercise of the power referred to in *paragraph (a)*, the enactment that confers that power shall be construed as if there were contained in it a provision the effect of which is to restrict the exercise of the power in the manner provided by the said regulations.

(8) Regulations under *subsection (1)* may provide, in relation to levy under this section, for all the matters F294**[**which regulations under section 11 (1) of the Act of 2022 may, by virtue of paragraphs (a), (c), (d) and (i) to (n) of section 12 (3) of that Act,**]** provide in relation to levy under that section and those paragraphs shall, accordingly, apply for the purposes of this section with any necessary modifications (including such modifications as will enable like provision with respect to the payment into the Environment Fund of amounts received by a local authority on account of

levy under this section to be made with respect to levy under this section chargeable on the local authority itself).

(9) F295**[**...**]**

(10) A person who fails to—

(*a*) pay levy which is due and payable by virtue of regulations under *subsection (1)*, or

(*b*) comply with a provision of regulations under that subsection,

shall be guilty of an offence.**]**

Annotations

Amendments:

F288 Inserted (17.07.2001) by *Waste Management (Amendment) Act 2001* (36/2001), s. 11, commenced on enactment.

F289 Substituted (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 13(a), S.I. No. 433 of 2011.

F290 Substituted (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 13(b), S.I. No. 433 of 2011.

F291 Substituted (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 13(c), S.I. No. 433 of 2011.

F292 Substituted and inserted (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 13(d), S.I. No. 433 of 2011.

F293 Inserted (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 13(e), S.I. No. 433 of 2011.

F294 Substituted (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 28(a)(i), (ii), (b), S.I. No. 344 of 2023.

F295 Deleted (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 13(f), S.I. No. 433 of 2011, subject to transitional provision in s. 47(2).

Editorial Notes:

E588 Power pursuant to section exercised (1.09.2023) by *Waste Management (Landfill Levy) (Amendment) Regulations 2023* (S.I. No. 398 of 2023), in effect as per reg. 1(2).

E589 Power pursuant to section exercised (12.04.2019) by *Waste Management (Landfill Levy) (Amendment) Regulations 2019* (S.I. No. 182 of 2019).

E590 Power pursuant to section exercised (1.06.2015) by *Waste Management (Landfill Levy) Regulations 2015* (S.I. No. 189 of 2015), in effect as per reg. 2.

E591 The section heading is taken from the amending section in the absence of one included in the amendment.

E592 Previous affecting provision: power pursuant to section exercised (1.07.2013) by *Waste Management (Landfill Levy) (Amendment) Regulations 2013* (S.I. No. 194 of 2013), in effect as per reg. 2; rendered obsolete by revocation of S.I. No. 434 of 2011, see below.

E593 Previous affecting provision: power pursuant to section exercised (1.07.2012) by *Waste Management (Landfill Levy) (Amendment) Regulations 2012* (S.I. No. 221 of 2012), in effect as per reg. 2; rendered obsolete by revocation of S.I. No. 434 of 2011, see below.

E594 Previous affecting provision: pursuant to section exercised (1.09.2011) by *Waste Management (Landfill Levy) Regulations 2011* (S.I. No. 434 of 2011), in effect as per reg. 2; revoked (1.06.2015) by *Waste Management (Landfill Levy) Regulations 2015* (S.I. No. 189 of 2015), reg. 19(1), in effect as per reg. 2; subject to transitional provision in reg. 19(2).

E595 Previous affecting provision: power pursuant to section exercised (1.02.2010) by *Waste Management (Landfill Levy) (Amendment) Regulations 2010* (S.I. No. 31 of 2010), in effect as per reg. 2; rendered obsolete by revocation of S.I. No. 199 of 2008, see below.

E596 Previous affecting provision: power pursuant to section exercised and subs. (3) amended (20.01.2010) by *Waste Management (Landfill Levy) Order 2010* (S.I. No. 13 of 2010); superseded (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 13(d), S.I. No. 433 of 2011.

E597 Previous affecting provision: power pursuant to section exercised (31.12.2009) by *Waste Management (Landfill Levy) Amendment Regulations 2009* (S.I. No. 550 of 2009), in effect as per reg. 2; rendered obsolete by revocation of S.I. No. 199 of 2008, see below.

E598 Previous affecting provision: power pursuant to section exercised and subs. (3) amended (11.12.2009) by *Waste Management (Landfill Levy) Order 2009* (S.I. No. 496 of 2009), art. 4; superseded (20.01.2010) by *Waste Management (Landfill Levy) Order 2010* (S.I. No. 13 of 2010), art. 4.

E599 Previous affecting provision: pursuant to section exercised (1.07.2008) by *Waste Management (Landfill Levy) Regulations 2008* (S.I. No. 199 of 2008), in effect as per reg. 2; revoked (1.09.2011) by *Waste Management (Landfill Levy) Regulations 2011* (S.I. No. 434 of 2011), reg. 19(1), in effect as per reg. 2; subject to transitional provision in reg. 19(2).

E600 Previous affecting provision: power pursuant to section exercised and subs. (3) amended (4.06.2008) by *Waste Management (Landfill Levy) Order 2008* (S.I. No. 168 of 2008); superseded (11.12.2009) by *Waste Management (Landfill Levy) Order 2009* (S.I. No. 496 of 2009), art. 4.

E601 Previous affecting provision: pursuant to section exercised (28.07.2006) by *Waste Management (Landfill Levy)(Amendment) Regulations 2006* (S.I. No. 402 of 2006); revoked (1.07.2008) by *Waste Management (Landfill Levy) Regulations 2008* (S.I. No. 199 of 2008), reg. 20, in effect as per reg. 2.

E602 Previous affecting provision: pursuant to section exercised (13.03.2002) by *Waste Management (Landfill Levy) Regulations 2002* (S.I. No. 86 of 2002); revoked (1.07.2008) by *Waste Management (Landfill Levy) Regulations 2008* (S.I. No. 199 of 2008), reg. 20, in effect as per reg. 2.

F296[Waste recovery levy

73A.— (1) The Minister may, after consultation with such other Minister of the Government, if any, as the Minister considers appropriate, make regulations providing that there shall be chargeable, leviable and payable a levy (which shall be known as, and in this section is referred to as, a "recovery levy") in respect of—

(*a*) the carrying on of a specified class or classes of an activity referred to in the *Fourth Schedule*,

(*b*) the recovery by means of an activity referred to in the *Fourth Schedule*, or a specified class or classes of such activity, of a specified class or classes of waste,

(*c*) subject to *subsection (2)*, the carrying on of an activity referred to in *paragraph (a)* and an activity referred to in *paragraph (b)*, or

(*d*) the export of waste for recovery in so far as it relates to an activity referred to in any of *paragraphs (a)* to *(c)*.

(2) Regulations under *subsection (1)(c)* shall not result in the recovery levy being payable twice in respect of a particular recovery of a particular quantity of waste.

(3) The amount of the recovery levy—

(a) shall be specified in the regulations under *subsection (1)*,

(b) shall not exceed an amount of €120 per tonne, and

(c) may be specified in respect of the amount of waste sent for recovery or the amount of waste recovered.

(4) The Minister may—

(*a*) for the purposes of promoting either or both of the following:

(i) the prevention of the generation of waste;

(ii) the reduction of the quantity of waste recovered or sent for recovery by means of an activity referred to in *subsection (1)*,

and

(*b*) subject to *subsection (3)(b)* and *(5)*,

amend the amount of the recovery levy standing specified in regulations under *subsection (1)* once and once only in each financial year beginning with the financial year in which section 29 of the Act of 2022 comes into operation.

(5) The Minister shall, when amending the amount of recovery levy standing specified in regulations under *subsection (1)*, substitute an amount that does not exceed the amount so standing specified by €50.

(6) Subject to *subsection (3)*, regulations under *subsection (1)* may specify, in respect of the amount of the recovery levy payable under them, different amounts by reference to different activities referred to in any of *paragraphs (a)*, *(b)* and *(c)* of *subsection (1)* in respect of which the recovery levy is so payable.

(7) The recovery levy shall be payable by—

(*a*) the person who carries on the waste recovery activity concerned, or

(*b*) where the waste is to be shipped for recovery, by the waste holder or such class of waste holder as may be prescribed.

(8) Where any amount of recovery levy becomes payable in accordance with regulations made under this section and is not paid, simple interest on the amount shall be paid by the person liable to pay the recovery levy and such interest shall be calculated from the date on which the recovery levy became payable and at a rate of 0.0322 per cent for each day or part of a day during which the amount remains unpaid.

(9) Interest due in accordance with *subsection (8)* shall be payable to the Circular Economy Fund in the manner specified in the regulations under *subsection (1)* and the provisions of those regulations relating to the levy shall apply to the interest as if it were recovery levy.

(10) Interest paid in accordance with *subsection (8)* shall be treated as recovery levy for the purposes of—

(*a*) *subsection (15)*, in relation to provision under that subsection for recovery levy by virtue of paragraph (n) of section 12 (3) of the Act of 2022, and

(*b*) section 8 (7) of the Act of 2022.

(11) Regulations under *subsection (1)* shall—

(*a*) provide that the recovery levy (not being levy chargeable by virtue of those regulations on the local authority) shall be payable to the local authority in whose functional area the waste recovery activity concerned is carried on,

or, where the waste recovery activity is to take place outside of the State, the levy shall be payable to Dublin City Council, and

(*b*) confer on the local authority referred to in *paragraph (a)* powers with respect to the collection and recovery of the levy (and, for this purpose, the regulations may adapt, with or without modifications, the provisions of any enactment relating to the estimation, collection and recovery of, or the inspection of records or the furnishing of information in relation to, any tax charged or imposed by that enactment).

(12) Regulations under *subsection (1)* may, for the purpose referred to in *subsection (13)*, restrict the extent to which a local authority may exercise a power to make a charge for the provision by it of any service in circumstances where, in the opinion of the Minister, such exercise is so as to enable the local authority to recoup amounts paid by it by way of recovery levy.

(13) The purpose referred to in *subsection (12)* is that of ensuring that the exercise of the power referred to in that subsection does not result in one or more categories of person paying a disproportionate amount of the total amount of charges a local authority could reasonably be expected to make in respect of the provision of services in the circumstances concerned.

(14) For so long as regulations under *subsection (1)* restrict the exercise of the power referred to in *subsection (12)*, the enactment that confers that power shall be construed as if there were contained in it a provision the effect of which is to restrict the exercise of the power in the manner provided by the said regulations.

(15) Regulations under *subsection (1)* may provide, in relation to recovery levy, for all the matters which regulations under section 11 (1) of the Act of 2022 may, by virtue of paragraphs (a), (c), (d) and (i) to (n) of section 12 (3) of that Act, provide in relation to levy under section 11 and those paragraphs shall, accordingly, apply for the purposes of this section with any necessary modifications (including such modifications as will enable like provision with respect to the payment into the Circular Economy Fund of amounts received by a local authority on account of recovery levy to be made with respect to recovery levy chargeable on the local authority itself).

(16) A person who fails—

(*a*) to pay recovery levy which is due and payable by virtue of regulations under *subsection (1)*, or

(*b*) to comply with a provision of regulations under *subsection (1)*,

shall be guilty of an offence.**]**

Annotations

Amendments:

F296 Inserted (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 29, S.I. No. 344 of 2023, art. 4(g).

Editorial Notes:

E603 Power pursuant to section exercised (15.12.2023) by *Circular Economy (Waste Recovery Levy) (Amendment) Regulations 2023* (S.I. No. 652 of 2023).

E604 Power pursuant to section exercised (1.09.2023) by *Circular Economy (Waste Recovery Levy) Regulations 2023* (S.I. No. 406 of 2023), in effect as per reg. 1(2).

E605 The section heading is taken from the amending section in the absence of one included in the amendment.

F297**[**Environment Fund.

74.—F298**[**...**]]**

Annotations

Amendments:

F297 Inserted (17.07.2001) by *Waste Management (Amendment) Act 2001* (36/2001), s. 12, commenced on enactment.

F298 Repealed (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 5(2), S.I. No. 345 of 2023.

Editorial Notes:

E606 The section heading is taken from the amending section in the absence of one included in the amendment.

E607 Previous affecting provision: subs. (7) amended (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 14(a), S.I. No. 433 of 2011; section repealed (1.07.2023) as per F-note above.

E608 Previous affecting provision: subs. (9)(ka) Inserted (23.08.2011) by *Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 14(b), S.I. No. 433 of 2011; section repealed (1.07.2023) as per F-note above.

E609 Previous affecting provision: functions transferred and references to "Minister for Finance" construed (29.07.2011) by *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011), arts. 3, 5 and sch. 1 part 2, in effect as per art. 1(2), subject to transitional provisions in arts. 6-9; section repealed (1.07.2023) as per F-note above.

E610 Previous affecting provision: subs. (7) substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 51, S.I. No. 393 of 2004; section repealed (1.07.2023) as per F-note above.

F299**[**Charges for waste services.

75.—(1) A local authority may make a charge in respect of the provision of any waste service by, or on behalf of, that authority.

(2) A charge made by a local authority under *subsection (1)* shall be of such an amount as the authority considers appropriate and shall be payable by and recoverable from the person for whom the service is provided, or, where the service is provided in respect of premises—

(*a*) in case the premises are not owned by a local authority and comprise more than one dwelling, the owner of the premises, and

(*b*) in any other case, the occupier of the premises,

and different such charges may be made by such an authority in respect of persons, premises or services of different classes or descriptions or, where the service relates to the collection, recovery or disposal of waste (without prejudice to any other basis for making a charge) in respect of different quantities, volumes or types of waste.

(3) A local authority may, if it is satisfied that it is appropriate so to do on grounds of personal hardship, waive all or portion of a charge made by it under *subsection (1)*.

(4) Where a charge (or portion thereof) is waived under *subsection (3)*, the liability of a person to pay that charge (or portion thereof) and any obligation on the local authority by whom the waiver was made to collect the charge (or portion thereof) shall cease.

(5) (*a*) An amount payable to a local authority on foot of a charge made under *subsection (1)* shall be payable either in advance or in such instalments payable on or by such dates as the authority shall determine, and, in default of being paid within two months of becoming payable, may be recovered by the authority as a simple contract debt in any court of competent jurisdiction.

(*b*) In any proceedings by a local authority pursuant to this subsection a certificate purporting to be signed by an officer of the authority authorised by it for purposes of this subsection and stating any matters relating to the liability of the defendant in the proceedings to pay an amount due on foot of a charge made under this section shall be sufficient evidence of those matters until the contrary is shown.

(*c*) Such a certificate shall be admitted in evidence in those proceedings without proof of the signature on it, that the signatory was an officer of the authority concerned or that he or she was authorised by it for the purposes of this subsection.

(*d*) The Minister may make regulations in relation to form and content of the certificate referred to in *paragraph (b)*.

(6) For the avoidance of doubt, *subsection (5)* authorises a local authority to determine that an amount referred to in that subsection shall be payable in advance of the particular occasion on which a waste service provided by it on a regular basis is provided to a person or in respect of premises and, in particular, that the amount so payable shall be the amount it determines should be payable in respect of each occasion of the service being provided by it.

(7) Where a sum is due to a local authority by a person in respect of a charge made under *subsection (1)* and, at the same time, another sum is due by that authority to that person, the former sum may be set off against the latter either, as may be appropriate, in whole or in part.

(8) Notwithstanding the provisions of any order made under any other enactment, the making of a charge in respect of the provision of a waste service and any exercise of the power of waiver under *subsection (3)* shall each be an executive function.

(9) A local authority shall not, by resolution, under section 140 of the Local Government Act 2001 give a direction or require any act, matter or thing to be done or effected where the effect of such direction or requirement would be contrary to, or inconsistent with, this section and any such resolution purporting to be passed under the said section 140 which contravenes this subsection shall be void.

(10) (*a*) The manager of a local authority may make an order prescribing that waste placed for the purposes of its being collected by or on behalf of the local authority shall bear evidence, in such a manner or form as is provided in the order, of the payment of any charge that has been made under this section in respect of the collection of the waste.

(*b*) In so far as there is any inconsistency between the provisions of an order under this subsection and bye-laws made by the local authority concerned under *section 35(1)* the provisions of the order shall prevail.

(*c*) The manager of a local authority may by order amend or revoke an order made by him or her under this subsection (including an order under this paragraph).

(11) In this section—

"dwelling" includes a part of any premises let as a separate dwelling, whether or not the person to whom it is let shares with any other person any accommodation, amenity or facility in connection therewith or any other portion of the premises;

"owner" means, in relation to a premises, a person, other than a mortgagee not in possession, who, whether in his or her own right or as trustee or agent for any other

person, is entitled to receive the rack rent of the premises or, where the premises are not let at a rack rent, would be so entitled if they were so let.**]**

Annotations

Amendments:

F299 Inserted (8.09.2003) by *Protection of the Environment Act 2003* (27/2003), s. 52, S.I. No. 393 of 2003.

F300**[**Powers to make regulations in respect of end-of-waste and by-products processes

75A.— (1) The Minister may make regulations in relation to notifications to the Agency under Regulation 27 or 28 of the European Union (Waste Directive) Regulations 2011 (S.I. No. 126 of 2011) (in this section referred to as a "notification") and determinations or decisions, as the case may be, further to such notifications.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may provide for any or all of the following:

(*a*) the form and content of a notification under the said Regulation 27 seeking a determination or under the said Regulation 28 seeking a decision and provision may be made for different forms and content for different circumstances or classes of circumstances or for different cases or classes of cases;

(*b*) the time within which a notification is to be made;

(*c*) the particulars, including, plans, documents and other information, to be submitted to the Agency for the purposes of the notification and the period within which they are to be submitted;

(*d*) requirements in relation to the submission by the person making that notification of such additional information or particulars relating to the notification to the Agency, including the period within which such additional information or particulars are to be submitted;

(*e*) the processing by the Agency of notifications;

(*f*) requirements in relation to the person making a notification defraying or contributing towards the cost of any investigation carried out, caused to be carried out, or arranged for, by the Agency in relation to the notification;

(*g*) the storage, movement, disposal, or other handling or processing of any material that is the subject of a notification either before or after a determination or decision, as the case may be, is made in respect of the notification;

(*h*) the nature of materials, including restrictions on particular materials, in respect of which a notification may be made;

(*i*) the circumstances in which the Agency or other public authority or body, as the case may be, may reject or refuse to consider a notification;

(*j*) the circumstances in which the Agency may waive the requirement for a notification;

(*k*) the attachment by the Agency of conditions to a determination or decision;

(*l*) the establishment and maintenance by the Agency of a register or registers in respect of such materials or classes of materials as may be specified in the regulations, and the conditions to be satisfied in respect of those materials or classes of materials in order to be registered;

(*m*) such incidental, supplementary, consequential or transitional provisions as appear to the Minister to be necessary for the purposes or in consequence of, or to give full effect to, the regulations.

(3) Regulations made under *subsection (1)* may provide for—

(*a*) the payment of fees,

(*b*) exemption from the payment of fees, or

(*c*) the waiver, remission, or refund (in whole or in part) of fees,

and different fees, exemptions, waivers, remissions or refunds may be provided for in different circumstances or classes of circumstances or for different cases or classes of cases.

(4) Where, under regulations made under *subsection (1)*, a fee is payable in respect of a notification, the notification shall be deemed not to have been made until the date on which the Agency receives the fee.

(5) A person who, in relation to any matter to which regulations under this section relates, makes a statement in writing which, to his knowledge is false or misleading in a material respect, shall be guilty of an offence.

(6) A defrayment or contribution the payment of which is required under regulations made under this section shall be payable on demand and, in default of being so paid, shall be recoverable as a simple contract debt in any court of competent jurisdiction.**]**

Annotations

Amendments:

F300 Inserted (1.07.2023) by *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022), s. 30, S.I. No. 334 of 2023, art. 4(g).

Editorial Notes:

E611 The section heading is taken from the amending section in the absence of one included in the amendment.

F301**[**Transitional provisions consequent on Protection of the Environment Act 2003.

76.—(1) Every waste licence and revised waste licence granted under this Act and in force immediately before the commencement of section 53 of the Protection of the Environment Act 2003 shall, without prejudice to *subsections (3)* and *(4)*, *section 49* and the other provisions of this Act, continue in force; for the avoidance of doubt, the provisions of this Act as they stand amended by the *Protection of the Environment Act 2003*, and not as they stood before such amendment, shall apply to such a waste licence.

(2) Every application made under this Act for a waste licence, or the review of a waste licence or a revised waste licence, and every review of a waste licence or revised waste licence commenced by the Agency of its own volition under this Act and not finally dealt with and determined or completed before the commencement of section 53 of the Protection of the Environment Act 2003, shall continue to be dealt with by the Agency, and be determined or completed by it, as if the application were an application for a waste licence, or the review of a waste licence or a revised waste licence under this Act as it stands amended by the Protection of the Environment Act 2003 or, as the case may be, the review were a review commenced by the Agency of its own volition under this Act as it stands so amended.

(3) The Agency shall, not later than 30 September 2007, have done the following (which, by virtue of this subsection, it has the power to do)—

(*a*) examined the terms of every waste licence and revised waste licence to which *subsection (1)* applies and for the time being in force and determined whether, having regard to the provisions of Council Directive 96/61/EC of 24 September 1996 and *subsection (4)*, the waste licence or revised waste licence requires to be reviewed under this Part or be the subject of the exercise of the powers conferred by *subsection (4)*, and

(*b*) if—

(i) it has determined that the waste licence or revised waste licence requires to be so reviewed, commenced such a review and exercised the powers conferred on it by this Part consequent on such a review, or

(ii) it has determined that the waste licence or the revised waste licence does not require to be so reviewed and *subsection (4)* does not apply and, accordingly, that no further action is required, declared in writing that it is of that opinion.

(4) If the bringing into conformity with Council Directive 96/61/EC of 24 September 1996 of a waste licence or revised waste licence to which *subsection (1)* applies can, in the opinion of the Agency, be achieved by amending one or more conditions of the licence (and the making of those amendments will not significantly alter the character of the licence) then, unless the Agency considers it ought nevertheless, in the public interest or because of other special considerations, carry out the review and exercise the powers referred to in *subsection (3)(b)(i)* in relation to the licence, the Agency shall have made, not later than 30 September 2007, those amendments of the conditions of the waste licence or revised waste licence (which, by virtue of this subsection, it has power to do).**]**

Annotations

Amendments:

F301 Inserted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 53, S.I. No. 393 of 2004.

F302**[**Transitional matters for activities not licensed under this Act consequent upon Industrial Emissions Directive.

76A.—(1) In this section—

"earlier *Part V*" means *Part V* as it had effect before the coming into operation of the European Union (Industrial Emissions) Regulations 2013;

"licence or revised licence" means a licence or revised licence under Part IV of the Act of 1992.

(2) On or after 7 January 2014 a person shall not carry on an activity to which *subsection (3)* applies unless—

(*a*) on the coming into operation of this section a waste licence or revised waste licence under the earlier *Part V* is in force in relation to the activity, or

(*b*) in respect of the activity—

(i) on the coming into operation of this section an application has been made to the Agency under the earlier *Part V* for a waste licence or revised waste licence and the requirements of regulations made under *section 45* in relation to the application for the waste licence or revised waste licence have been complied with by the applicant, and

(ii) on or before 7 January 2014—

(I) a waste licence or revised waste licence, or, as the case may be, a licence or revised licence, on foot of the application referred to in

subparagraph (i), subject to *subsection (6)*, is granted if required, under the earlier *Part V* or, as the case may be, Part IV of the Act of 1992, and

(II) the licensee concerned commences carrying on the activity.

(3) *Subsection (2)* applies to any of the following activities:

(*a*) an activity specified in paragraph 11.2 or 11.3 of the First Schedule to the Act of 1992 provided that Directive 2008/1/EU[1]1 of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (in this section referred to as "Directive 2008/1/EC") applies to the activity;

(*b*) an activity specified in paragraph 11.4(*a*)(i) or (ii) or paragraph 11.5 of the First Schedule to the Act of 1992.

(4) On or after 7 July 2015 a person shall not continue to carry on an activity to which *subsection (5)* applies unless—

(*a*) on the coming into operation of this section a waste licence or revised waste licence granted under the earlier *Part V* is in force in relation to that activity, or

(*b*) in respect of the activity—

(i) on the coming into operation of this section an application has been made to the Agency under the earlier *Part V* for a waste licence or revised waste licence and the requirements of regulations made under *section 45* in relation to the application for the waste licence or revised waste licence have been complied with by the applicant, and

(ii) on or before 7 July 2015—

(I) a waste licence or revised waste licence licence, or, as the case may be, a licence or revised licence, on foot of the application referred to in *subparagraph (i)*, subject to *subsection (7)*, is granted if required, under the earlier *Part V* or, as the case may be, Part IV of the Act of 1992, and

(II) the licensee concerned commences carrying on the activity.

(5) *Subsection (4)* applies to any of the following activities:

(*a*) an activity specified in paragraph 11.2 or 11.3 of the First Schedule to the Act of 1992 provided that Directive 2008/1/EC does not apply to the activity;

(*b*) an activity specified in paragraph 11.4(*a*)(iii), 11.4(*a*)(iv), 11.4(*a*)(v), 11.4(*b*), 11.6 or 11.7 of the First Schedule to the Act of 1992.

(6)(*a*) Where an application to which *subsection (2)(b)* refers is determined or completed by the Agency before 30 September 2013 it shall be dealt with by the Agency, and be determined or completed by it under the earlier *Part V*.

(*b*) Where an application to which *subsection (2)(b)* refers is determined or completed by the Agency on or after 30 September 2013, it shall, subject to this section, be dealt with by the Agency, and be determined or completed by it, under Part IV of the Act of 1992 and the licence or revised licence concerned shall be deemed to have been granted under Part IV of the Act of 1992 and shall not be a waste licence or a revised waste licence.

(7)(*a*) Where an application to which *subsection (4)(b)* refers is determined or completed by the Agency before 28 February 2014 it shall be dealt with by the Agency, and be determined or completed by it under the earlier *Part V*.

[1] O.J. No. L24, 29.1.2008, p.8

(*b*) Where an application to which *subsection (4)(b)* refers is determined or completed by the Agency on or after 28 February 2014, it shall, subject to this section, be dealt with by the Agency, and be determined or completed by it, under Part IV of the Act of 1992 and the licence or revised licence concerned shall be deemed to have been granted under Part IV of the Act of 1992 and shall not be a waste licence or a revised waste licence.

(8) A waste licence or revised waste licence referred to in *subsection (2)(a)* in force on the coming into operation of this section or *(2)(b)* and granted in accordance with *subsection (6)(a)* under the earlier *Part V*, shall continue in force as if this section had not come into operation until the Agency, not later than 7 January 2014, shall have—

(*a*) examined the terms of every waste licence and revised waste licence referred to in *subsection (2)(a)* or *(2)(b)* which was granted under the earlier *Part V* and determined whether, having regard to the provisions of the Industrial Emissions Directive, the waste licence or revised waste licence is to be amended to bring it into conformity with that Directive, and

(*b*) if—

(i) it has determined that the waste licence or revised waste licence requires to be so amended, completed the amendment in accordance with *subsection (11)*, or

(ii) it has determined that the waste licence or revised waste licence does not require to be so amended and accordingly, that no further action is required, declared in writing that it is of that opinion.

(9) A waste licence or revised waste licence referred to in *subsection (4)(a)* in force on the coming into operation of this *section or (4)(b)* and granted, in accordance with *subsection (7)(a)* under the earlier *Part V*, shall continue in force as if this section had not come into operation until the Agency, not later than 7 July 2015, shall have—

(*a*) examined the terms of every waste licence and revised waste licence referred to in *subsection (4)(a)* or *(4)(b)* which was granted under the earlier Part V and for the time being in force and determined whether, having regard to the provisions of the Industrial Emissions Directive, the waste licence or revised waste licence is to be amended to bring it into conformity with that Directive, and

(*b*) if—

(i) it has determined that the waste licence or revised waste licence requires to be so amended, completed the amendment in accordance with *subsection (11)*, or

(ii) it has determined that the waste licence or revised waste licence does not require to be so amended and accordingly, that no further action is required, declared in writing that it is of that opinion.

(10)(*a*) None of the requirements of section 90 of the Act of 1992 shall apply to the exercise of the power under *subsection (8)* or *(9)* but the Agency shall, where appropriate, consult with the licensee before exercising the power.

(*b*) Where the Agency considers that it is necessary for the purpose of performance of the functions conferred on the Agency under *subsection (8)* or (9), it may give notice to the licensee to furnish to the Agency, within the period specified in the notice, information, documents or other particulars specified in the notice.

(*c*) The Agency shall, as soon as may be after the exercise of the power under *subsection (8)* or *(9)*, notify particulars of the amendment effected by that exercise to each person who made an objection to the Agency under *section*

42(3) in relation to any exercise of the powers under *section 40* or *46* as respects the waste licence or revised waste licence concerned.

(11) If the bringing into conformity with the Industrial Emissions Directive of a waste licence or revised waste licence under *subsection (8)* or *(9)* can, in the opinion of the Agency, be achieved by amending one or more of the conditions of or schedules to the waste licence or revised waste licence (and the making of the amendment will not significantly alter the character of the licence) then the Agency shall make those amendments of the conditions of or schedules to the waste licence or revised waste licence (which, by virtue of this subsection, it has power to do).

(12) On and from the performance of its functions by the Agency under *subsection (8)* or *(9)*—

(*a*) Part IV of the Act of 1992 applies to the licence in relation to which the Agency has made its determination under either subsection,

(*b*) the licence concerned shall be deemed to have been granted under Part IV of the Act of 1992, and

(*c*) the licence concerned shall not be a waste licence or a revised waste licence.**]**

Annotations

Amendments:

F302 Inserted (23.04.2013) by *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013), reg. 28.

F303**[**Transitional and savings provisions consequent on Environment (Miscellaneous Provisions) Act 2015

77.—(1) Every application for a waste collection permit under *section 34* or for a review of a waste collection permit under *section 34A* (inserted by section 38 of the Environment (Miscellaneous Provisions) Act 2015 made and not finally dealt with and determined or completed before the commencement of section 37 or 38 of the Environment (Miscellaneous Provisions) Act 2015 shall, on that commencement, continue to be dealt with by a local authority and be determined and completed by it as if the application were an application under this Act as it stands amended by section 37 or 38 of the Environment (Miscellaneous Provisions) Act 2015.

(2) Every application made for a waste permit or such other authorisation or certificate as may be granted under *section 39* and not finally dealt with and determined or completed before the commencement of section 40 of the Environment (Miscellaneous Provisions) Act 2015 shall, on that commencement, continue to be dealt with by a local authority or the Agency and be determined and completed by it as if the application were an application under this Act as it stands amended by section 40 of the Environment (Miscellaneous Provisions) Act 2015.

(3) Every application for a waste licence under *section 40* or for a review of a waste licence under *section 46* made and not finally dealt with and determined or completed before the commencement of section 41 of the Environment (Miscellaneous Provisions) Act 2015 shall, on that commencement, continue to be dealt with by the Agency and be determined and completed by it as if the application were an application under this Act as it stands amended by section 41 of the Environment (Miscellaneous Provisions) Act 2015.**]**

Annotations

Amendments:

F303 Inserted (31.08.2015) by *Environment (Miscellaneous Provisions) Act 2015* (29/2015), s. 43, S.I. No. 358 of 2015.

Editorial Notes:

E612 The section heading is taken from the amending section in the absence of one included in the amendment.

Section 27A(3).

F304**[**FIRST SCHEDULE

Examples of Waste Prevention Measures Referred to in Article 29 of Waste Directive

Measures that can affect the framework conditions related to the generation of waste

1. The use of planning measures, or other economic instruments promoting the efficient use of resources.

2. The promotion of research and development into the area of achieving cleaner and less wasteful products and technologies and the dissemination and use of the results of such research and development.

3. The development of effective and meaningful indicators of the environmental pressures associated with the generation of waste aimed at contributing to the prevention of waste generation at all levels, from product comparisons at Community level through action by local authorities to national measures.

Measures that can affect the design and production and distribution phase

4. The promotion of eco-design (the systematic integration of environmental aspects into product design with the aim to improve the environmental performance of the product throughout its whole life cycle).

5. The provision of information on waste prevention techniques with a view to facilitating the implementation of best available techniques by industry.

6. Organise training of competent authorities as regards the insertion of waste prevention requirements in permits under the Waste Directive and F305**[**the Industrial Emissions Directive**]**.

7. The inclusion of measures to prevent waste production at installations not falling under F305**[**the Industrial Emissions Directive**]**. Where appropriate, such measures could include waste prevention assessments or plans.

8. The use of awareness campaigns or the provision of financial, decision making or other support to businesses. Such measures are likely to be particularly effective where they are aimed at, and adapted to, small and medium sized enterprises and work through established business networks.

9. The use of voluntary agreements, consumer/producer panels or sectoral negotiations in order that the relevant businesses or industrial sectors set their own waste prevention plans or objectives or correct wasteful products or packaging.

10. The promotion of creditable environmental management systems, including EMAS and ISO 14001.

Measures that can affect the consumption and use phase

11. Economic instruments such as incentives for clean purchases or the institution of an obligatory payment by consumers for a given article or element of packaging that would otherwise be provided free of charge.

12. The use of awareness campaigns and information provision directed at the general public or a specific set of consumers.

13. The promotion of creditable eco-labels.

14. Agreements with industry, such as the use of product panels such as those being carried out within the framework of Integrated Product Policies or with retailers on

the availability of waste prevention information and products with a lower environmental impact.

15. In the context of public and corporate procurement, the integration of environmental and waste prevention criteria into calls for tenders and contracts, in line with the Handbook on environmental public procurement published by the European Commission on 29 October 2004.

16. The promotion of the reuse and/or repair of appropriate discarded products or of their components, notably through the use of educational, economic, logistic or other measures such as support to or establishment of accredited repair and reuse-centres and networks especially in densely populated regions.**]**

Annotations

Amendments:

F304 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 24.

F305 Substituted (23.04.2013) by *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013), reg. 29.

Section 4(1)

F306**[**SECOND SCHEDULE

Properties of Waste which Render it Hazardous

HP 1 "Explosive": waste which is capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings. Pyrotechnic waste, explosive organic peroxide waste and explosive self-reactive waste is included.

When a waste contains one or more substances classified by one of the hazard class and category codes and hazard statement codes shown in Table 1, the waste shall be assessed for HP 1, where appropriate and proportionate, according to test methods. If the presence of a substance, a mixture or an article indicates that the waste is explosive, it shall be classified as hazardous by HP 1.

Table 1: Hazard Class and Category Code(*s*) and Hazard statement Code(*s*) for waste constituents for the classification of wastes as hazardous by HP 1:

Hazard Class and Category Code(s)	Hazard statement Code(s)
Unst. Expl.	H 200
Expl. 1.1	H 201
Expl. 1.2	H 202
Expl. 1.3	H 203
Expl. 1.4	H 204
Self-react. A	H 240
Org. Perox. A	
Self-react. B	H 241
Org. Perox. B	

HP 2 "Oxidising": waste which may, generally by providing oxygen, cause or contribute to the combustion of other materials.

When a waste contains one or more substances classified by one of the hazard class and category codes and hazard statement codes shown in Table 2, the waste shall be assessed for HP 2, where appropriate and proportionate, according to test methods. If the presence of a substance indicates that the waste is oxidising, it shall be classified as hazardous by HP 2.

Table 2: Hazard Class and Category Code(*s*) and Hazard statement Code(*s*) for the classification of wastes as hazardous by HP 2:

Hazard Class and Category Code(s)	Hazard statement Code(s)
Ox. Gas 1	H 270
Ox. Liq. 1	H 271
Ox. Sol. 1	
Ox. Liq. 2, Ox. Liq. 3	H 272
Ox. Sol. 2, Ox. Sol. 3	

HP 3 "Flammable":

— flammable liquid waste: liquid waste having a flash point below 60°C or waste gas oil, diesel and light heating oils having a flash point > 55°C and ≤ 75°C;

— flammable pyrophoric liquid and solid waste: solid or liquid waste which, even in small quantities, is liable to ignite within five minutes after coming into contact with air;

— flammable solid waste: solid waste which is readily combustible or may cause or contribute to fire through friction;

— flammable gaseous waste: gaseous waste which is flammable in air at 20°C and a standard pressure of 101.3 kPa;

— water reactive waste: waste which, in contact with water, emits flammable gases in dangerous quantities;

— other flammable waste: flammable aerosols, flammable self-heating waste, flammable organic peroxides and flammable self-reactive waste.

When a waste contains one or more substances classified by one of the following hazard class and category codes and hazard statement codes shown in Table 3, the waste shall be assessed, where appropriate and proportionate, according to test methods. If the presence of a substance indicates that the waste is flammable, it shall be classified as hazardous by HP 3.

Table 3: Hazard Class and Category Code(*s*) and Hazard statement Code(*s*) for waste constituents for the classification of wastes as hazardous by HP 3:

Hazard Class and Category Code(s)	Hazard statement Code(s)
Flam. Gas 1	H220
Flam. Gas 2	H221
Aerosol 1	H222
Aerosol 2	H223
Flam. Liq. 1	H224
Flam. Liq.2	H225
Flam. Liq. 3	H226
Flam. Sol. 1	H228
Flam. Sol. 2	
Self-react. CD	H242
Self-react. EF	
Org. Perox. CD	
Org. Perox. EF	
Pyr. Liq. 1	H250
Pyr. Sol. 1	
Self-heat.1	H251
Self-heat. 2	H252
Water-react. 1	H260
Water-react. 2 Water-react. 3	H261

HP 4 "Irritant — skin irritation and eye damage": waste which on application can cause skin irritation or damage to the eye.

When a waste contains one or more substances in concentrations above the cut-off value, that are classified by one of the following hazard class and category codes and hazard statement codes and one or more of the following concentration limits is exceeded or equalled, the waste shall be classified as hazardous by HP 4.

The cut-off value for consideration in an assessment for Skin corr. 1A (H314), Skin irrit. 2 (H315), Eye dam. 1 (H318) and Eye irrit. 2 (H319) is 1%.

If the sum of the concentrations of all substances classified as Skin corr. 1A (H314) exceeds or equals 1%, the waste shall be classified as hazardous according to HP 4.

If the sum of the concentrations of all substances classified as H318 exceeds or equals 10%, the waste shall be classified as hazardous according to HP 4.

If the sum of the concentrations of all substances classified H315 and H319 exceeds or equals 20%, the waste shall be classified as hazardous according to HP 4.

Note that wastes containing substances classified as H314 (Skin corr.1A, 1B or 1C) in amounts greater than or equal to 5% will be classified as hazardous by HP 8. HP 4 will not apply if the waste is classified as HP 8.

HP 5 "Specific Target Organ Toxicity (STOT)/Aspiration Toxicity": waste which can cause specific target organ toxicity either from a single or repeated exposure, or which cause acute toxic effects following aspiration.

When a waste contains one or more substances classified by one or more of the following hazard class and category codes and hazard statement codes shown in Table 4, and one or more of the concentration limits in Table 4 is exceeded or equalled, the waste shall be classified as hazardous according to HP 5. When substances classified

as STOT are present in a waste, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by HP 5.

When a waste contains one or more substances classified as Asp. Tox. 1 and the sum of those substances exceeds or equals the concentration limit, the waste shall be classified as hazardous by HP 5 only where the overall kinematic viscosity (at 40°C) does not exceed 20.5 mm^2/s.[1]

Table 4: Hazard Class and Category Code(*s*) and Hazard statement Code(*s*) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by HP 5

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
STOT SE 1	H370	1%
STOT SE 2	H371	10%
STOT SE 3	H335	20%
STOT RE 1	H372	1%
STOT RE 2	H373	10%
Asp. Tox. 1	H304	10%

HP 6 "Acute Toxicity": waste which can cause acute toxic effects following oral or dermal administration, or inhalation exposure.

If the sum of the concentrations of all substances contained in a waste, classified with an acute toxic hazard class and category code and hazard statement code given in Table 5, exceeds or equals the threshold given in that table, the waste shall be classified as hazardous by HP 6. When more than one substance classified as acute toxic is present in a waste, the sum of the concentrations is required only for substances within the same hazard category.

The following cut-off values shall apply for consideration in an assessment:

— For Acute Tox. 1, 2 or 3 (H300, H310, H330, H301, H311, H331): 0.1%;

— For Acute Tox. 4 (H302, H312, H332): 1%.

Table 5: Hazard Class and Category Code(*s*) and Hazard statement Code(*s*) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by HP 6

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
Acute Tox.1 (Oral)	H300	0.1%
Acute Tox. 2 (Oral)	H300	0.25%
Acute Tox. 3 (Oral)	H301	5%
Acute Tox 4 (Oral)	H302	25%
Acute Tox.1 (Dermal)	H310	0.25%
Acute Tox.2 (Dermal)	H310	2.5%
Acute Tox. 3 (Dermal)	H311	15%
Acute Tox 4 (Dermal)	H312	55%
Acute Tox 1 (Inhal.)	H330	0.1%
Acute Tox.2 (Inhal.)	H330	0.5%
Acute Tox. 3 (Inhal.)	H331	3.5%
Acute Tox. 4 (Inhal.)	H332	22.5%

HP 7 "Carcinogenic": waste which induces cancer or increases its incidence.

1The kinematic viscosity shall only be determined for fluids.

When a waste contains a substance classified by one of the following hazard class and category codes and hazard statement codes and exceeds or equals one of the following concentration limits shown in Table 6, the waste shall be classified as hazardous by HP 7. When more than one substance classified as carcinogenic is present in a waste, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by HP 7.

Table 6: Hazard Class and Category Code(*s*) and Hazard statement Code(*s*) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by HP 7

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
Carc. 1A	H350	0.1%
Carc. 1B		
Carc. 2	H351	1.0%

HP 8 "Corrosive": waste which on application can cause skin corrosion.

When a waste contains one or more substances classified as Skin corr.1A, 1B or 1C (H314) and the sum of their concentrations exceeds or equals 5%, the waste shall be classified as hazardous by HP 8.

The cut-off value for consideration in an assessment for Skin corr. 1A, 1B, 1C (H314) is 1.0%.

HP 9 "Infectious": waste containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms.

The attribution of HP 9 shall be assessed by the rules laid down in reference documents or legislation in the Member States.

HP 10 "Toxic for reproduction": waste which has adverse effects on sexual function and fertility in adult males and females, as well as developmental toxicity in the offspring.

When a waste contains a substance classified by one of the following hazard class and category codes and hazard statement codes and exceeds or equals one of the following concentration limits shown in Table 7, the waste shall be classified hazardous according to HP 10. When more than one substance classified as toxic for reproduction is present in a waste, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by HP 10.

Table 7: Hazard Class and Category Code(*s*) and Hazard statement Code(*s*) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by HP 10

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
Repr. 1A	H360	0.3%
Repr. 1B		
Repr. 2	H361	3.0%

HP 11 "Mutagenic": waste which may cause a mutation, that is a permanent change in the amount or structure of the genetic material in a cell.

When a waste contains a substance classified by one of the following hazard class and category codes and hazard statement codes and exceeds or equals one of the following concentration limits shown in Table 8, the waste shall be classified as hazardous according to HP 11. When more than one substance classified as mutagenic is present in a waste, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by HP 11.

Table 8: Hazard Class and Category Code(*s*) and Hazard statement Code(*s*) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by HP 11

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
Muta. 1A,	H340	0.1%
Muta. 1B		
Muta. 2	H341	1.0%

HP 12 "Release of an acute toxic gas": waste which releases acute toxic gases (Acute Tox. 1, 2 or 3) in contact with water or an acid.

When a waste contains a substance assigned to one of the following supplemental hazards EUH029, EUH031 and EUH032, it shall be classified as hazardous by HP 12 according to test methods or guidelines.

HP 13 "Sensitising": waste which contains one or more substances known to cause sensitising effects to the skin or the respiratory organs.

When a waste contains a substance classified as sensitising and is assigned to one of the hazard statement codes H317 or H334 and one individual substance equals or exceeds the concentration limit of 10%, the waste shall be classified as hazardous by HP 13.

F307**[HP 14 "Ecotoxic"**: waste which presents or may present immediate or delayed risks for one or more sectors of the environment.

Waste which fulfils any of the following conditions shall be classified as hazardous by HP 14:

Waste which contains a substance classified as ozone depleting assigned the hazard statement code H420 in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council (*1) and the concentration of such a substance equals or exceeds the concentration limit of 0,1 %.

[c(H420) ≥ 0,1 %]

Waste which contains one or more substances classified as aquatic acute assigned the hazard statement code H400 in accordance with Regulation (EC) No 1272/2008 and the sum of the concentrations of those substances equals or exceeds the concentration limit of 25 %. A cut-off value of 0,1 % shall apply to such substances.

[Σ c (H400) ≥ 25 %]

Waste which contains one or more substances classified as aquatic chronic 1, 2 or 3 assigned to the hazard statement code(*s*) H410, H411 or H412 in accordance with Regulation (EC) No 1272/2008, and the sum of the concentrations of all substances classified as aquatic chronic 1 (H410) multiplied by 100 added to the sum of the concentrations of all substances classified as aquatic chronic 2 (H411) multiplied by 10 added to the sum of the concentrations of all substances classified as aquatic chronic 3 (H412) equals or exceeds the concentration limit of 25 %. A cut-off value

of 0,1 % applies to substances classified as H410 and a cut-off value of 1 % applies to substances classified as H411 or H412.

[100 Σc (H410) + 10 Σc (H411) + Σc (H412) ≥ 25 %]

Waste which contains one or more substances classified as aquatic chronic 1, 2, 3 or 4 assigned the hazard statement code(s) H410, H411, H412 or H413 in accordance with Regulation (EC) No 1272/2008, and the sum of the concentrations of all substances classified as aquatic chronic equals or exceeds the concentration limit of 25 %. A cut-off value of 0,1 % applies to substances classified as H410 and a cut-off value of 1 % applies to substances classified as H411, H412 or H413.

[Σ c H410 + Σ c H411 + Σ c H412 + Σ c H413 ≥ 25 %]

Where: Σ = sum and c = concentrations of the substances.**]**

HP 15 "Waste capable of exhibiting a hazardous property listed above not directly displayed by the original waste".

When a waste contains one or more substances assigned to one of the hazard statements or supplemental hazards shown in Table 9, the waste shall be classified as hazardous by HP 15, unless the waste is in such a form that it will not under any circumstance exhibit explosive or potentially explosive properties.

Table 9: Hazard statements and supplemental hazards for waste constituents for the classification of wastes as hazardous by HP 15

Hazard Statement(s) / Supplemental Hazard(s)	
May mass explode in fire	H205
Explosive when dry	EUH001
May form explosive peroxides	EUH019
Risk of explosion if heated under confinement	EUH044

In addition, Member States may characterise a waste as hazardous by HP 15 based on other applicable criteria, such as an assessment of the leachate.

Note

F308**[**...**]**

Test methods

The methods to be used are described in Council Regulation (EC) No 440/2008[2] and in other relevant CEN notes or other internationally recognised test methods and guidelines.**]**

Annotations

Amendments:

F306 Substituted (1.06.2015) by *European Union (Properties of Waste Which Render it Hazardous) Regulations 2015* (S.I. No. 233 of 2015), reg. 4, in effect as per reg. 3.

[2] Council Regulation (EC) No 440/2008 of 30 May 2008 laying down test methods pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ L 142, 31.5.2008, p. 1).

F307 Substituted (27.09.2018) by *European Union (Properties of Waste which Render it Hazardous) Regulations 2018* (S.I. No. 383 of 2018), reg. 3(a).

F308 Deleted (27.09.2018) by *European Union (Properties of Waste which Render it Hazardous) Regulations 2018* (S.I. No. 383 of 2018), reg. 3(b).

Editorial Notes:

E613 Previous affecting provision: schedule substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 24; substituted as per F-note above.

Section 4(1).

F309**[**THIRD SCHEDULE

Disposal Operations

D 1 Deposit into or on to land (e.g. landfill, etc.)

D 2 Land treatment (e.g. biodegradation of liquid or sludgy discards in soils, etc.)

D 3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)

D 4 Surface impoundment (e.g. placement of liquid or sludgy discards into pits, ponds or lagoons, etc.)

D 5 Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)

D 6 Release into a water body except seas/oceans

D 7 Release to seas/oceans including sea-bed insertion

D 8 Biological treatment not specified elsewhere in this Schedule which results in final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to D 12

D 9 Physico-chemical treatment not specified elsewhere in this Schedule which results in final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to D 12 (e.g. evaporation, drying, calcination, etc.)

D 10 Incineration on land

D 11 Incineration at sea (this operation is prohibited by EU legislation and international conventions)

D 12 Permanent storage (e.g. emplacement of containers in a mine, etc.)

D 13 Blending or mixing prior to submission to any of the operations numbered from D 1 to 12 (if there is no other D code appropriate, this can include preliminary operations prior to disposal including pre-processing such as, amongst others, sorting, crushing, compacting, pelletising, drying, shredding, conditioning or separating prior to submission to any of the operations numbered D1 to D12)

D 14 Repackaging prior to submission to any of the operations numbered D 1 to D 13

D 15 Storage pending any of the operations numbered D 1 to D 14 (excluding temporary storage (being preliminary storage according to the definition of "collection" in *section 5(1)*), pending collection, on the site where the waste is produced).**]**

Annotations

Amendments:

F309 Substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 24.

Editorial Notes:

E614 Previous affecting provision: schedule substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 54 and sch. 3, S.I. No. 393 of 2004; substituted as per F-note above.

E615 Previous affecting provision: paras. 1, 6, 7, 11, 12, and 13 amended (19.05.1998) by *European Communities (Amendment of Waste Management Act 1996) Regulations 1998* (S.I. No. 166 of 1998), reg. 6; substituted as per F-note above.

Section 4(1)

F310**[**FOURTH SCHEDULE

Recovery Operations

R 1 Use principally as a fuel or other means to generate energy: This includes incineration facilities dedicated to the processing of municipal solid waste only where their energy efficiency is equal to or above:

— 0.60 for installations in operation and permitted in accordance with applicable Community acts before 1 January 2009,

— 0.65 for installations permitted after 31 December 2008,

using the following formula, applied in accordance with the reference document on Best Available Techniques for Waste Incineration:

Energy efficiency = (Ep — (Ef + Ei)/ (0.97x(Ew+Ef)

where—

"Ep" means annual energy produced as heat or electricity and is calculated with energy in the form of electricity being multiplied by 2.6 and heat produced for commercial use multiplied by 1.1(GJ/year),

"Ef" means annual energy input to the system from fuels contributing to the production of steam (GJ/year),

"Ew" means annual energy contained in the treated waste calculated using the net calorific value of the waste (GJ/year),

"Ei" means annual energy imported excluding Ew and Ef (GJ/year), "0.97" is a factor accounting for energy losses due to bottom ash and radiation.

The energy efficiency formula value will be multiplied by a climate correction factor (CCF) shown below:

1. CCF for installations in operation and permitted in accordance with applicable Union legislation before 1September 2015.

CCF = 1 if HDD greater than or equal to3350

CCF = 1.25 if HDD less than or equal to 2150

CCF = — (0.25/1200) HDD + 1.698 when greater than 2150 and less than 3350

2. CCF for installations permitted after 31 August 2015 and for installations under paragraph 1 above after 31 December 2029:

CCF = 1 if HDD greater than or equal to 3350

CCF = 1.12 if HDD less than or equal to 2150

CCF = — (0.12/1200) HDD + 1.335 when greater than 2150 and less than 3350

(The resulting value of CCF will be rounded at three decimal places).

The value of HDD (Heating Degree Days) should be taken as the average of annual HDD values for the incineration facility location, calculated for a period of 20 consecutive years before the year for which CCF is calculated. For the calculation of the value of HDD the following method established by Eurostat should be applied: HDD is equal to (18°C — Tm) d if Tm is lower than or equal to 15°C (heating threshold) and is nil if Tm is greater than 15°C; where Tm is the mean (Tmin+Tmax/2) outdoor temperature over a period of d days.

Calculations are to be executed on a daily basis (d= 1), added up to a year.

R 2 Solvent reclamation/regeneration

R 3 Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes), which includes gasification and pyrolisis using the components as chemicals

R 4 Recycling/reclamation of metals and metal compounds

R 5 Recycling/reclamation of other inorganic materials, which includes soil cleaning resulting in recovery of the soil and recycling of inorganic construction materials

R 6 Regeneration of acids or bases

R 7 Recovery of components used for pollution abatement

R 8 Recovery of components from catalysts

R 9 Oil re-refining or other reuses of oil

R 10 Land treatment resulting in benefit to agriculture or ecological improvement

R 11 Use of waste obtained from any of the operations numbered R 1 to R 10

R 12 Exchange of waste for submission to any of the operations numbered R 1 to R 11 (if there is no other R code appropriate, this can include preliminary operations prior to recovery including pre-processing such as, amongst others, dismantling, sorting, crushing, compacting, pelletising, drying, shredding, conditioning, repackaging, separating, blending or mixing prior to submission to any of the operations numbered R1 to R11)

R 13 Storage of waste pending any of the operations numbered R 1 to R 12 (excluding temporary storage (being preliminary storage according to the definition of "collection" in section 5(1)), pending collection, on the site where the waste is produced).**]**

Annotations

Amendments:

F310 Substituted (31.07.2016) by *European Union (Waste Directive) (Recovery Operations) Regulations 2016* (S.I. No. 372 of 2016), reg. 4, in effect as per reg. 3.

Editorial Notes:

E616 Previous affecting provision: schedule amended (14.06.2011) by *European Communities (Waste Directive) (No. 2) Regulations 2011* (S.I. No. 323 of 2011), reg. 5; substituted as per F-note above.

E617 Previous affecting provision: schedule substituted (31.03.2011) by *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011), reg. 24; substituted as per F-note above.

E618 Previous affecting provision: schedule substituted (12.07.2004) by *Protection of the Environment Act 2003* (27/2003), s. 55 and sch. 4, S.I. No. 393 of 2004; substituted as per F-note above.

E619 Previous affecting provision: schedule amended (19.05.1998) by *European Communities (Amendment of Waste Management Act 1996) Regulations 1998* (S.I. No. 166 of 1998), reg. 7; substituted as per F-note above.

Section 6.

FIFTH SCHEDULE

Repeals And Revocations

PART I

ENACTMENTS REPEALED

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
41 and 42 Vict., c.52	Public Health (Ireland) Act, 1878	Sections 28, 35, 36, 37, 37A, 52, 53, 54, 55, 60 and 63A.
53 and 54 Vict., c.59	Public Health Acts Amendment Act, 1890	Section 26.
53 and 54 Vict., c.ccxlvi	Dublin Corporation Act, 1890	Section 63.
7 Edw.7, c.53	Public Health Acts Amendment Act, 1907	Sections 19, 28, 29 and 48.
No. 1 of 1942	Water Supplies Act, 1942	Section 10A.
No. 11 of 1982	Litter Act, 1982	Sections 9, 10, 11, 12 and 13.
No. 7 of 1992	Environmental Protection Agency Act, 1992	Section 96 (4).

PART II

STATUTORY INSTRUMENTS REVOKED

S.I. Number and Year (1)	Citation (2)	Extent of Revocation (3)
S.I. No. 390 of 1979	The European Communities (Waste) Regulations, 1979	The whole Regulations.
S.I. No. 33 of 1982	The European Communities (Toxic and Dangerous Waste) Regulations, 1982	The whole Regulations.
S.I. No. 108 of 1984	The European Communities (Waste) Regulations, 1984	The whole Regulations.
S.I. No. 30 of 1990	The European Communities (Asbestos Waste) Regulations, 1990	The whole Regulations.
S.I. No. 183 of 1991	European Communities (Use of Sewage Sludge in Agriculture) Regulations, 1991	The whole Regulations.
S.I. No. 399 of 1992	The European Communities (Waste Oils) Regulations, 1992	The whole Regulations.
S.I. No. 90 of 1994	The European Communities (Asbestos Waste) Regulations, 1994	The whole Regulations.
S.I. No. 121 of 1994	The European Communities (Transfrontier Shipment of Waste) Regulations, 1994	The whole Regulations.
S.I. No. 262 of 1994	The European Communities (Batteries and Accumulators) Regulations, 1994	The whole Regulations.

F311[SIXTH SCHEDULE

EXAMPLES OF ECONOMIC INSTRUMENTS AND OTHER MEASURES TO PROVIDE INCENTIVES FOR THE APPLICATION OF THE WASTE HIERARCHY REFERRED TO IN ARTICLE 4(3) OF THE WASTE DIRECTIVE

1. Charges and restrictions for the landfilling and incineration of waste which incentivise waste prevention and recycling, while keeping landfilling the least preferred waste management option;

2. "Pay-as-you-throw" schemes that charge waste producers on the basis of the actual amount of waste generated and provide incentives for separation at source of recyclable waste and for reduction of mixed waste;

3. Fiscal incentives for donation of products, in particular food;

4. Extended producer responsibility schemes for various types of waste and measures to increase their effectiveness, cost efficiency and governance;

5. Deposit-refund schemes and other measures to encourage efficient collection of used products and materials;

6. Sound planning of investments in waste management infrastructure, including through Union funds;

7. Sustainable public procurement to encourage better waste management and the use of recycled products and materials;

8. Phasing out of subsidies which are not consistent with the waste hierarchy;

9. Use of fiscal measures or other means to promote the uptake of products and materials that are prepared for re-use or recycled;

10. Support to research and innovation in advanced recycling technologies and remanufacturing;

11. Use of best available techniques for waste treatment;

12. Economic incentives for regional and local authorities, in particular to promote waste prevention and intensify separate collection schemes, while avoiding support to landfilling and incineration;

13. Public awareness campaigns, in particular on separate collection, waste prevention and litter reduction, and mainstreaming these issues in education and training;

14. Systems for coordination, including by digital means, between all competent public authorities involved in waste management;

15. Promoting continuous dialogue and cooperation between all stakeholders in waste management and encouraging voluntary agreements and company reporting on waste.**]**

Annotations

Amendments:

F311 Inserted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 14.

F312**[**SEVENTH SCHEDULE

IMPLEMENTATION PLAN TO BE SUBMITTED PURSUANT TO ARTICLE 11(3) OF THE WASTE DIRECTIVE

The implementation plan to be submitted pursuant to Article 11(3) shall contain the following:

1. assessment of the past, current and projected rates of recycling, landfilling and other treatment of municipal waste and the streams of which it is composed;

2. assessment of the implementation of waste management plans and waste prevention programmes in place pursuant to Articles 28 and 29;

3. reasons for which the Member State considers that it might not be able to attain the relevant target laid down in Article 11(2) within the deadline set therein and an assessment of the time extension necessary to meet that target;

4. measures necessary to attain the targets set out in Article 11(2) and (5) that are applicable to the Member State during the time extension, including appropriate economic instruments and other measures to provide incentives for the application of the waste hierarchy as set out in Article 4(1) and Annex IVa;

5. a timetable for the implementation of the measures identified in point 4, determination of the body competent for their implementation and an assessment of their individual contribution to attaining the targets applicable in the event of a time extension;

6. information on funding for waste management in line with the polluter-pays principle;

7. measures to improve data quality, as appropriate, with a view to better planning and monitoring performance in waste management.**]**

Annotations

Amendments:

F312 Inserted (27.08.2020) by *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020), reg. 14.

ACTS REFERRED TO

Air Pollution Act, 1987	1987, No. 6
Companies Acts, 1963 to 1990	
County Management Acts, 1940 to 1994	
Derelict Sites Act, 1990	1990, No. 14
Dublin Corporation Act, 1890	1890, 53 & 54 Vict., c. ccxlvi
Dumping at Sea Act, 1981	1981, No. 8
Environmental Protection Agency Act, 1992	1992, No. 7
European Communities Act, 1972	1972, No. 27
Fisheries (Consolidation) Act, 1959	1959, No. 14
Foreshore Act, 1933	1933, No. 12
Harbours Act, 1946	1946, No. 9
Health Act, 1970	1970, No. 1
Holidays (Employees) Act, 1973	1973, No. 25
Litter Act, 1982	1982, No. 11
Local Government Act, 1941	1941, No. 23
Local Government Act, 1994	1994, No. 8
Local Government (Planning and Development) Act, 1963	1963, No. 28
Local Government (Planning and Development) Act, 1982	1982, No. 21
Local Government (Planning and Development) Acts, 1963 to 1993	
Local Government (Water Pollution) Act, 1977	1977, No. 1
Local Government (Water Pollution) (Amendment) Act, 1990	1990, No. 21
Local Government (Water Pollution) Acts, 1977 and 1990	
Petty Sessions (Ireland) Act, 1851	1851, 14 & 15 Vict., c. 93

Public Health Acts Amendment Act, 1890	1890, 53 & 54 Vict., c. 59
Public Health Acts Amendment Act, 1907	1907, 7 Edw. 7, c. 53
Public Health (Ireland) Act, 1878	1878, 41 & 42 Vict., c. 52
Radiological Protection Act, 1991	1991, No. 9
Road Traffic Act, 1961	1961, No. 24
Road Traffic Act, 1968	1968, No. 25
Water Supplies Act, 1942	1942, No. 1
European Communities (Asbestos Waste) Regulations, 1990	S.I. No. 30 of 1990
European Communities (Asbestos Waste) Regulations, 1994	S.I. No. 90 of 1994
European Communities (Batteries and Accumulators) Regulations, 1994	S.I. No. 262 of 1994
European Communities (Disposal, Processing and Placing on the Market of Animal By-Products) Regulations, 1994	S.I. No. 257 of 1994
European Communities (Environmental Impact Assessment) Regulations, 1989 and 1994	
European Communities (Toxic and Dangerous Waste) Regulations, 1982	S.I. No. 33 of 1982
European Communities (Transfrontier Shipment of Waste) Regulations, 1994	S.I. No. 121 of 1994
European Communities (Use of Sewage Sludge in Agriculture) Regulations, 1991	S.I. No. 183 of 1991
European Communities (Waste) Regulations, 1979	S.I. No. 390 of 1979
European Communities (Waste) Regulations, 1984	S.I. No. 108 of 1984
European Communities (Waste Oils) Regulations, 1992	S.I. No. 399 of 1992

Number 10 *of* 1996

WASTE MANAGEMENT ACT 1996

REVISED

Updated to 1 January 2024

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Waste Management Acts 1996 to 2011: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Environment (Miscellaneous Provisions) Act 2011* (20/2011), s. 1(3)). The Acts in this group are:

- *Waste Management Act 1996* (10/1996)
- *Waste Management (Amendment) Act 2001* (36/2001), other than s. 14
- *Protection of the Environment Act 2003* (27/2003), Part 3
- *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005), Part 5
- *Waste Management (Environmental Levy) (Plastic Bag) Order 2007* (S.I. No. 62 of 2007
- *Waste Management (Registration of Brokers and Dealers) Regulations 2008* (S.I. No. 113 of 2008)
- *Waste Management (Landfill Levy) Order 2008* (S.I. No. 168 of 2008)
- *Environment (Miscellaneous Provisions) Act 2011* 20/2011), Part 4

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Circular Economy and Miscellaneous Provisions Act 2022* (26/2022)
- *Environment (Miscellaneous Provisions) Act 2015* (29/2015)
- *Courts and Civil Law (Miscellaneous Provisions) Act 2013* (32/2013)
- *Environment (Miscellaneous Provisions) Act 2011* (20/2011)
- *Planning and Development (Amendment) Act 2010* (30/2010)
- *Fines Act 2010* (8/2010)
- *Protection of the Environment Act 2003* (27/2003)
- *Minister for the Environment and Local Government (Performance of Certain Functions) Act 2002* (24/2002)
- *Courts and Court Officers Act 2002* (15/2002)
- *Local Government Act 2001* (37/2001)
- *Waste Management (Amendment) Act 2001* (36/2001)
- *Planning and Development Act 2000* (30/2000)
- *National Beef Assurance Scheme Act 2000* (2/2000)
- *Litter Pollution Act 1997* (12/1997)

All Acts up to and including *Electoral (Amendment) Act 2023* (40/2023), enacted 19 December 2023, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Circular Economy (Environmental Levy) (Plastic Bag) (No. 2) Regulations 2023* (S.I. No. 698 of 2023)
- *Circular Economy (Waste Recovery Levy) (Amendment) Regulations 2023* (S.I. No. 652 of 2023)
- *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2023* (S.I. No. 471 of 2023)
- *Circular Economy (Waste Recovery Levy) Regulations 2023* (S.I. No. 406 of 2023)
- *Waste Management (Landfill Levy) (Amendment) Regulations 2023* (S.I. No. 398 of 2023)
- *Waste Management (Collection Permit) (Amendment) (No. 2) Regulations 2023* (S.I. No. 104 of 2023)
- *Waste Management (Collection Permit) (Amendment) Regulations 2023* (S.I. No. 63 of 2023)
- *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2023* (S.I. No. 16 of 2023)
- *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2022* (S.I. No. 51 of 2022)
- *Separate Collection (Deposit Return Scheme) Regulations 2021* (S.I. No. 599 of 2021)
- *European Union (Single Use Plastics) (No. 2) Regulations 2021* (S.I. No. 516 of 2021)
- *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2020* (S.I. No. 738 of 2020)
- *European Union (Waste Directive) Regulations 2020* (S.I. No. 323 of 2020)
- *European Union (Waste Management) (Environmental Impact Assessment) Regulations 2020* (S.I. No. 130 of 2020)
- *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2019* (S.I. No. 684 of 2019)
- *Waste Management (Facility Permit And Registration) (Amendment) Regulations 2019* (S.I. No. 250 of 2019)
- *Waste Management (Landfill Levy) (Amendment) Regulations 2019* (S.I. No. 182 of 2019)
- *European Union (Properties of Waste which Render it Hazardous) Regulations 2018* (S.I. No. 383 of 2018)

- *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2018* (S.I. No. 96 of 2018)
- *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2017* (S.I. No. 599 of 2017)
- *Waste Management (Tyres and Waste Tyres) (Amendment) Regulations 2017* (S.I. No. 598 of 2017)
- *Waste Management (Tyres and Waste Tyres) Regulations 2017* (S.I. No. 400 of 2017)
- *Waste Management (Farm Plastics) (Amendment) Regulations 2017* (S.I. No. 396 of 2017)
- *Climate Action and Environment (Transfer of Departmental Administration and Ministerial Functions) Order 2016* (S.I. No. 393 of 2016)
- *Waste Management (Fixed Payment Notice) (Producer Responsibility) Regulations 2016* (S.I. No. 373 of 2016)
- *European Union (Waste Directive) (Recovery Operations) Regulations 2016* (S.I. No. 372 of 2016)
- *Waste Management (Collection Permit) (Amendment)(No.2) Regulations 2016* (S.I. No. 346 of 2016)
- *Waste Management (Collection Permit) (Amendment) Regulations 2016* (S.I. No. 24 of 2016)
- *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2015* (S.I. No. 538 of 2015)
- *European Union (Properties of Waste which Render it Hazardous) Regulations 2015* (S.I. No. 233 of 2015)
- *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2015* (S.I. No. 198 of 2015)
- *Waste Management (Collection Permit) (Amendment) Regulations 2015* (S.I. No. 197 of 2015)
- *Waste Management (Food Waste) (Amendment) Regulations 2015* (S.I. No. 190 of 2015)
- *Waste Management (Landfill Levy) Regulations 2015* (S.I. No. 189 of 2015)
- *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2014* (S.I. No. 546 of 2014)
- *European Union (Access to Review of Decisions for Certain Bodies or Organisations promoting Environmental Protection) Regulations 2014* (S.I. No. 352 of 2014)
- *Waste Management (Facility Permit and Registration) (Amendment) Regulations 2014* (S.I. No. 320 of 2014)
- *European Union (Batteries and Accumulators) Regulations 2014* (S.I. No. 283 of 2014)
- *European Union (Packaging) Regulations 2014* (S.I. No. 282 of 2014)
- *European Union (End-of-Life Vehicles) Regulations 2014* (S.I. No. 281 of 2014)
- *European Union (Waste Electrical and Electronic Equipment) Regulations 2014* (S.I. No. 149 of 2014)
- *European Union (Environmental Impact Assessment) (Waste) Regulations 2013* (S.I. No. 505 of 2013)
- *Waste Management (Prohibition of Waste Disposal by Burning) (Amendment) Regulations 2013* (S.I. No. 504 of 2013)
- *Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013* (S.I. No. 283 of 2013)
- *Waste Management (Landfill Levy) (Amendment) Regulations 2013* (S.I. No. 194 of 2013)
- *European Union (Industrial Emissions) Regulations 2013* (S.I. No. 138 of 2013)
- *European Communities (Metallic Mercury Waste) Regulations 2013* (S.I. No. 72 of 2013)
- *European Union (Environmental Impact Assessment) (Waste) Regulations 2012* (S.I. No. 283 of 2012)
- *Waste Management (Landfill Levy) (Amendment) Regulations 2012* (S.I. No. 221 of 2012)
- *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011)
- *European Union (Environmental Impact Assessment and Habitats) Regulations 2011* (S.I. No. 473 of 2011)
- *Waste Management (Landfill Levy) Regulations 2011* (S.I. No. 434 of 2011)
- *Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 418 of 2011)

- *European Communities (Waste Electrical and Electronic Equipment) Regulations 2011* (S.I. No. 355 of 2011)
- *European Communities (Waste Directive) (No. 2) Regulations 2011* (S.I. No. 323 of 2011)
- *European Communities (Waste Directive) Regulations 2011* (S.I. No. 126 of 2011)
- *Waste Management (Licensing) (Amendment) Regulations 2010* (S.I. No. 350 of 2010)
- *Waste Management (Waste Electical and Electronic Equipment) (Amendment) Regulations 2010* (S.I. No. 143 of 2010)
- *Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010* (S.I. No. 142 of 2010)
- *Waste Management (Registration of Sewage Sludge Facility) Regulations 2010* (S.I. No. 32 of 2010)
- *Waste Management (Landfill Levy) (Amendment) Regulations 2010* (S.I. No. 31 of 2010)
- *Waste Management (Landfill Levy) Order 2010* (S.I. No. 13 of 2010)
- *European Communities Environmental Objectives (Groundwater) Regulations 2010* (S.I. No. 9 of 2010)
- *Waste Management (Landfill Levy) Amendment Regulations 2009* (S.I. No. 550 of 2009)
- *Waste Management (Food Waste) Regulations 2009* (S.I. No. 508 of 2009)
- *Waste Management (Landfill Levy) Order 2009* (S.I. No. 496 of 2009)
- *European Communities Environmental Objectives (Freshwater Pearl Mussel) Regulations 2009* (S.I. No. 296 of 2009)
- *European Communities Environmental Objectives (Surface Waters) Regulations 2009* (S.I. No. 272 of 2009)
- *Waste Management (Certification of Historic Unlicenced Waste Disposal and Recovery Activity) Regulations 2008* (S.I. No. 524 of 2008)
- *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment)(Amendment) Regulations 2008* (S.I. No. 376 of 2008)
- *Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008* (S.I. No. 375 of 2008)
- *Waste Management (Batteries and Accumulators) Regulations 2008* (S.I. No. 268 of 2008)
- *Waste Management (Landfill Levy) Regulations 2008* (S.I. No. 199 of 2008)
- *Waste Management (Landfill Levy) Order 2008* (S.I. No. 168 of 2008)
- *Waste Management (Registration of Brokers and Dealers) Regulations 2008* (S.I. No. 113 of 2008)
- *Waste Management (Facility Permit and Registration) Regulations 2007* (S.I. No. 821 of 2007)
- *Waste Management (Collection Permit) Regulations 2007* (S.I. No. 820 of 2007)
- *Waste Management (Packaging) Regulations 2007* (S.I. No. 798 of 2007)
- *Waste Management (Tyres and Waste Tyres) Regulations 2007* (S.I. No. 664 of 2007)
- *Waste Management (Shipments of Waste) Regulations 2007* (S.I. No. 419 of 2007)
- *Waste Management (Environmental Levy) (Plastic Bag) (Amendment) (No. 2) Regulations 2007* (S.I. No. 167 of 2007)
- *Waste Management (Environmental Levy) (Plastic Bag) (Amendment) Regulations 2007* (S.I. No. 66 of 2007)
- *Waste Management (Environmental Levy) (Plastic Bag) Order 2007* (S.I. No. 62 of 2007)
- *Waste Management (Landfill Levy)(Amendment) Regulations 2006* (S.I. No. 402 of 2006)
- *Waste Management (Packaging) (Amendment) Regulations 2006* (S.I. No. 308 of 2006)
- *Waste Management (End-Of-Life Vehicles) Regulations 2006* (S.I. No. 282 of 2006)
- *Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 341 of 2005)
- *Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 340 of 2005)
- *Waste Management (Electrical and Electronic Equipment) Regulations 2005* (S.I. No. 290 of 2005)
- *Waste Management (Packaging) (Amendment) Regulations 2004* (S.I. No. 871 of 2004)
- *European Communities (Greenhouse Gas Emissions Trading) Regulations 2004* (S.I. No. 437 of 2004)

- *Waste Management (Licensing) Regulations 2004* (S.I. No. 395 of 2004)
- *Environmental Protection Agency (Licensing) (Amendment) Regulations 2004* (S.I. No. 394 of 2004)
- *Waste Management (Environment Fund) (Prescribed Payments) Regulations 2003* (S.I. No. 478 of 2003)
- *European Communities (Incineration of Waste) Regulations 2003* (S.I. No. 275 of 2003)
- *Waste Management (Packaging) Regulations 2003* (S.I. No. 61 of 2003)
- *Waste Management (Licensing) (Amendment) Regulations 2002* (S.I. No. 336 of 2002)
- *Waste Management (Landfill Levy) Regulations 2002* (S.I. No. 86 of 2002)
- *Waste Management (Environmental Levy) (Plastic Bag) Regulations 2001* (S.I. No. 605 of 2001)
- *Waste Management (Collection Permit) (Amendment) Regulations 2001* (S.I. No. 540 of 2001)
- *Waste Management (Collection Permit) Regulations 2001* (S.I. No. 402 of 2001)
- *Waste Management (Licensing) (Amendment) Regulations 2001* (S.I. No. 397 of 2001)
- *Waste Management (Prescribed Date) Regulations 2001* (S.I. No. 390 of 2001)
- *Waste Management Act, 1996 (Prescribed Date) Order 2001* (S.I. No. 345 of 2001)
- *Waste Management (Farm Plastics) Regulations 2001* (S.I. No. 341 of 2001)
- *Waste Management (Use of Sewage Sludge in Agriculture) (Amendment) Regulations 2001* (S.I. No. 267 of 2001)
- *Waste Management (Licensing) Regulations 2000* (S.I. No. 185 of 2000)
- *Waste Management (Hazardous Waste) (Amendment) Regulations 2000* (S.I. No. 73 of 2000)
- *Waste Management (Packaging)(Amendment) Regulations 1998* (S.I. No. 382 of 1998)
- *European Communities (Amendment of Waste Management Act 1996) Regulations 1998* (S.I. No. 166 of 1998)
- *Waste Management (Permit) Regulations 1998* (S.I. No. 165 of 1998)
- *Waste Management (Miscellaneous Provisions) Regulations 1998* (S.I. No. 164 of 1998)
- *Waste Management (Hazardous Waste) Regulations 1998* (S.I. No. 163 of 1998)
- *Waste Management (Licensing) (Amendment) Regulations 1998* (S.I. No. 162 of 1998)
- *Waste Management (Transfrontier Shipment of Waste) Regulations 1998* (S.I. No. 149 of 1998)
- *Waste Management (Use of Sewage Sludge in Agriculture) Regulations 1998* (S.I. No. 148 of 1998)
- *Waste Management (Movement of Hazardous Waste) Regulations 1998* (S.I. No. 147 of 1998)
- *Waste Management (Amendment of Waste Management Act 1996) Regulations 1998* (S.I. No. 146 of 1998)
- *Waste Management (Farm Plastics) Regulations 1997* (S.I. No. 315 of 1997)
- *Waste Management (Packaging) Regulations 1997* (S.I. No. 242 of 1997)
- *Waste Management (Register) Regulations 1997* (S.I. No. 183 of 1997)
- *Waste Management (Planning) Regulations 1997* (S.I. No. 137 of 1997)
- *Waste Management (Licensing) Regulations 1997* (S.I. No. 133 of 1997)
- *Waste Management Act, 1996 (Commencement) Order 1996* (S.I. No. 192 of 1996)

All statutory instruments up to and including *Sick Leave Act 2022 (Increase of Statutory Sick Leave Days) Order 2024* (S.I. No. 10 of 2024), made 1 January 2024, were considered in the preparation of this revision.