

**ATT TA' L-2001 DWAR IL-HARSIEN
TA' L-AMBJENT
(ATT NRU. XX TA' L-2001)**

BIS-SAHHA tal-poteri moghtija bl-artikoli 9 u 10 ta' l-Att ta' l-2001 dwar il-Harsien ta' l-Ambjent, il-Ministru ghall-Affarijiet Rurali u l-Ambjent, wara konsultazzjoni ma' l-Awtorità ta' Malta dwar l-Ambjent u l-Ippjanar, qiegħed b'din jipubblika dan l-abbozz ta' regolamenti fejn jippermetti lil kull persuna perjodu ta' erba' ġimgħat biex tagħmel rappreżentazzjonijiet lid-Direttur għall-Harsien ta' l-Ambjent ta' l-Awtorità ta' Malta dwar l-Ambjent u l-Ippjanar, fejn tiddikjara kif fil-fehma tagħha r-regolamenti proposti ma jkunux jipproteġu biżżejjed l-ambjent jew kif dawn ikunu restrittivi ż-żejjed bla bżonn jew jikkaġunawliha diffikultà jew telf ekonomiku u titlob għal reviżjoni ta' dak l-abbozz:-

Regolamenti ta' l-2004 dwar l-Immaniġġar ta' l-Iskart (Apparat Elettriku u Elettroniku).

It-22 ta' Ottubru, 2004

**ENVIRONMENT PROTECTION ACT, 2001
(ACT NO. XX OF 2001)**

BY virtue of the powers conferred by articles 9 and 10 of the Environment Protection Act, 2001, the Minister for Rural Affairs and the Environment, after consultation with the Malta Environment and Planning Authority, is hereby publishing the following draft regulations to allow any person a period of four weeks to make representations to the Director for Environment Protection of the Malta Environment and Planning Authority, stating how in his opinion the proposed regulations do not sufficiently respect the environment or how they are too unnecessarily restrictive or cause him hardship or economic loss and asking for a revision of such draft:-

Waste Management (Waste Electrical and Electronic Equipment) Regulations, 2004.

22nd October, 2004

ENVIRONMENT PROTECTION ACT
(CAP. 435)

**Waste Management (Waste Electrical and Electronic
Equipment) Regulations, 2004**

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

1. (1) These regulations may be cited as the Waste Management (Waste Electrical and Electronic Equipment) Regulations, 2004. Title and
commencemnt.

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

2. (1) These regulations bring into effect the provisions of Directive 2002-96-EC¹ of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE) as amended by Directive 2003/108/EC² of the European Parliament and of the Council of 8 December 2003. Scope.

(2) The purpose of this Directive is, as a first priority, the prevention of waste electrical and electronic equipment (WEEE), and in addition, the reuse, recycling and other forms of recovery of such wastes so as to reduce the disposal of waste. It also seeks to improve the environmental performance of all operators involved in the life cycle of electrical and electronic equipment, such as producers, distributors and consumers, and in particular those operators directly involved in the treatment of waste electrical and electronic equipment.

¹OJ L 37, 13.2.2003, p. 24

²OJ L 345, 31.12.2003, p. 106

L.N. 337 of 2001. (3) These regulations provide additional measures, procedures and guidance to those in the Waste Management (Permit and Control) Regulations, 2001.

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

“the Act” means the Environment Protection Act;

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

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

“dangerous substance or preparation” means any substance or preparation which has to be considered dangerous under Council Directive 67/548/EEC³ or Directive 1999/45/EC⁴ of the European Parliament and of the Council;

“distributor” means any person who provides electrical or electronic equipment on a commercial basis to the party who is going to use it;

“economic operators” means producers, distributors, collectors, dismantlers, shredders, recoverers, recyclers and other treatment operators of waste electrical and electronic equipment, including their components and materials;

“electrical and electronic equipment” or “EEE” 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 Schedule 1A to these regulations and designed for use with a voltage rating not exceeding 1,000 Volt for alternating current and 1,500 Volt for direct current;

³OJ L 196, 16.8.1967, p.1 Directive as last amended by Commission Directive 2001/59/EC (OJ L 225, 21.8.2001, p. 1)

⁴OJ L 200, 30.7.1999, p.1 Directive as last amended by Commission Directive 2001/60/EC (OJ L 226, 22.8.2001, p. 5)

“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;

“the Minister” means the Minister responsible for the environment;

“prevention” means measures aimed at reducing the quantity and the harmfulness to the environment of WEEE and materials and substances contained therein;

“producer” means any person who, irrespective of the selling technique used, including by means of distance communication in accordance with Directive 97/7/EC⁵ of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts:

(i) manufactures and sells electrical and electronic equipment under his own brand, or

(ii) resells under his own brand equipment produced by other suppliers, a reseller not being regarded as the producer if the brand of the producer appears on the equipment, as provided for in paragraph (i), or

(iii) imports or exports electrical and electronic equipment on a professional basis into Malta or out of Malta;

Whoever exclusively provides financing under or pursuant to any finance agreement shall not be deemed to be a producer unless he also acts as a producer within the meaning of paragraphs (i) to (iii);

“put on the market” means when an electrical and electronic equipment, materials or components thereof are transferred from the manufacturing stage with the intention of distribution on the market in Malta; and “putting a product on the market” shall be construed accordingly;

⁵ OJ L 144, 4.6.1997, p. 19.

“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 WEEE 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;

“treatment” means any activity after the WEEE has been handed over to a facility for depollution, disassembly, shredding, recovery or preparation for disposal and any other operation carried out for the recovery or the disposal of the WEEE, or both;

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

“waste electrical and electronic equipment” means electrical or electronic equipment which is waste, including all components, subassemblies and consumables which are part of the product at the time of discarding;

“WEEE” means waste electrical and electronic equipment as defined herein;

“WEEE from private households” means WEEE 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.

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

L.N. 337 of 2001.

Applicability.

4. (1) These regulations shall apply to electrical and electronic equipment falling under the categories set out in Schedule 1A to these regulations provided that the equipment concerned is not part of another type of equipment that does not fall within the scope of these regulations. Schedule 1B to these regulations contains a list of products which

fall under the categories set out in Schedule 1A to these regulations.

(2) These regulations shall apply without prejudice to existing provisions, such as safety and health requirements and specific waste management legislation, in particular the Waste Management (Batteries and Accumulators) Regulations, 2002. L.N. 158 of 2002.

(3) Equipment which is connected with the protection of the essential interests of the security, arms, munitions and war material shall be excluded from these regulations. This does not, however, apply to products which are not intended for specifically military purposes.

5. (1) The Competent Authority shall encourage the design and production of electrical and electronic equipment which take into account and facilitate dismantling and recovery, in particular the reuse and recycling of WEEE, their components and materials. Product design.

(2) The Competent Authority shall take necessary measures to ensure that producers shall not prevent, through specific design features or manufacturing processes, WEEE from being reused, unless such specific design features or manufacturing processes present overriding advantages, such as with regard to the protection of the environment or safety requirements, or both.

6. (1) The Competent Authority shall take necessary measures to ensure that the disposal of WEEE as unsorted municipal waste is minimised and a high level of separate collection of WEEE is achieved. Separate collection.

(2) For WEEE from private households, the Competent Authority shall take necessary measures to ensure by the 13th August, 2005:

(a) that economic operators shall use existing systems or set up systems for the collection of such waste allowing holders of such waste to return it at least free of charge;

(b) the availability and accessibility of the necessary collection facilities, taking into account in particular the population density;

(c) that when supplying a new product, distributors shall ensure that such waste can be returned to the distributor at least free of charge on a one-to-one basis as long as the equipment is of equivalent type and has fulfilled the same functions as the supplied equipment;

(d) that without prejudice to paragraphs (a), (b) and (c) hereof and without prejudice to sub-regulation (3) of this regulation, producers shall be allowed to set up and operate individual or collective take-back systems, or both, for WEEE from private households provided that these are in line with the objectives of these regulations;

(e) that having regard to health and safety standards, WEEE that presents a health and safety risk to personnel because of contamination may be refused for return under paragraphs (a), (b) and (c) hereat and sub-regulation (3) of this regulation and that specific arrangements shall be made for such WEEE;

(f) that specific arrangements for the return of WEEE as under paragraphs (a), (b) and (c) hereof and sub-regulation (3) of this regulation may be provided for if the equipment does not contain the essential components or if the equipment contains waste other than WEEE.

(3) The Competent Authority may exempt distributors from paragraph (c) of sub-regulation (2) hereof provided they ensure that returning the WEEE is not thereby made more difficult for the final holder and provided that these systems remain free of charge for the final holder.

(4) In the case of WEEE other than WEEE from private households, and without prejudice to regulation 10 of these regulations, the Competent Authority shall take necessary measures to ensure that producers or third parties acting on their behalf provide for the collection of such waste.

(5) The Competent Authority shall take necessary measures to ensure that:

(a) all WEEE collected under sub-regulation (1), (2), (3) and (4) hereof shall be transported to treatment facilities authorised under regulation 7 of these regulations unless the appliances are reused as a whole;

(b) the envisaged reuse shall not lead to a circumvention of these regulations, in particular as regards regulations 7 and 8 of these regulations;

(c) the collection and transport of separately collected WEEE shall be carried out in a way which optimises reuse and

recycling of those components or whole appliances capable of being reused or recycled.

(6) Without prejudice to sub-regulation (1) hereof, the Competent Authority shall take necessary measures to ensure that by the 31st December, 2008 at the latest a rate of separate collection of at least four kilograms on average per inhabitant per year of WEEE from private households is achieved.

7. (1) The Competent Authority shall take necessary measures ^{Treatment.} to ensure that:

(a) producers or third parties acting on their behalf shall set up systems, individually or collectively, or both, in accordance with any existing laws and regulations, to provide for the treatment of WEEE using best available treatment, recovery and recycling techniques;

(b) the treatment shall, as a minimum, include the removal of all fluids and a selective treatment in accordance with the provisions of the Waste Management (Permit and Control) Regulations, 2001, and in compliance with Schedule 2 to these regulations, without prejudice to any other relevant regulations on health and environment; ^{L.N. 337 of 2001.}

(c) any establishment or undertaking carrying out treatment operations shall hold a valid permit from the Competent Authority;

(d) the derogation from the permit requirement referred to in the provisions of the Waste Management (Activity Registration) Regulations, 2004, may apply to recovery operations concerning WEEE provided that an inspection is carried out by the Competent Authority before the registration in order to ensure compliance with the provisions of the Waste Management (Permit and Control) Regulations, 2001;

(e) the inspection referred to in paragraph (d) hereof shall verify:

(i) the type and quantities of waste to be treated;

(ii) the general technical requirements to be complied with;

(iii) the safety precautions to be taken;

(f) the inspection referred to in paragraphs (d) and (e) hereof shall be carried out at least once a year;

(g) any establishment or undertaking carrying out treatment operations shall store and treat WEEE in compliance with the technical requirements set out in Schedule 3 to these regulations;

(h) the permit or the registration referred to in paragraphs (c) and (d) hereof shall include all conditions necessary for compliance with the requirements of paragraphs (a), (b) and (g) hereof and with the requirements referred to in sub-regulation (2) of this regulation for the achievement of the recovery targets set out in regulation 8 of these regulations;

(i) establishments or undertakings which carry out treatment operations shall, as far as practicable, introduce certified environmental management systems in accordance with Regulation (EC) No 761/2001⁶ of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS):

Provided that the treatment operation may be undertaken outside Malta or the Community provided that the shipment of WEEE shall be in compliance with Council Regulation (EEC) No 259/93⁷ of the 1st February, 1993 on the supervision and control of shipments of waste within, into and out of the European Community.

Provided further that WEEE exported out of the Community in line with Council Regulation (EEC) No 259/93, Council Regulation (EC) No 1420/1999⁸ of the 29th April, 1999 establishing common rules and procedures to apply to shipments to certain non-OECD countries of certain types of waste and Commission Regulation (EC) No 1547/1999⁹ of the 12th July, 1999 determining the control procedures under Council Regulation (EEC) No 259/93 to apply to shipments of certain types of waste to certain countries to which OECD Decision C(92)39 final does not apply, shall only count for the fulfilment of obligations and targets of regulation 8 of these regulations if the exporter can prove that the recovery, reuse or recycling operation, or both, took place under conditions that are equivalent to the requirements of these regulations.

⁶ OJ L 114, 24.4.2001, p. 1.

⁷ OJ L 30, 6.2.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 2557/2001 (OJ L 349, 31.12.2001, p. 1).

⁸ OJ L 166, 1.7.1999, p. 6. Regulation as last amended by Commission Regulation (EC) No 2243/2001 (OJ L 303, 20.11.2001, p. 11).

⁹ OJ L 185, 17.7.1999, p. 1. Regulation as last amended by Commission Regulation (EC) No 2243/2001.

(2) Without prejudice to paragraphs (a) and (b) of sub-regulation (1) hereof, and for the purposes of environmental protection, the Competent Authority may set up minimum quality standards for the treatment of collected WEEE.

8. (1) The Competent Authority shall take necessary measures Recovery. to ensure that:

(a) producers or third parties acting on their behalf shall set up systems, individually or collectively, or both, in accordance with any existing laws and regulations, to provide for the recovery of WEEE collected separately in accordance with regulation 6 of these regulations;

(b) priority shall be given to the reuse of whole appliances:

Provided that such appliances shall, until the 31st December, 2008, not be taken into account for the calculation of the targets set out in sub-regulation (2) hereof; and

(c) the development of new recovery, recycling and treatment technologies shall be encouraged.

(2) Regarding WEEE sent for treatment in accordance with regulation 7 of these regulations, the Competent Authority shall take necessary measures to ensure that producers shall, by the 31st December, 2008, meet the following targets:

(a) for WEEE falling under categories 1 and 10 of Schedule 1A to these regulations,

(i) the rate of recovery shall be increased to a minimum of 80 % by an average weight per appliance, and

(ii) component, material and substance reuse and recycling shall be increased to a minimum of 75 % by an average weight per appliance;

(b) for WEEE falling under categories 3 and 4 of Schedule 1A to these regulations,

(i) the rate of recovery shall be increased to a minimum of 75 % by an average weight per appliance, and

(ii) component, material and substance reuse and recycling shall be increased to a minimum of 65 % by an average weight per appliance;

(c) for WEEE falling under categories 2, 5, 6, 7 and 9 of Schedule 1A to these regulations,

(i) the rate of recovery shall be increased to a minimum of 70 % by an average weight per appliance, and

(ii) component, material and substance reuse and recycling shall be increased to a minimum of 50 % by an average weight per appliance;

(d) for gas discharge lamps, the rate of component, material and substance reuse and recycling shall reach a minimum of 80 % by weight of the lamps:

Provided that, for the purpose of calculating these targets, producers or third parties acting on their behalf shall keep records on the mass of WEEE, their components, materials or substances when entering (input) and leaving (output) the treatment facility or when entering (input), or both, the recovery or recycling facility.

Financing in respect of WEEE from private households.

9. (1) The Competent Authority shall take necessary measures to ensure that:

(a) producers shall, by the 13th August, 2005, provide at least for the financing of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households deposited at collection facilities, set up under sub-regulations (2) and (3) of regulation 6 of these regulations;

(b) for products put on the market later than the 13th August, 2005, each producer shall finance the operations referred to in paragraph (a) hereof relating to the waste from his own products:

Provided that the producer can choose to fulfil this obligation either individually or by joining a collective authorised WEEE collection, treatment and recovery scheme;

(c) each producer shall provide a guarantee when putting a product on the market showing that the management of all WEEE will be financed and that producers shall clearly mark

their products in accordance with sub-regulation (4) of regulation 13 of these regulations;

(d) the guarantee referred to in paragraph (c) hereof may take the form of participation by the producer in an authorised WEEE collection, treatment and recovery scheme for the financing of the management of WEEE, a recycling insurance or a blocked bank account;

(e) the costs of collection, treatment and environmentally sound disposal shall not be shown separately to purchasers at the time of sale of new products.

Provided that producers, shall, until the 13th August, 2012 for categories 2, 3, 4, 5, 6, 7, 8, 9 and 10 of Schedule 1A of these regulations and until the 13th August, 2014 for category 1 of Schedule 1A of these regulations, be allowed to show purchasers, at the time of sale of new products, the costs of collection, treatment and disposal in an environmentally sound way:

Provided further that the costs mentioned shall not exceed the actual costs incurred;

(f) the responsibility for the financing of the costs of the management of WEEE from products put on the market before the 13th August, 2005 (historical waste) shall be provided by one or more authorised WEEE collection, treatment and recovery schemes to which all producers, existing on the market when the respective costs occur, contribute proportionately, such as in proportion to their respective share of the market by type of equipment.

(2) The Competent Authority shall take necessary measures to ensure that producers supplying electrical or electronic equipment by means of distance communication shall also comply with the requirements set out in this regulation for the equipment supplied in the Member State where the purchaser of that equipment resides.

10. (1) The Competent Authority shall take necessary measures to ensure that:

(a) producers shall, by the 13th August, 2005, provide for the financing of the costs for the collection, treatment, recovery and environmentally sound disposal of WEEE from

Financing in respect of WEEE from users other than private households.

users other than private households from products put on the market after the 13th August, 2005;

(b) for WEEE from products put on the market before the 13th August, 2005 (historical waste), the financing of the costs of management shall, by the 13th August, 2005, be as set out in paragraphs (c) and (d) hereof;

(c) for historical waste being replaced by new equivalent products or by new products fulfilling the same function, producers of those products when supplying them shall provide for the financing of the costs:

Provided that as an alternative, the Competent Authority, as the Minister may prescribe, may provide that users other than private households also be made, partly or totally, responsible for this financing;

(d) for other historical waste, the users other than private households shall provide for the financing of the costs.

(2) Without prejudice to the provisions of these regulations, producers and users other than private households may conclude agreements stipulating other financing methods.

Information for users.

11. The Competent Authority shall take necessary measures to ensure that:

(1) Producers or distributors, or both, such as in the instructions for use or at the point of sale, shall provide users of electrical and electronic equipment in private households with the necessary information about:

(a) the requirement not to dispose of WEEE as unsorted municipal waste and to collect such WEEE separately;

(b) the return and collection systems available to them;

(c) their role in contributing to reuse, recycling and other forms of recovery of WEEE;

(d) the potential effects on the environment and human health as a result of the presence of hazardous substances in electrical and electronic equipment;

(e) the meaning of the symbol shown in Schedule 4 to these regulations.

(2) With a view to minimising the disposal of WEEE as unsorted municipal waste and to facilitating its separate collection, producers shall appropriately mark electrical and electronic equipment put on the market after the 13th August, 2005 with the symbol shown in Schedule 4 to these regulations:

Provided that, in exceptional cases, where this is necessary because of the size or the function of the product, the symbol shall be printed on the packaging, on the instructions for use and on the warranty of the electrical and electronic equipment.

12. Consumers shall participate in the collection of WEEE and facilitate the process of reuse, treatment and recovery. Duties of consumers of EEE.

13. In order to facilitate the reuse and the correct and environmentally sound treatment of WEEE, including maintenance, upgrade, refurbishment and recycling, the Competent Authority shall take necessary measures to ensure that: Information for treatment facilities.

(a) producers shall provide reuse and treatment information for each type of new EEE put on the market within one year after the equipment is put on the market;

(b) the information referred to in paragraph (a) hereof shall identify, as far as it is needed by reuse centres, treatment and recycling facilities in order to comply with the provisions of these regulations, the different EEE components and materials, as well as the location of dangerous substances and preparations in EEE;

(c) producers of EEE shall make available the information referred to in paragraphs (a) and (b) hereof to reuse centres, treatment and recycling facilities in the form of manuals or by means of electronic media (such as CD-ROM, online services);

(d) any producer of an electrical or electronic appliance put on the market after the 13th August, 2005 shall ensure that it is clearly identifiable by a mark on the appliance that shall specify that the latter was put on the market after the 13th August, 2005 in order to enable the date upon which the appliance was put on the market to be determined unequivocally.

Register of producers and information.

14. The Competent Authority shall draw up a register of producers and collect information, including substantiated estimates, on an annual basis on the quantities and categories of electrical and electronic equipment put on their market, collected through all routes, reused, recycled and recovered, and on collected waste exported, by weight or, if this is not possible, by numbers.

Information and reporting.

15. The Competent Authority shall take necessary measures to ensure that producers supplying electrical and electronic equipment by means of distance communication shall provide the Competent Authority with information on the compliance with the requirements of sub-regulation (2) of regulation 9 of these regulations and on the quantities and categories of electrical and electronic equipment put on the market of the Member State where the purchaser of that equipment resides.

Agreements.

16. For the purposes of achieving the objectives, and satisfying the provisions of these regulations, economic operators may be parties to agreements with the Competent Authority. Such agreements shall specify the detailed rules of implementation of these regulations. Moreover, these agreements:

- (a) shall be enforceable at law;
- (b) shall specify the objectives with the corresponding deadlines;
- (c) shall be published in the Gazette;
- (d) shall have the results achieved under them monitored regularly, reported to the Competent Authority and made available to the public under the conditions set out in the agreement;
- (e) shall have the progress reached under them examined in terms of provisions to be made by the Competent Authority.

Participation in an authorised WEEE collection, treatment and recovery scheme.

17. The Competent Authority may exempt a producer from all or part of these regulations provided the producer provides evidence to the Competent Authority of participating in an authorised WEEE collection, treatment and recovery scheme.

Signed agreement with an operator of an authorised WEEE collection, treatment and recovery scheme.

18. (1) If a producer chooses to make use of an existing authorised WEEE collection, treatment and recovery scheme, he shall be required to submit to the Competent Authority a signed agreement with the operator of the authorised WEEE collection, treatment and

recovery scheme to prove that the scheme complies with the provisions of these regulations.

(2) The producer shall moreover submit to the Competent Authority every six months a statement of compliance with the provision of these regulations, signed by the operator of the authorised WEEE collection, treatment and recovery scheme.

(3) The operator of the authorised WEEE collection, treatment and recovery scheme referred to in sub-regulation (1) hereof shall:

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

(b) provide the Competent Authority every six months with the information referred to in regulations 11, 13 and 14 of these regulations as it applies *mutatis mutandis* to the producer, and

(c) provide to the Competent Authority every six months with a statement of compliance of the producer with the provisions of these regulations.

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

(5) The Competent Authority shall make this information available in accordance with the Freedom of Access to Information on the Environment Regulations, 2001. L.N. 217 of 2001.

19. (1) Persons who intend to operate a WEEE collection, treatment and recovery scheme as required under these regulations, including the collection, sorting, storage, treatment, export, recovery and recycling of WEEE on behalf of producers shall require and obtain a valid permit from the Competent Authority in terms of the Waste Management (Permit and Control) Regulations, 2001. Permit required by an operator of a WEEE collection, treatment and recovery scheme. L.N. 337 of 2001.

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

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- (a) a copy of the memorandum of articles of association;
- (b) a copy of a valid development permit issued under the Development Planning Act;
- (c) a description of the proposed system which will provide for the collection, treatment and recovery of WEEE in accordance with the provisions of these regulations;
- (d) details of any deposit-refund scheme or other scheme adopted in order to ensure the return of WEEE by consumers;
- (e) a financial plan in relation to the proposed scheme;
- (f) the annual weights of WEEE in each category to be collected, treated and recovered;
- (g) annual WEEE recovery targets to be achieved under the proposed scheme;
- (h) proposals for determining and verifying the level of recovery of WEEE under the proposed scheme, including estimations and assumptions to be made in this process;
- (i) proposals for the certification of producers who will make use of such scheme;
- (j) proposals of how the information under the provisions of these regulations will be compiled and made available to the Competent Authority;
- (k) any other relevant information requested by the Competent Authority.

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

(4) The Competent Authority shall make this information available in accordance with the Freedom of Access to Information on the Environment Regulations, 2001.

L.N. 217 of 2001.

Inspection and monitoring.

20. The Competent Authority shall take necessary measures to ensure that inspection and monitoring shall enable the proper implementation of these regulations to be verified, having regard, *inter alia*, to Recommendation 2001/331/EC¹⁰ of the European Parliament and the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States.

¹⁰ OJ L 118, 27.4.2001, p. 41.

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

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

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

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

(d) he conspires or attempts, or aids, or abets, any other person by whatever means, including advertising, counselling or procurement to contravene the provisions of these regulations or to fail to comply with any such provisions (including any order lawfully given in terms of any of the provisions of these regulations) or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

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

(a) on a first conviction, to a fine (*multa*) of not less than five hundred Maltese liri (Lm500), but not exceeding one thousand Maltese liri (Lm1,000);

(b) on a second conviction or subsequent convictions, to a fine (*multa*) of not less than one thousand Maltese liri (Lm1,000), but not exceeding two thousand Maltese liri (Lm2,000), or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

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

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

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

(2) Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be held before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

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

Schedule 1A**(Regulation 4)****Categories of electrical and electronic equipment covered by these Regulations**

1. Large household appliances
2. Small household appliances
3. IT and telecommunications equipment
4. Consumer equipment
5. Lighting equipment
6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)
7. Toys, leisure and sports equipment
8. Medical devices (with the exception of all implanted and infected products)
9. Monitoring and control instruments
10. Automatic dispensers

Schedule 1B**(Regulation 4)****List of products which shall be taken into account for the purpose of these Regulations and which fall under the categories of Schedule 1A****1. Large household appliances**

- 1.1 Large cooling appliances;
- 1.2 Refrigerators;
- 1.3 Freezers;
- 1.4 Other large appliances used for refrigeration, conservation and storage of food;
- 1.5 Washing machines;
- 1.6 Clothes dryers;
- 1.7 Dish washing machines;
- 1.8 Cooking;
- 1.9 Electric stoves;
- 1.10 Electric hot plates;
- 1.11 Microwaves
- 1.12 Other large appliances used for cooking and other processing of food;
- 1.13 Electric heating appliances;
- 1.14 Electric radiators;
- 1.15 Other large appliances for heating rooms, beds, seating furniture;
- 1.16 Electric fans;
- 1.17 Air conditioner appliances;
- 1.18 Other fanning, exhaust ventilation and conditioning equipment.

2. Small household appliances

- 2.1 Vacuum cleaners;
- 2.2 Carpet sweepers;
- 2.3 Other appliances for cleaning;

- 2.4 Appliances used for sewing, knitting, weaving and other processing for textiles;
- 2.5 Irons and other appliances for ironing, mangling and other care of clothing;
- 2.6 Toasters;
- 2.7 Fryers;
- 2.8 Grinders, coffee machines and equipment for opening or sealing containers or packages;
- 2.9 Electric knives;
- 2.10 Appliances for hair-cutting, hair drying, tooth brushing, shaving, massage and other body care appliances;
- 2.11 Clocks, watches and equipment for the purpose of measuring, indicating or registering time;
- 2.12 Scales.

3. IT and telecommunications equipment

- 3.1 Centralised data processing:
 - 3.1.1 Mainframes;
 - 3.1.2 Minicomputers;
 - 3.1.3 Printer units.
- 3.2 Personal computing:
 - 3.2.1 Personal computers (CPU, mouse, screen and keyboard included);
 - 3.2.2 Laptop computers (CPU, mouse, screen and keyboard included);
 - 3.2.3 Notebook computers;
 - 3.2.4 Notepad computers;
 - 3.2.5 Printers;
 - 3.2.6 Copying equipment;
 - 3.2.7 Electrical and electronic typewriters;
 - 3.2.8 Pocket and desk calculators;
 - 3.2.9 Other products and equipment for the collection, storage, processing, presentation or communication of information by electronic means;
 - 3.2.10 User terminals and systems;
 - 3.2.11 Facsimile;
 - 3.2.12 Telex;
 - 3.2.13 Telephones;
 - 3.2.14 Pay telephones;
 - 3.2.15 Cordless telephones;
 - 3.2.16 Cellular telephones;
 - 3.2.17 Answering systems;
 - 3.2.18 Other products or equipment of transmitting sound, images or other information by telecommunications.

4. Consumer equipment

- 4.1 Radio sets;
- 4.2 Television sets;
- 4.3 Videocameras;
- 4.4 Video recorders;
- 4.5 Hi-fi recorders;

- 4.6 Audio amplifiers;
- 4.7 Musical instruments;
- 4.8 And other products or equipment for the purpose of recording or reproducing sound or images, including signals or other technologies for the distribution of sound and image than by telecommunications.

5. Lighting equipment

- 5.1 Luminaires for fluorescent lamps with the exception of luminaires in households;
- 5.2 Straight fluorescent lamps;
- 5.3 Compact fluorescent lamps;
- 5.4 High intensity discharge lamps, including pressure sodium lamps and metal halide lamps;
- 5.5 Low pressure sodium lamps;
- 5.6 Other lighting or equipment for the purpose of spreading or controlling light with the exception of filament bulbs.

6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)

- 6.1 Drills;
- 6.2 Saws;
- 6.3 Sewing machines;
- 6.4 Equipment for turning, milling, sanding, grinding, sawing, cutting, shearing, drilling, making holes, punching, folding, bending or similar processing of wood, metal and other materials;
- 6.5 Tools for riveting, nailing or screwing or removing rivets, nails, screws or similar uses;
- 6.6 Tools for welding, soldering or similar use;
- 6.7 Equipment for spraying, spreading, dispersing or other treatment of liquid or gaseous substances by other means;
- 6.8 Tools for mowing or other gardening activities.

7. Toys, leisure and sports equipment

- 7.1 Electric trains or car racing sets;
- 7.2 Hand-held video game consoles;
- 7.3 Video games;
- 7.4 Computers for biking, diving, running, rowing, etc.;
- 7.5 Sports equipment with electric or electronic components;
- 7.6 Coin slot machines.

8. Medical devices (with the exception of all implanted and infected products)

- 8.1 Radiotherapy equipment;
- 8.2 Cardiology;
- 8.3 Dialysis;
- 8.4 Pulmonary ventilators;
- 8.5 Nuclear medicine;

- 8.6 Laboratory equipment for *in-vitro* diagnosis;
- 8.7 Analysers;
- 8.8 Freezers;
- 8.9 Fertilization tests;
- 8.10 Other appliances for detecting, preventing, monitoring, treating, alleviating;
- 8.11 illness, injury or disability;

9. Monitoring and control instruments

- 9.1 Smoke detector;
- 9.2 Heating regulators;
- 9.3 Thermostats;
- 9.4 Measuring, weighing or adjusting appliances for household or as laboratory equipment;
- 9.5 Other monitoring and control instruments used in industrial installations (e.g. in control panels).

10. Automatic dispensers

- 10.1 Automatic dispensers for hot drinks;
- 10.2 Automatic dispensers for hot or cold bottles or cans;
- 10.3 Automatic dispensers for solid products;
- 10.4 Automatic dispensers for money;
- 10.5 All appliances which deliver automatically all kind of products.

Schedule 2

Regulation 7 (1)

Selective treatment for materials and components of waste electrical and electronic equipment

1. As a minimum the following substances, preparations and components have to be removed from any separately collected WEEE:

- polychlorinated biphenyls (PCB) containing capacitors in accordance with the Waste Management (PCBs & PCTs) Regulations, 2002;
- mercury containing components, such as switches or backlighting lamps;
- batteries;
- printed circuit boards of mobile phones generally, and of other devices if the surface of the printed circuit board is greater than 10 square centimetres;
- toner cartridges, liquid and pasty, as well as colour toner;
- plastic containing brominated flame retardants;— asbestos waste and components which contain asbestos;
- cathode ray tubes;
- chlorofluorocarbons (CFC), hydrochlorofluorocarbons (HCFC) or hydrofluorocarbons (HFC), hydrocarbons (HC);
- gas discharge lamps;
- liquid crystal displays (together with their casing where appropriate) of a surface greater than 100 square centimetres and all those back-lighted with gas discharge lamps;
- external electric cables;
- components containing refractory ceramic fibres as described in Commission Directive 97/69/EC¹¹ of 5 December 1997 adapting to technical progress Council Directive 67/548/EEC relating to the classification, packaging and labelling of dangerous substances;— components containing radioactive substances with the exception of components that are below the exemption thresholds set in Article 3 of and Annex I to Council Directive 96/29/Euratom¹² of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation; and
- electrolyte capacitors containing substances of concern (height > 25 mm, diameter > 25 mm or proportionately similar volume).

These substances, preparations and components shall be disposed of or recovered in compliance with regulation 4 of the Waste Management (Permit and Control) Regulations, 2001.

¹¹ OJ L 343, 13.12.1997, p. 19.

¹² OJ L 159, 29.6.1996, p. 1.

¹³ OJ L 244, 29.9.2000, p. 1. Regulation as last amended by Regulation (EC) No 2039/ 2000 (OJ L 244, 29.9.2000, p. 26).

2. The following components of WEEE that is separately collected have to be treated as indicated:

- cathode ray tubes: the fluorescent coating has to be removed;
- equipment containing gases that are ozone depleting or have a global warming potential (GWP) above 15, such as those contained in foams and refrigeration circuits: the gases must be properly extracted and properly treated. Ozone-depleting gases must be treated in accordance with Regulation (EC) No 2037/2000¹³ of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer; and
- gas discharge lamps: the mercury shall be removed.

3. Taking into account environmental considerations and the desirability of reuse and recycling, paragraphs 1 and 2 shall be applied in such a way that environmentally-sound reuse and recycling of components or whole appliances is not hindered.

Schedule 3**Regulation 7(3)(g)****Technical requirements**

1. Sites for storage (including temporary storage) of WEEE prior to their treatment (without prejudice to the requirements of the Waste Management (Landfill) Regulations, 2002):
 - impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser degreasers; and
 - weatherproof covering for appropriate areas.

2. Sites for treatment of WEEE:
 - balances to measure the weight of the treated waste,
 - impermeable surfaces and waterproof covering for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers;
 - appropriate storage for disassembled spare parts;
 - appropriate containers for storage of batteries, PCBs/PCTs containing capacitors and other hazardous waste such as radioactive waste; and
 - equipment for the treatment of water in compliance with health and environmental regulations.

Schedule 4
Symbol for the marking of electrical and electronic equipment

The symbol indicating separate collection for electrical and electronic equipment consists of the crossed-out wheeled bin, as shown below. The symbol must be printed visibly, legibly and indelibly.

