

L.N. 158 of 2002

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

**Waste Management (Batteries and Accumulators)
Regulations, 2002**

BY virtue of the powers conferred by articles 9 and 11 of the Environment Protection Act, 2001, hereinafter referred to as "the Act", the Minister for Home Affairs and the Environment has made the following regulations:-

1. (1) The title of these regulations is the Waste Management (Batteries and Accumulators) Regulations, 2002.

Citation,
commencement and
scope.

(2) (a) 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.

(b) A notice under paragraph (a) of this sub-regulation may make such transitional provisions as appear to the Minister to be necessary or expedient in connection with the provisions thereby brought into force.

(3) These regulations provide additional measures, procedures and guidance to those in the Waste Management (Permit and Control) Regulations, 2001, on the recovery and controlled disposal of those spent batteries and accumulators containing dangerous substances in accordance with Schedule 1.

L.N. 337 of 2001.

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

Interpretation.

"battery or accumulator" means a source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary (non-rechargeable) batteries or secondary (rechargeable) cells, as listed in Schedule 1;

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“spent battery or accumulator” means a battery or accumulator which is not re-usable and is intended for recovery or disposal;

“disposal” means any operation, provided that it is applicable to batteries and accumulators, included in Schedule 4 of the Waste Management (Permit and Control) Regulations, 2001;

“recovery” means any operation, provided that it is applicable to batteries and accumulators, included in Schedule 6 of the Waste Management (Permit and Control) Regulations, 2001;

“collection” means the gathering, sorting and, or grouping together of spent batteries and accumulators;

“deposit system” means a system under which the buyer, upon purchase of batteries or accumulators, pays the seller a sum of money which is refunded when the spent batteries or accumulators are returned;

“competent authority” means the Malta Environment and Planning Authority as prescribed by the notice entitled Nomination of the Malta Environment and Planning Authority as the competent authority, and such other body or person as the Minister responsible for the Environment 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.

“economic operators” means a person who for the purpose of trade or otherwise in the course of business produces, distributes or retails batteries and accumulators covered by the provisions of these regulations and which are included in Schedule 1;

“producer” means a person who for the purpose of trade or otherwise in the course of business manufactures or imports batteries and accumulators covered by the provisions of these regulations and which are included in Schedule 1.

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

Economic producer. 3. (1) No person may act as an “producer” unless he holds a permit to this effect by the competent authority:

Provided that to this effect, any person proposing to act as a producer must apply for a permit to the competent authority within 12 months from the date of the coming into force of these regulations.

(2) The competent authority may issue a permit subject to such conditions and obligations as it deems necessary.

4. Economic operators shall not market batteries and accumulators containing more than 0.0005 % of mercury by weight, including in those cases where these batteries and accumulators are incorporated into appliances:

Marketing of batteries etc. containing more than 0.0005 % of mercury by weight.

Provided that alkaline and manganese button cells and batteries composed of button cells with a mercury content of no more than 2% by weight and any batteries listed in Schedule 2 shall be excluded.

5. Producers shall not incorporate batteries and accumulators into appliances unless they can be readily removed, when spent, by the consumer. This regulation shall not apply to the categories of appliances included in Schedule 2.

Incorporation of batteries into appliances.

6. (1) Economic operators shall separately collect and manage spent batteries and accumulators by establishing systems for collection of spent batteries and accumulators or participate in existing collection systems:

Separate collection of spent batteries and accumulators.

Provided that when applying for a permit in accordance with regulation 3, a producer must submit a plan for the separate collection and management of spent batteries and accumulators for approval by the competent authority:

Provided further that the competent authority may refuse to grant a permit if it is not satisfied with the submitted plan.

(2) Where considered appropriate, separate collection may be achieved by the introduction of economic instruments including deposit and, or refund systems.

7. (1) The competent authority shall draw up programmes in order to achieve the following objectives, as applicable:

Programmes.

(a) Reduction of the heavy-metal content of batteries and accumulators;

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(b) Promotion of marketing of batteries and accumulators containing smaller quantities of dangerous substances and, or less polluting substances;

(c) Gradual reduction, in household waste, of spent batteries and accumulators covered by Schedule 1;

(d) Promotion of research aimed at reducing the dangerous-substance content and favouring the use of less-polluting substitute substances in batteries and accumulators, and research into methods of recycling;

(e) Promotion of separate collection of spent batteries and accumulators;

(f) Separate disposal of spent batteries and accumulators covered by Schedule 1.

(2) The competent authority shall review and update these programmes at least every four years, in particular in the light of technical progress and of the socio-economic and environmental situation.

Assurances by
competent
authority.
Order No. 50, 2001.

8. In the context of the programmes referred to in regulation 6, the competent authority shall ensure that:

(a) batteries and accumulators, and where appropriate appliances into which they are incorporated are marked in accordance with the Batteries and Accumulators Order, 2001 to include indications as to the following points:

- (i) separate collection;
- (ii) where appropriate, recycling;
- (iii) the heavy-metal content.

(b) consumers are fully informed of:

(i) the dangers of uncontrolled disposal of spent batteries and accumulators;

(ii) the marking of batteries, accumulators and appliances with permanently incorporated batteries and accumulators;

(iii) the method of removing batteries and accumulators which are permanently incorporated into appliances.

Offences.

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

(a) he fails to comply with any provision 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 provision of these regulations, or to contravene any restriction, prohibition or requirement imposed by or under the said regulations.

10. 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 but not exceeding one thousand Maltese liri;

(b) on a second or subsequent convictions, to a fine (multa) of not less than one thousand Maltese liri, but not exceeding two thousand Maltese liri 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 shall 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 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.

11. (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. Applicability of
Cap. 9.

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(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.

Language of
Schedules.

12. The Schedules 1 and 2 to these regulations are being published in the English language with the English text of these regulations.

SCHEDULE 1

BATTERIES AND ACCUMULATORS COVERED
BY THESE REGULATIONS

The following batteries and accumulators are covered by these regulations:

1. Batteries and accumulators containing more than 0.0005 % of mercury by weight.
2. Batteries and accumulators containing:
 - more than 25 mg of mercury per cell, except alkaline manganese batteries,
 - more than 0.025 % of cadmium by weight,
 - more than 0.4 % of lead by weight.
3. Alkaline manganese batteries containing more than 0,025 % of mercury by weight.

SCHEDULE 2

LIST OF CATEGORIES OF APPLIANCES EXCLUDED
FROM THE SCOPE OF REGULATION 4

1. Those appliances whose batteries are soldered, welded or otherwise permanently attached to terminals to ensure continuity of power supply in demanding industrial usage and to preserve the memory and data functions of information technology and business equipment, where use of the batteries and accumulators referred to in Schedule 1 is technically necessary.

2. Reference cells in scientific and professional equipment, and batteries and accumulators placed in medical devices designed to maintain vital functions and in heart pacemakers, where uninterrupted functioning is essential and the batteries and accumulators can be removed only by qualified personnel.

3. Portable appliances, where replacement of the batteries by unqualified personnel could present safety hazards to the user or could affect the operation of the appliance, and professional equipment intended for use in highly sensitive surroundings, for example in the presence of volatile substances.

Those appliances the batteries and accumulators of which cannot be readily replaced by the user, in accordance with this Schedule, shall be accompanied by instructions informing the user of the content of environmentally hazardous batteries and accumulators and showing how they can be removed safely.