

SUBSIDIARY LEGISLATION 549.28

**WASTE MANAGEMENT (POLYCHLORINATED
BIPHENYLS AND POLYCHLORINATED
TERPHENYLS) REGULATIONS**

28th June, 2002

*LEGAL NOTICE 166 of 2002, as amended by Legal Notices 426 of 2007
and 356 of 2013.*

1. (1) The title of these regulations is the Waste Management (Polychlorinated Biphenyls and Polychlorinated Terphenyls) Regulations. Citation and objectives.

(2) These regulations provide additional measures, procedures and guidance to those in the Waste Regulations, on the controlled disposal of Polychlorinated Biphenyls and Polychlorinated Terphenyls, hereafter collectively referred to as PCBs, the decontamination or disposal of equipment containing PCBs and, or the disposal of used PCBs in order to eliminate them completely. S.L. 549.63

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

"authorised undertaking" means an undertaking that holds a valid permit under the Waste Regulations; S.L. 549.63

"competent authority" means the Environment and Resources Authority as prescribed by the Nomination of the Competent Authority Order, 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; S.L. 549.19

"decontamination" means all operations which enable equipment, objects, materials or fluids contaminated by PCBs to be reused, recycled or disposed of under safe conditions, and which may include replacement, meaning all operations in which PCBs are replaced by suitable fluids not containing PCBs;

"disposal" means operations D 8, D 9, D 10, D 12 (only in safe, deep, underground storage in dry rock formations and only for equipment containing PCBs and used PCBs which cannot be decontaminated) and D 15 provided for in Schedule 4 of the Waste Regulations; S.L. 549.63

"equipment containing PCBs" means any equipment containing PCBs or having contained PCBs (e.g. transformers, capacitors, receptacles containing residual stocks) which has not been decontaminated;

Provided that equipment of a type which may contain PCBs shall be treated as if it contains PCBs unless it is reasonable to assume the contrary;

"holder" means any natural or legal person who is in possession of PCBs, used PCBs and, or equipment containing PCBs;

"PCBs" means :

- (a) polychlorinated biphenyls,
- (b) polychlorinated terphenyls,
- (c) Monomethyl-tetrachlorodiphenyl methane,
Monomethyl-dichloro-diphenyl methane,
Monomethyl-dibromo-diphenyl methane,
- (d) any mixture containing any of the above mentioned substances in a total of more than 0.005% by weight;

S.L. 549.63

"used PCBs" means any PCBs which are waste within the meaning of the Waste Regulations.

S.L. 549.63

(2) All other terms shall have the same meaning as that assigned to them in the Waste Regulations.

Decontamination
or disposal not
later than 2010.

3. Without prejudice to any other regulations and to any international agreements to which Malta is a party, holders of used PCBs and, or equipment containing PCBs shall ensure that used PCBs are disposed of and PCBs and equipment containing PCBs are decontaminated or disposed of as soon as possible, but not later than the 31st December, 2010.

Inventory.

4. (1) The competent authority shall establish an inventory of equipment with PCB volumes greater than 5 dm³.

(2) All holders of equipment containing PCB volumes greater than 5 dm³, shall submit to the competent authority the information detailed in subregulation (3) by not later than twelve months of the entry into force of these regulations:

Provided that in the case of power capacitors, the threshold of 5 dm³ shall be understood as including all the separate elements of a combined set.

(3) The holder shall ensure that equipment in respect of which it is reasonable to assume that the fluids contain between 0.05% and 0.005% by weight of PCBs is included in the inventory without the data required, and shall be labelled as "PCBs contaminated; 0.05%":

Provided that such equipment shall, however, be decontaminated or disposed of in accordance with these regulations.

(4) The inventory shall comprise the following:

- (a) the names and addresses of the holders,
- (b) the location and description of the equipment,
- (c) the quantity of PCBs contained in the equipment,
- (d) the dates and types of treatment or replacement carried out or envisaged, and
- (e) the dates of declaration.

(5) The holders of such equipment listed in the inventory shall

notify the competent authority of any changes in this respect. The inventory shall be updated regularly.

(6) The competent authority shall update the inventory on a regular basis.

5. Holders of equipment subject to regulation 4(1) shall ensure that this equipment is labelled in accordance with the Schedule. They shall affix a similar label to the doors of premises where such equipment is located.

Labelling of equipment.

6. (1) All undertakings engaged in the decontamination and, or disposal of PCBs, used PCBs and, or equipment containing PCBs shall be in possession of a valid permit in accordance with the Waste Regulations:

Permit.
Substituted by:
L.N. 356 of 2013.

S.L. 549.63

Provided that where incineration is used for disposal, the Industrial Emissions (Waste Incineration) Regulations shall apply:

S.L. 549.81

Provided further that the competent authority may accept other methods of disposing of PCBs, used PCBs and, or equipment containing PCBs if they achieve equivalent environmental safety standards and fulfil the technical requirements referred to as best available techniques.

(2) The competent authority shall individually or jointly with the competent authorities of other Member States take the necessary measures to ensure that installations for the disposal, decontamination and safe storage of PCBs, used PCBs and, or equipment containing PCBs are developed, if appropriate and taking account of Article 11(3) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste and the provisions of paragraph 4(4) of Schedule 5 of the Waste Regulations.

S.L. 549.63

7. (1) Any person who undertakes to carry out disposal of PCBs shall keep registers of the quantity, origin, nature and PCB content of used PCBs delivered to him and make available this information to the competent authority, the local authorities and the general public, upon request.

Registers and receipts.

(2) Any person who undertakes to carry out disposal of PCBs shall issue a receipt, specifying the nature and the quantity thereof, to holders who deliver used PCBs.

8. The competent authority shall monitor the quantities of PCBs and equipment containing PCBs that have been notified to it.

Monitoring.

9. The following are prohibited:

Prohibitions.

- (a) the separation of PCBs from other substances for the purpose of reusing the PCBs;
- (b) the topping up of transformers with PCBs;
- (c) the incineration of PCBs and, or used PCBs on ships;
- (d) the landfilling of PCBs and equipment containing PCBs.

Continued
maintenance of
transformers
containing PCBs

10. Any holder shall until such time as transformers are decontaminated, taken out of service and, or disposed of in accordance with these regulations, ensure that the maintenance of transformers containing PCBs shall continue only if the objective is to ensure that the PCBs they contain comply with technical standards or specifications regarding dielectric quality and provided that the transformers are in good working order and do not leak.

Transfer to
authorised
undertakings.

11. (1) Any holders of PCBs and equipment containing PCBs which are is subject to inventory in accordance with regulation 4(1) shall ensure that PCBs and equipment containing PCBs are transferred to authorised undertakings as soon as possible.

(2) The holder shall take all precautions necessary to avoid any risk of fire and shall keep the material away from any flammable products before PCBs, used PCBs and, or equipment containing PCBs are taken by an authorised undertaking.

Removal of
equipment.

12. Where reasonably practicable, holders of equipment containing PCBs, which is not subject to regulation 4(1) and which is part of another piece of equipment, shall remove and collect separately the equipment containing PCBs when the other equipment is taken out of use, recycled or disposed of.

Decontamination
of transformers
containing more
than 0.05% by
weight of PCBs.

13. Holders of transformers containing more than 0.05% by weight of PCBs shall decontaminate this equipment according to the following conditions:

- (a) the objective of the decontamination shall be to reduce the level of PCBs to less than 0.05% by weight and, if possible, to no more than 0.005% by weight;
- (b) the replacement fluid not containing PCBs shall entail markedly lesser risks;
- (c) the replacement fluid shall not compromise the subsequent disposal of the PCBs;
- (d) the labelling of the transformer after decontamination shall be replaced by the labelling specified in the Schedule.

Decontamination
of transformers
containing less
than 0.05% by
weight of PCBs.

14. Holders of transformers the fluids of which contain between 0.05% and 0.005% by weight of PCBs shall either decontaminate this equipment as laid down in regulation 13(b) to (d) or disposed of at the end of their useful lives.

Standard analytical
methods.

15. (1) The competent authority shall require that European standards EN 12766-1 and EN 12766-2 and subsequently upgraded versions are applied as the reference methods for the determination of PCBs in petroleum products and used oils.

(2) The competent authority shall require that European standard IEC 61619 and subsequently upgraded versions is applied as the reference method for the determination of PCBs in insulating liquids.

16. The competent authority shall draw up:

- (a) plans for the decontamination and, or disposal of inventoried equipment and the PCBs contained therein; and
- (b) outlines for the collection and subsequent disposal of equipment which is not subject to inventory in accordance with regulation 4(1), as referred to in regulation 12.

Plans and outlines for decontamination and disposal.
Added by:
L.N. 356 of 2013.

17. 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.

Offences.
Re-numbered by:
L.N. 356 of 2013.

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

- (a) on a first conviction to a fine (*multa*) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37);
- (b) on a second or subsequent convictions, to a fine (*multa*) of not less than two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37), but not exceeding four thousand and six hundred and fifty-eight euro and seventy-five cents (€4,658.75) or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment:

Penalties.
Amended by:
L.N. 426 of 2007.
Re-numbered by:
L.N. 356 of 2013.

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.

Applicability of
Criminal Code.
Re-numbered by:
L.N. 356 of 2013.
Cap. 9.

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

Cap. 9.

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

Cap. 9.

(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
Schedule.
Re-numbered by:
L.N. 356 of 2013.

20. The Schedule is being published in the English language with the English text of these regulations.

SCHEDULE

Labelling of decontaminated PCB equipment

Each item of decontaminated equipment must be clearly marked with an indelible and embossed or engraved sign which must include the following information and be worded in the English and, or the Maltese language:

DECONAMINATED PCB EQUIPMENT

Fluid containing PCBs was replaced

- with (name of the substitute)
- on (date)
- by (undertaking)

Concentration of PCBs in

- old fluid % by weight
- new fluid % by weight