WASTE MANAGEMENT (JERSEY) LAW 2005

Official Consolidated Version

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Jersey

WASTE MANAGEMENT (JERSEY) LAW 2005

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Jersey

WASTE MANAGEMENT (JERSEY) LAW 2005[1]

A LAW to provide for the control and management of waste operations within Jersey; to regulate the transboundary movement of wastes, as far as they involve Jersey, in accordance with certain international agreements relating to such movement; and for related purposes.

Commencement [see endnotes]

PART 1

INTRODUCTORY PROVISIONS

1 Interpretation

(1) In this Law, unless the context otherwise requires –

"approved" means approved in writing by the Minister;

"approved code of practice" means a code of practice that is approved by an Order made under this Law;

"authorized" means authorized in writing;

"Basel Convention" and "Convention" mean the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal concluded at Basel on the 22nd day of March 1989, as amended;

"bilateral or equivalent agreement" means an agreement or arrangement into which a Party to the Basel Convention may enter in accordance with Article 11 of the Convention;

"business" includes –

(a) a trade;

(b) an industrial activity;

(c) a commercial activity; and

(d) a profession;

"caravan" means –

(a) a structure (other than a tent) that is designed or adapted for human habitation, and can be moved from one place to another by being carried either by a motor vehicle or trailer; or

(b) a motor vehicle that is designed or adapted for human habitation;

"carry" includes to tow from or otherwise move by means of a motor vehicle or trailer;

"certificate of confidentiality" means a certificate of confidentiality that is granted under Article 94;

"competent authority concerned" means, in respect of a transboundary movement of waste –

(a) the competent authority of the country of dispatch;

(b) the competent authority of a country of transit, if the consignment will pass through such a country in the course of the movement; or

(c) the competent authority of the country of destination;

"competent authority of the country of destination" means the authority, in the country for which a transboundary movement of waste is destined, that is responsible for implementing and executing the administrative and operational requirements for the control of the movement;

"competent authority of the country of dispatch" means the authority, in the country from which a transboundary movement of waste originates and is dispatched, that is responsible for implementing and executing the administrative and operational requirements for the control of the movement;

"competent authority of a country of transit" means the authority, in a country through which a transboundary movement of waste passes in transit, that is responsible for implementing and executing the administrative and operational requirements for the control of the movement in transit;

"conduct" includes an act and an omission;

"conform to", when used in reference to an approved code of practice, means to conduct oneself in accordance with the code;

"consignor" –

(a) in any case, means a person by whom waste is originally consigned; and

(b) also means a recognized trader acting on behalf of a person by whom waste is originally consigned;

"consignee" –

(a) in any case, means a person to whom waste is to be delivered for disposal or recovery; and

(b) also means a recognized trader acting on behalf of a person to whom waste is to be delivered for recovery;

"consignment note" –

(a) in the case of an internal movement of waste, means a consignment note in the prescribed form that is supplied under Article 22 for the purposes of Part 3;

(b) in the case of a transboundary movement of waste by way of export from Jersey, means a consignment note in the prescribed form that is supplied under Article 22 for the purposes of Part 4; and

(c) in the case of any other transboundary movement of waste, means a consignment note in the prescribed form that is supplied under Article 22 for the purposes of Part 4, or a consignment note that is in the same form materially as one so prescribed and is supplied by any other competent authority concerned;

"contravention" includes a failure to comply with a requirement;

"country" means a State or a dependent territory of a State;

"country concerned" means, in respect of a transboundary movement of waste, the country of dispatch, a country of transit or the country of destination;

"country of dispatch" means a country from which a proposed transboundary movement of waste is to be initiated, or from which a transboundary movement of waste is initiated;

"country of destination" means –

(a) a country to which a proposed transboundary movement of waste is to take place, or to which a transboundary movement of waste does take place, for the purpose of disposal or recovery in that country; or

(b) a country to which a proposed transboundary movement of waste is to take place, or to which a transboundary movement of waste does take place, for the purpose of being loaded for disposal or recovery in an area that is not within the jurisdiction of any country;

"country of transit" means a country through which a proposed transboundary movement of waste is to take place or through which a transboundary movement of waste does take place (other than the country of dispatch or the country of destination);

"disposal" means disposal by an operation described in Part 1 of Schedule 1;

"environmentally sound management", when used in respect of waste, means the taking of all practicable steps to ensure that it is managed in a manner that will protect human health and the environment against the adverse effects that may result from such waste; and "in a manner that is environmentally sound" means in a manner that is in accordance with environmentally sound management;

"European Community Regulation" means Regulation (EC) No. 1013/2006 of the European Parliament and of the Council of 14th June 2006 on shipments of waste (O.J. No. L 190, 12.7.2006, p.1);

"generator" –

(a) in any case, means a person whose activity creates waste;

(b) in any case in which it is not known whose activity has caused waste, also means a person who has possession and control of the waste; and

(c) in the case of a transboundary movement of waste to which an OECD control procedure applies, where the waste results from an operation involving the mixing or physical or chemical transformation of 2 or more different wastes, also means the person who performs that operation;

"harbour" has the same meaning as it has in Article 1 of the Harbours (Administration) (Jersey) Law 1961;

"harbour limits" means the outer limits of those parts of a harbour that are policed and controlled by the Harbour Master;

"hovercraft" means a motor vehicle that is designed to be supported, when in motion, wholly or partly by air expelled from the motor vehicle to form a cushion of which the boundaries include the ground, water or any other surface beneath the motor vehicle;

"illegal traffic" means –

(a) a transboundary movement of waste without notification, pursuant to the Basel Convention, to each country concerned;

(b) a transboundary movement of waste without the consent, pursuant to the Convention, of each country concerned whose consent is required by the Convention;

(c) a transboundary movement of waste, if consent is obtained by falsification, misrepresentation or fraud;

(d) a transboundary movement of waste if, in any material way for the purposes of the Convention, the movement does not conform with the documents relating to that movement; or

(e) a transboundary movement of waste, if the movement results in deliberate disposal of the waste in contravention of the Convention or of general principles of international law;

"inspector" means an inspector appointed under Article 82;

"internal movement" means a movement within Jersey that is not a transboundary movement;

"land" does not include the seabed, but otherwise includes –

(a) a house, building or premises; and

(b) land under water,

and the expression "on land" means on, in or under land;

"micro-organism" includes any microscopic, biological entity that is capable of replication;

"Minister" means the Minister for Planning and Regulation;

"mixture of wastes", in the case of a transboundary movement of waste to which an OECD control procedure applies, means a waste that results from an intentional or unintentional mixing or 2 or more different wastes, but 2 or more wastes in a single shipment are not a mixture of wastes if they are separated;

"motor vehicle" means a motor vehicle as defined in Article 2(1) of the Road Traffic (Jersey) Law 1956;

"national law" means a law of a country;

"normal procedure for commercial transactions" when used in respect of a transboundary movement of waste, means the rules of law that govern that movement, other than a standard control procedure;

"OECD" means the Organisation for Economic Co-operation and Development;

"OECD Decision" means the Decision of the Council of the Organisation for Economic Co-operation and Development of the 30th day of March 1992 concerning the control of transfrontier movements of wastes destined for recovery operations (which Decision is cited by that organization as "C(92)39/FINAL"), as revised on the 22nd day of May 2001 (C (2001) 107) and on the 18th day of March 2004 (C 2004) 20);

"person" includes any Minister;

"pollution" includes the introduction directly or indirectly into the environment of any substance or energy, if its introduction results or is likely to result in –

(a) a hazard to human health or food or water supplies;

(b) harm to any living resource or ecosystem;

(c) damage to any amenity; or

(d) interference with any legitimate use of land, water or air,

and whether or not its introduction is or would be the only contributing factor to that hazard, harm, damage or interference.

"prescribe" means to prescribe by Order;

"recognized trader" means a person who is for the time being recognized as a trader by the Minister under Article 63;

"record" includes a computer record and a record kept otherwise than in a document;

"recovery" means recovery by an operation described in Part 2 of Schedule 1;

"registered waste carrier" means a person to whom a letter of registration that is for the time being in effect has been issued under Article 43;

"registration" means registration as a waste carrier under Article 41;

"representation" includes an objection;

"seabed" means land that is covered by the sea at mean high water springs;

"Secretary of State" means the Secretary of State for the time being exercising in the United Kingdom the functions of a competent authority of transit;

"site" includes any land, or any facility (whether fixed or mobile) at or on which an activity is carried on;

"standard control procedure" means –

(a) the standard control procedure for internal movement;

(b) the standard control procedure for export;

(c) the standard control procedure for import; or

(d) the standard control procedure for transit,

or in any country outside Jersey, a procedure to the same effect;

"standard control procedure for export" means the procedure set out in Part 2 of Schedule 8;

"standard control procedure for import" means the procedure set out in Part 3 of Schedule 8;

"standard control procedure for internal movement" means the procedure set out in Part 1 of Schedule 8;

"standard control procedure for transit" means the procedure set out in Part 4 of Schedule 8;

"substance" includes –

(a) any matter whatever (whether it is in solid or liquid form, or is in the form of gas or vapour, or is radioactive matter or is natural or artificial); and

(b) any micro-organism;

"suspend", when referring to a waste management licence or registration as a waste carrier, means to suspend its effect, wholly or partly;

"transboundary movement" means –

(a) a movement, involving at least 2 countries, from an area that is under the jurisdiction of one country to or through an area that is under the jurisdiction of another country; or

(b) a movement, involving at least 2 countries, from an area that is under the jurisdiction of one country to or through an area that is not under the jurisdiction of any country;

"vary", when referring to a waste management licence, means to vary any term or condition of the licence;

"waste" means –

(a) any substance or object, that is discarded;

(b) any substance or object, in a person's possession or control, that the person intends to discard; or

(c) any substance or object, in a person's possession or control, that the person is required by a national law to discard,

but does not mean a gaseous effluent that is emitted into the atmosphere, and does not mean waste water that is not waste in liquid form;

"Waste Framework Directive" means Directive 2008/98/EC of the European Parliament and of the Council of 19th November 2008 on waste and repealing certain Directives (text with EEA relevance) (O.J. No. L 312, 22.11.2008, p.3);

"waste management licence" means a waste management licence that is issued by the Minister under Article 30.[2]

(2) In this Law, a reference to a member State of the OECD or of the European Union includes a reference to a dependent territory of that State that is bound by the Basel Convention or by the OECD Decision, as the case may be.

(3) For the purposes of this Law, the storage of waste is secure if all reasonable precautions have been taken (having regard to the particular physical and chemical properties of the waste and of any components of the waste) so that –

(a) the waste cannot escape from the container, place or other thing in which it is kept;

(b) the waste cannot come into contact with any other waste or other substance;

(c) the waste is unlikely to be exposed to seriously adverse effects of weather; and

(d) the public does not have uncontrolled access to the place at which the waste is kept.

(4) For the purposes of this Law, waste is in transit in a country if it is there in the course of a transboundary movement that did not begin in that country and is not intended to end in it.

(5) Unless the context otherwise requires, a reference in this Law to an enactment includes a reference to any Regulation, Order, Bye-law or Notice made or issued under that enactment.

2 Controlled wastes

(1) In this Law, "controlled waste" means –

(a) hazardous waste;

(b) health care waste; or

(c) municipal waste.

(2) The States may by Regulations declare that any other kind of waste shall also be controlled waste within the meaning of this Law.

3 Hazardous wastes

(1) In this Law, "hazardous waste" means –

(a) waste that is described in Section A of Part 1 of Schedule 2 (which Part relates to wastes specified in the Basel Convention), and possesses at least one of the hazardous characteristics described in Section B of that Part; and

(b) waste that is described in Part 2 of Schedule 2 (which Part relates to other wastes that are hazardous by national definition).

(2) The States may by Regulations declare that any other kind of waste shall also be hazardous waste within the meaning of this Law.

(3) However, "hazardous waste" does not mean –

(a) waste that, as a result of being radioactive, is subject to an international control system or international instrument applying specifically to radioactive materials (other than the Basel Convention and the system of control established by the Convention); or

(b) waste that is derived from the normal operations of a ship, the discharge of which is regulated by an international instrument other than the Convention,

if that control system or instrument (as the case may be) applies to or binds Jersey.

4 Health care wastes

(1) In this Law, "health care waste" includes –

(a) waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice, investigation, treatment, care, instruction or research; or

(b) waste arising from the collection of blood for transfusion or from the conduct of the business of an undertaker or embalmer,

if it consists wholly or partly of any of the following things, namely human or animal tissue, blood or any other bodily fluid or excretion, a drug or other pharmaceutical product, a swab or dressing or a syringe, needle or other sharp instrument.

(2) However –

(a) "health care waste" does not include household waste from a building, self-contained part of a building, caravan or premises that is or are used wholly for the purposes of private living accommodation or a garage, or store, that is used wholly in connection with the purposes of private living accommodation, except in the circumstances and to the extent that Regulations made under paragraph (3) provide that it shall include household waste from such a source; and

(b) "health care waste" does not include municipal waste in the circumstances and to the extent that Regulations made under paragraph (3) provides that it shall not do so.

(3) The States may by Regulations provide that, in the circumstances and to the extent that the Regulations so provide –

(a) "health care waste" shall include household waste from a source described in paragraph (2)(a); or

(b) "health care waste" shall not include municipal waste.

5 Household wastes

(1) In this Law, except for the purposes of Schedule 3, "household waste" means –

(a) waste from a building, or self-contained part of a building, that is used wholly for the purposes of private living accommodation;

(b) waste from a garage, or store, that is used wholly in connection with the purposes of private living accommodation;

(c) waste from a caravan or campsite;

(d) waste from premises that are used wholly or partly for the purposes of a college, school or other educational establishment;

(e) waste from premises that are used wholly or partly for the purposes of a hospital, nursing home or residential home;

(f) waste from a penal institution;

(g) waste from a residential hostel; or

(h) waste from premises that are used wholly or mainly for public meetings.

(2) For the purposes of Schedule 3, "household waste" has the same meaning as it has in the Basel Convention.

6 Municipal wastes

In this Law, "municipal waste" means –

(a) household waste;

(b) any residue from the incineration of household waste;

(c) any other waste that, because of its nature or composition, is similar to household waste;

(d) commercial or trade refuse;

(e) waste from any charitable undertaking; or

(f) any residue from the incineration of anything described in any of paragraphs (c), (d) and (e).

7 Wastes that are subject to the Basel Convention

For the purposes of this Law, a waste is to be regarded as being subject to the Basel Convention if it is a waste that is described in Schedule 3.

8 Wastes that are subject to the Basel Convention ban

(1) For the purposes of this Law, a waste is to be regarded as being subject to the Basel Convention ban if –

(a) it is hazardous waste as defined in Article 3(1)(a) (waste described in Section A of Part 1 of Schedule 2 and possessing at least one of the hazardous characteristics described in Section B of that Part);

(b) it is waste that is described in Part 1 of Schedule 4, and it contains material that is hazardous waste (as defined in Article 3(1)(a)) to such an extent as to cause it to exhibit a hazardous characteristic described in Section B of Part 1 of Schedule 2; or

(c) it is waste to which the OECD Amber control procedure applies.

(2) However, if a waste is described in Part 2 of Schedule 4, and it does not contain material that is hazardous waste as defined in Article 3(1)(a) to such an extent as to cause it to exhibit a hazardous characteristic described in Section B of Part 1 of Schedule 2, it is not to be regarded for the purposes of this Law as being subject to the Basel Convention ban.

9 Wastes to which the OECD control procedures apply

(1) For the purposes of this Law, an OECD control procedure applies to a transboundary movement of waste if –

(a) the movement is from an area under the national jurisdiction of a member State of the OECD to an area under the national jurisdiction of another member State of the OECD, for recovery; and

(b) it is a movement to which any of paragraphs (2), (3), (4) and (5) applies.

(2) If the waste is described in Part 1 of Schedule 5, the transboundary movement of waste is one to which the OECD Amber control procedure applies.

(3) If the waste is described in Part 2 of Schedule 5, the transboundary movement of waste is one to which the OECD Green control procedure applies, unless it is contaminated by any other material to an extent that –

(a) increases the risks associated with the waste sufficiently to render it appropriate for submission to the OECD Amber control procedure, when taking into account the criteria in Part 3 of Schedule 5; or

(b) prevents the recovery of the waste in a manner that is environmentally sound,

in which case the transboundary movement of waste is one to which the OECD Amber control procedure applies.

(4) If the waste is a mixture of different wastes, and –

(a) the mixture itself is not described in Schedule 5;

(b) the OECD Amber control procedure applies to at least one of the wastes comprising the mixture, and that waste is present in the mixture in an amount that is more than minimal; and

(c) the composition of the mixture does not impair its recovery in a manner that is environmentally sound,

the transboundary movement of the mixture is one to which the OECD Amber control procedure applies.

(5) If the waste is a mixture of different wastes, and –

(a) the mixture itself is not described in Schedule 5;

(b) the OECD Green control applies to each of the wastes comprising the mixture; and

(c) the composition of the mixture does not impair its recovery in a manner that is environmentally sound,

the transboundary movement of the mixture is one to which the OECD Green control procedure applies.

(6) If a transboundary movement described in paragraph (1)(a) involves Jersey, and the waste is not described in Schedule 5 –

(a) the Minister shall identify the waste and notify the Secretary of State; and

(b) where the waste exhibits a hazardous characteristic described in Section B of Part 1 of Schedule 2, this Law shall apply to the movement as if it were one to which the OECD Amber control procedure applies.

PART 2

ADMINISTRATION

10 General regulatory objectives

In carrying out his or her functions under this Law, the Minister shall have regard to the following objectives –

(a) the minimizing of the generation of waste within Jersey;

(b) the adequacy, for the environmentally sound management of controlled wastes within Jersey, of facilities used by persons who carry on activities relating to those wastes;

(c) the taking, by those persons, of measures that are necessary to avoid or prevent pollution arising from such activities; and

(d) compliance with international agreements, other international instruments and international obligations (including the OECD Decision) that relate to the transboundary movement of waste and are applicable to or binding on Jersey.

11 States waste management policy

In carrying out his or her functions under this Law, the Minister may also take into account any other policies for the time being of the States in respect of the management of wastes within Jersey.

12 Operating considerations

In carrying out his or her functions under this Law, the Minister shall have regard as far as is reasonably practicable to the following considerations –

(a) the best techniques that are for the time being available and the best environmental practice that is for the time being recognized for the environmentally sound management of waste (including, where appropriate, clean technology);

(b) a precautionary principle, by which if there are reasonable grounds for concern that any activity relating to waste may cause pollution or other harm to the environment, the Minister takes preventive measures in anticipation of the risk, whether or not there is conclusive evidence of a causal relationship between that activity and such pollution or other harm;

(c) a cost principle in respect of pollution, by which the costs of preventing, controlling, reducing and eliminating pollution that may be caused or is caused by activities relating to waste are borne by the persons who cause or knowingly permit it.

13 Regulatory functions in respect of transboundary movements

(1) For the purposes of this Law, the Minister shall within Jersey be the competent authority in respect of –

(a) the export of waste from Jersey; and

(b) the import of waste into Jersey.

(2) For the purposes of this Law, the Minister shall within Jersey carry out the functions of the competent authority of transit on behalf of the Secretary of State.

14 Dissemination of information

(1) The Minister shall publish reports of the Minister's activities under this Law.

(2) The Minister shall also make available, for public inspection, the other information in the Minister's possession that is specified in Schedule 6, but this paragraph is subject to paragraph (6).

(3) That information shall be available for inspection by any person during reasonable office hours, as soon as possible after it is requested and in any event within 28 days.

(4) The Minister shall also provide facilities to enable persons inspecting the information to copy it.

(5) The Minister may make reasonable charges for providing information and facilities for copying under this Article.

(6) The Minister may refuse to make available under this Article any information specified in Schedule 7.

(7) If the Minister refuses any request for information under this Article, the Minister shall give the applicant a statement in writing of his or her reasons.

(8) This Article is subject to Article 95.

15 Approved codes of practice

(1) The Minister may by Order approve any code of practice for the purposes of this Law.

(2) In exercising his or her powers under paragraph (1), the Minister shall have regard to the desirability of –

(a) practical guidance for persons engaged in activities that relate to waste and may cause pollution; and

(b) the promotion and encouragement of good practices by those persons for minimizing the generation of waste and avoiding, preventing, controlling, reducing or eliminating such pollution.

16 Consultation

(1) Before the Minister determines any proposal specified in paragraph (2), the Minister shall consult the Minister for Health and Social Services and the Minister for Social Security.

(2) Paragraph (1) refers to a proposal to grant, vary or transfer a waste management licence, or a proposal for the surrender of such a licence.

(3) Before the Minister determines any proposal relating to a waste management licence, or the registration of a waste carrier, the Minister may consult any person or body other than one to whom paragraph (1) refers.

17 Public notice of proposals

(1) Before the Minister determines any proposal described in Article 16(2), the Minister shall comply with this Article.

(2) The Minister shall publish in the Jersey Gazette a notice that –

(a) states that a copy of the proposal will be available for inspection free of charge at a place specified in the notice;

(b) specifies the period for which the proposal will be available for inspection (being a period of not less than 21 days beginning after the notice is published in the Jersey Gazette);

(c) specifies times, during reasonable office hours, when the proposal may be inspected; and

(d) explains that anyone may make representations in writing to the Minister in respect of the proposal at any time before the expiry of the 7 days following the period for inspection,

and the Minister shall make a copy of the proposal available accordingly for inspection.

(3) If the Minister is satisfied on reasonable grounds that the proposal does not have and is not likely to have any appreciable adverse effect on the environment, the Minister need not comply with paragraph (2).

(4) Any person who wishes to make representations in respect of the proposal may do so by delivering them in writing to the Minister at any time before the expiry of the 7 days following the period for inspection.

(5) If a person who delivers such representations wishes to have the right under Article 97 to be given notice of an appeal, the person shall also provide in writing to the Minister an address for service within Jersey.

(6) The Minister shall serve on the applicant or licensee (as the case may be) copies of all representations made by other persons under paragraph (4) in respect of the proposal, and the person may deliver to the Minister representations in writing in reply, within 14 days after being served.

(7) The Minister shall not proceed to determine the proposal until the time limits for making representations under this Law have elapsed.

(8) In determining the proposal, the Minister shall consider all representations made under this Law in respect of the proposal.

18 Applications under this Law

The following provisions shall apply in respect of any application made under this Law to the Minister –

(a) the application shall be made in writing, in such form as may be prescribed or (if no form is prescribed) as the Minister may reasonably require;

(b) it shall include such information (including maps and diagrams) as may be prescribed, and as the Minister may otherwise reasonably require for the purposes of this Law;

(c) if a fee has been prescribed, the application shall be accompanied by the fee;

(d) in the course of considering the application, the Minister may require the applicant to provide such additional information as the Minister could reasonably have required under paragraph (b); and

(e) if any other requirement is made by or under this Law in respect of an application, the applicant shall also comply with that requirement.

19 Reasons for decisions

If –

(a) the Minister determines any application under this Law;

(b) acting on the Minister's own motion, the Minister varies any term or condition of a waste management licence; or

(c) the Minister suspends or revokes such a licence, or the registration of a person as a waste carrier,

the Minister shall state in writing his or her reasons for doing so.

20 Time limits for decisions and responses

(1) If –

(a) an application is made in accordance with this Law under any of Articles 26, 32, 34, 37, 40 and 48; and

(b) the Minister has not determined the application within the period of 3 months following the relevant date, or within such longer time limit (if any) as the applicant may agree to,

the failure of the Minister to determine the application shall constitute for the purposes of this Law a decision by the Minister to refuse, without stating his or her reasons, to grant the application.

(2) If –

(a) for the purposes of consultation in accordance with Article 16(1), the Minister refers a proposal to another Minister that the Minister is required by that paragraph to consult; and

(b) that other Minister does not respond within 21 days after the proposal is referred to the other Minister, or within such longer time limit (if any) as may be agreed between the Minister and that other Minister,

the Minister may assume that the other Minister has no objection to the proposal, and proceed as if he or she had consulted with that other Minister in compliance with Article 16(1).

(3) In paragraph (1), "the relevant date" means a date by which the applicant has done everything that the applicant is required to do or may be required to do under this Law in respect of his or her application.

21 Consignment notes

(1) Consignment notes –

(a) for the internal movement of waste, for the purposes of Part 3; and

(b) for the transboundary movement of waste, for the purposes of Part 4,

shall be in the prescribed forms.

(2) The form of a consignment note shall contain in accordance with this Law separate provision in relation to the consignor, each carrier and the consignee.

(3) If a consignment note is for transboundary movement, the form of the note shall also conform to the other requirements of the Basel Convention and the OECD Decision.

22 Supplying of notes

(1) At the request of any person and (if there is a prescribed fee) on payment of the fee, the Minister shall supply to the person in respect of each movement to which a consignment note relates sufficient copies of the note to enable compliance with the requirements of this Law.

(2) The Minister shall assign a unique identification code or other reference to each consignment note of which the Minister supplies copies to a person.

PART 3

WASTE MANAGEMENT WITHIN JERSEY

Licensing of waste operations

23 Prohibition of unlicensed or harmful activities involving waste

(1) A person who causes or knowingly permits any activity to which this Article applies to be carried on shall be guilty of an offence, unless it is carried on in accordance with a waste management licence that is issued under this Law by the Minister and is for the time being in effect.

(2) This Article applies to each of the following activities, namely –

(a) the deposit of controlled waste on any land;

(b) the keeping of controlled waste on any land;

(c) the treatment of controlled waste on any land, or by means of any mobile plant; and

(d) the disposal or recovery of controlled waste on any land, or by means of any mobile plant.

(3) The prohibition in paragraph (1) is subject to Article 24.

(4) A person who deposits, keeps, treats, disposes of or recovers controlled waste in a manner that is likely to cause pollution shall be guilty of an offence.

(5) Any person who is guilty of an offence under paragraph (1) or paragraph (4) shall be liable to imprisonment for a term of 2 years and to a fine.

24 Exemptions from requirement for licence

(1) If the Minister is satisfied that an activity described in Article 23(2) is of any one of the following kinds, namely –

(a) an activity that is adequately controlled under another enactment;

(b) an activity that consists of the deposit of controlled waste in quantities that are so small or so temporary as not to significantly endanger human health, the environment or flora or fauna;

(c) an activity that consists of the treatment or disposal of controlled waste and does not significantly endanger human health, the environment or flora or fauna; or

(d) an activity relating to household waste,

the Minister may by Order declare that it is an activity to which the prohibition in Article 23(1) shall not apply if paragraph (3) of this Article is complied with.

(2) The Minister may make an Order under paragraph (1) on such conditions (if any) as the Minister specifies in the Order.

(3) In particular, conditions imposed under paragraph (2) may –

(a) require that an activity to which an Order relates must be registered;

(b) specify maximum periods for which an activity to which an Order relates may be carried on; and

(c) specify maximum amounts of waste that may be stored at a place where an activity to which an Order relates is carried on (whether or not all of those wastes are controlled wastes),

but this paragraph does not limit the generality of paragraph (2).

(4) While an Order under paragraph (1) of this Article is for the time being in force in respect of an activity, and –

(a) the person carrying on the activity is either the owner of the land on which the activity is carried on, or has the permission of the owner of that land to carry it on there; and

(b) the person carrying on the activity complies with the conditions (if any) on which the Order is made,

the prohibition in Article 23(1) shall not apply in respect of that activity.

(5) For the purposes of this Article, a person registers an activity if he or she informs the Minister in writing of the following matters –

(a) the nature of the activity;

(b) the person by whom it is to be carried on;

(c) the place where it is to be carried on; and

(d) the time or times when it will be carried on.

25 Persons who may hold licences

(1) A waste management licence may be granted or transferred only to a person who intends to carry on the activity to which it relates.

(2) A waste management licence may be granted or transferred to a person only if the Minister is satisfied that the person is fit to carry on the activity to which it relates.

(3) In deciding whether the person is fit to do so, the Minister shall take into account inter alia the following factors –

(a) the person's financial security;

(b) the person's technical resources; and

(c) any relevant convictions for offences.

(4) In paragraph (3), "financial security" means the sufficiency of the person's financial resources to ensure that the activity is carried on in accordance with the terms and conditions of the waste management licence.

(5) In paragraph (3), "technical resources" means the sufficiency of the expertise that is directly available to the person –

(a) by way of relevant and up-to-date experience of waste management practices or of similar activities;

(b) by reason of appropriate qualifications; or

(c) because of a combination of such experience and qualifications,

to ensure that the activity is carried on competently and responsibly.

(6) A conviction for an offence is relevant for the purposes of this Article if –

(a) the person who has been convicted is either the person whose fitness to hold a waste management licence is under consideration or a person who is or is to be engaged in a position of managerial responsibility in the activity to which it relates; and

(b) the conviction, taken by itself or together with any other relevant conviction (whether or not of the same person), gives rise to an issue whether the person whose fitness is under consideration should hold the licence.

(7) In considering whether a conviction for an offence is relevant for the purposes of this Article, the Minister shall have particular regard to any conviction for an offence involving –

(a) actual or potential pollution; or

(b) any other risk to human health or the environment,

whether or not the offence relates to waste, but this paragraph does not limit the generality of paragraph (6).

26 Applications in respect of licences

(1) An application in respect of a waste management licence shall be made to the Minister.

(2) Where the applicant for the grant of a waste management licence is the owner of the land to which the application relates, the application shall be accompanied by evidence –

(a) that the applicant has been granted planning permission (where required) in respect of the land, for the purposes of the activity to which the application relates; or

(b) that the activity to which the application relates has been continuously carried out on the land prior to 1st April 1965 and has continued to be carried on (without a break) since that date.[3]

(3) Where the applicant for the grant of a waste management licence is not the owner of the land to which the application relates, the application shall be accompanied by evidence –

(a) that the applicant has the land-owner's consent to occupy the land for the purposes of the activity to which the application relates; and

(b) of planning permission (where required) as described in paragraph (2)(a) or of continuous use as described in paragraph (2)(b).[4]

(4) If an application is for the transfer of a waste management licence –

(a) it shall be made jointly by the licensee and the person to whom it is proposed to transfer the licence; and

(b) the proposed transferee shall produce in support of the application such evidence as would be required of an applicant for the grant of a waste management licence.[5]

(5) For the purposes of paragraph (4)(b), the Minister may accept evidence that has been produced to the Minister on any previous application.[6]

(6) The expression "planning permission" has the meaning given in Article 1 of the Planning and Building (Jersey) Law 2002.[7]

27 Determination of application for licence

(1) The Minister shall grant an application for a waste management licence if, but only if –

(a) the application is made in accordance with this Law;

(b) the Minister is satisfied that the applicant is fit to hold the licence; and

(c) the Minister is satisfied that the activity to which the application relates would not involve a risk of pollution that cannot be effectively dealt with by imposing conditions in the licence.

(2) If the Minister grants the application, the Minister shall specify –

(a) the activity that may be carried on in accordance with the licence; and

(b) the land on which the activity may be carried on in accordance with the licence.

(3) If the Minister grants the application, the Minister may do so on such conditions as the Minister may specify in his or her decision.

(4) There shall be a right of appeal, in accordance with Article 97, against a decision of the Minister under this Article.

28 Conditions of licence

(1) It is a condition of every waste management licence that the licensee must not carry on the activity to which the licence relates on any land that the licensee may not for the time being lawfully use for that purpose.[8]

(1A) For the purposes of fulfilling the condition specified in paragraph (1), land is for the time being lawfully used for the purpose of carrying on the activity to which the licence relates in the following cases –

(a) where the land is owned by the licensee –

(i) the licensee is using that land in accordance with planning permission granted (where required) for the purpose of carrying on the activity to which the licence relates, or

(ii) the licensee is continuing to carry on the activity to which the licence relates, on land in respect of which that activity has been carried on prior to 1st April 1965 and has continued to be carried on (without a break) since that date; or

(b) where the land is not owned by the licensee –

(i) the licensee is, with the land-owner's consent, occupying that land for the purpose of carrying on the activity to which the licence relates, and

(ii) the licensee is using that land in accordance with planning permission as described in paragraph (1A)(a)(i), or

(iii) the licensee is continuing to carry on the activity to which the licence relates as described in paragraph (1A)(a)(ii).[9]

(2) In granting a waste management licence, the Minister may also impose conditions as to –

(a) other activities that are or may be carried on by the licensee on the land specified in the licence;

(b) precautions that are to be taken in respect of any activity that is carried on by the licensee on that land; and

(c) works to be carried out in connection with the activity to which the licence relates,

not being conditions relating to health and safety at work or to commercial practice.

(3) In particular, conditions imposed under paragraph (2) may provide for any of the following matters –

(a) the design or construction of any plant that is to be used for the purposes of the activity to which the licence relates;

(b) the manner in which the activity is to be carried on;

(c) the times at which the activity may be carried on;

(d) the types and quantities of waste that may be received and dealt with in any specified period;

(e) emission and discharge limits;

(f) the keeping of records, the period or periods for which they shall be kept, the making of returns and the giving of other information in respect of the activity; and

(g) time limits for complying with any conditions.

(4) Conditions imposed under paragraph (2) may require the licensee to carry out works before the activity to which the licence relates has commenced, or after it has ceased and before the licence is revoked or surrendered.

(5) Conditions imposed under paragraph (2) may relate to the deposit, keeping, treatment or disposal by the licensee of waste that is not controlled waste.

(6) The Minister may prescribe standard conditions (being conditions that the Minister may impose under paragraph (2)) that shall apply to all waste management licences or to all licences of prescribed categories, and if the Minister does so, they shall be conditions of the licences to which they apply.

(7) Paragraphs (3), (4), (5) and (6) do not limit the generality of paragraph (2).

29 Duration of licence

(1) In granting a waste management licence, the Minister shall specify the date from which it shall have effect.

(2) A waste management licence shall continue in effect according to its tenor until it is revoked or surrendered in accordance with this Law.

(3) However, a waste management licence shall not have effect to the extent that it is for the time being suspended.

30 Issue of licence

On granting an application for a waste management licence, the Minister shall issue a licence accordingly to the applicant.

31 Effect of licence

A waste management licence shall authorize the licensee to carry on, in accordance with the terms and conditions of the licence, the activity to which it relates.

32 Variation of licence on application of licensee

(1) Subject to the other provisions of this Law, the Minister may on the application of the licensee vary any term or condition of a waste management licence (other than a condition specified in Article 28(1)).

(2) There shall be a right of appeal, in accordance with Article 97, against the refusal of the Minister to vary a licence in accordance with the application for variation.

33 Variation of licence on initiative of Minister

(1) Subject to the other provisions of this Law, if the Minister considers on reasonable grounds that it is necessary to vary any term or condition of a waste management licence (other than a condition specified in Article 28(1)) –

(a) because the activity to which the licence relates is causing pollution or may do so, and it is practicable to deal with the matter effectively by so varying that term or condition; or

(b) in order to take proper account of evolving scientific knowledge or changes in environmental standards,

the Minister shall of the Minister's own motion vary that term or condition.

(2) If the Minister considers on reasonable grounds that –

(a) it is desirable to vary any term or condition of a waste management licence (other than a condition specified in Article 28(1)); and

(b) the proposed variation is unlikely to cause the licensee unreasonable expense,

the Minister may of the Minister's own motion vary that term or condition.

(3) If the Minister proposes to vary a waste management licence under this Article –

(a) the Minister shall serve a notice in writing on the licensee, describing his or her proposal and telling the licensee that the licensee may make representations about it in writing to the Minister within 21 days after the notice is served on the licensee; and

(b) the Minister shall consider all representations so made by the licensee,

before deciding whether to vary the licence.

(4) A variation under this Article shall not take effect before the Minister serves notice in writing of the variation on the licensee.

(5) A variation under this Article shall take effect –

(a) when the Minister serves notice in writing of the variation on the licensee, if the Minister does not specify a later date in the notice; or

(b) if the Minister does specify a later date in the notice, on that date.

(6) If a variation imposes any new restriction, obligation or requirement on the licensee, the date on which it shall take effect shall be not sooner than 6 months after notice of the variation is served on the licensee.

(7) Paragraph (6) does not apply if there are exceptional circumstances, and the Minister specifies those circumstances in his or her decision.

(8) There shall be a right of appeal, in accordance with Article 97, against a decision of the Minister to vary a waste management licence under this Article.

34 Transfer of licence

(1) A waste management licence may be transferred from one person to another, and it may be so transferred even though it is suspended.

(2) On considering an application for the transfer of a waste management licence, the Minister may grant the application on such conditions as the Minister may specify in his or her decision.

(3) With effect from the date of the Minister's decision, or from such later date as the Minister may specify in his or her decision –

(a) the transferor shall cease to be the licensee; and

(b) the transferee shall become the licensee.

(4) There shall be a right of appeal, in accordance with Article 97, against a decision of the Minister under this Article.

35 Suspension of licence in emergency

(1) If the Minister considers on reasonable grounds that it is necessary to do so because of an emergency –

(a) the Minister may by a notice in writing served on the licensee suspend a waste management licence wholly or partly for any specified period not exceeding 14 days; and

(b) the Minister may extend the suspension from time to time, in the same manner, for any period not exceeding 14 days.

(2) There shall be a right of appeal, in accordance with Article 97, against a decision of the Minister under this Article.

36 Suspension and revocation of licence in other cases

(1) If –

(a) a licensee fails for a period exceeding one month to pay any fee or charge that is due and payable by the licensee under this Law to the Minister in connection with his or her licence; or

(b) a licensee contravenes any condition of his or her licence,

the Minister may, by a notice in writing served on the licensee, suspend the licence wholly or partly or revoke the licence.

(2) If the Minister considers on reasonable grounds that –

(a) a licensee is not fit to hold a waste management licence; or

(b) it is desirable to suspend or revoke a licence, because the activity to which the licence relates is causing pollution or there is a risk that it will do so, and because it is not practicable to deal with the matter effectively by varying the licence,

the Minister may, by a notice in writing served on the licensee, suspend the licence wholly or partly or revoke the licence.

(3) A licence may be suspended under this Article –

(a) for any specified period not exceeding 14 days; or

(b) until the licensee complies with specified conditions.

(4) If the suspension is for a specified period, the Minister may from time to time in the same manner and on the same grounds extend the suspension for any further period not exceeding 14 days.

(5) If the Minister proposes to suspend or revoke a waste management licence under this Article –

(a) the Minister shall serve a notice in writing on the licensee, informing the licensee of the Minister's intention and telling the licensee that he or she may make representations about it in writing to the Minister within 21 days after the notice is served on the licensee; and

(b) the Minister shall consider all representations so made by the licensee,

before deciding whether to suspend or revoke the licence, but this paragraph does not apply to an extension of a suspension.

(6) There shall be a right of appeal, in accordance with Article 97, against a decision of the Minister under this Article.

37 Surrender of licence

(1) A licensee may surrender his or her licence, but may only do so in accordance with this Article.

(2) A licensee who wishes to surrender his or her licence shall apply to the Minister for permission to do so.

(3) In deciding whether to allow the surrender of the waste management licence, the Minister shall have regard to the following considerations –

(a) the state of the land on which the activity to which the licence relates is carried on;

(b) the measures that the licensee has taken to prevent the occurrence of environmental problems in consequence of that activity;

(c) the measures that the licensee has taken to remedy environmental problems that have occurred in consequence of the activity; and

(d) the likelihood that environmental problems may occur in the future in consequence of the activity's having been carried out on the land.

(4) The Minister may grant an application to surrender a licence on such conditions (if any) as the Minister specifies in his or her decision.

(5) A condition may require the licensee –

(a) to carry out works; or

(b) to comply with any other matter,

before the licence may be surrendered, but this paragraph does not limit the generality of paragraph (4).

(6) If the Minister grants an application to surrender a licence, the Minister shall specify in his or her decision when and how the licence shall be surrendered.

(7) There shall be a right of appeal, in accordance with Article 97, against a decision of the Minister under this Article.

Registration of waste carriers

38 Prohibition of movements of hazardous or health care waste by carriers who are not registered

(1) A person who, in the course of a movement of hazardous waste or health care waste within Jersey (whether it is an internal or transboundary movement), causes or knowingly permits the waste to be carried on a motor vehicle on a road to which the public has access shall be guilty of an offence unless the waste is carried in accordance with this Law by a registered waste carrier.

(2) The prohibition in paragraph (1) is subject to Article 39.

(3) Any person who is guilty of an offence under paragraph (1) shall be liable to imprisonment for a term of 2 years and to a fine.

39 Exemptions from requirement for registration

(1) The prohibition in Article 38(1) shall not apply to the carrying of hazardous waste or health care waste in any of the following circumstances –

(a) if it is household waste, and it is being carried in a private motor vehicle;

(b) if it is being carried in the course of conducting a business that provides a service at any place other than the premises in which the business is situated, and it is being carried as an incidental aspect of the provision of that service, and its carriage does not significantly endanger human health, the environment or flora or fauna;

(c) if it is carried only within the premises in which it is situated;

(d) if it is a sample that is being taken in a reasonable quantity to a laboratory for analysis, testing or evaluation; or

(e) if it is health care waste from a medical, dental or veterinary practice, or from the business of an undertaker or embalmer, and it is being taken to premises that may lawfully be used for the purpose for which it is taken there.

(2) If the Minister is satisfied that the carrying of hazardous waste or health care waste in any specified circumstances will not significantly endanger human health, the environment or flora or fauna, the Minister may by Order declare that the prohibition in Article 38(1) shall not apply to the carrying of hazardous waste or health care waste in those circumstances.

(3) The prohibition in Article 38(1) shall not apply to the carrying of hazardous waste or health care waste from a ship moored in a harbour to facilities designated for such waste, if –

(a) the movement takes place only within the harbour limits;

(b) the waste is derived from the normal operations of the ship; and

(c) the movement is in accordance with an international instrument that applies to or binds Jersey.

(4) The prohibition in Article 38(1) shall not apply to the carrying of hazardous waste or health care waste by a motor vehicle in the course of a transboundary movement that is authorized in accordance with Part 4, by a carrier who is not based within Jersey but is subject in the country in which the carrier is based to controls that are comparable to those contained in Articles 38 to 49 (inclusive).

40 Application for registration

An application in respect of the registration of a waste carrier shall be made to the Minister.

41 Determination of application for registration

(1) The Minister shall grant an application for registration as a waste carrier, unless –

(a) the Minister considers on reasonable grounds that because the applicant has insufficient experience of road transportation, or of the transportation of hazardous waste or health care waste, and the applicant has not shown that such experience will be available to him or her in the activity to which the application relates, the applicant is not a fit person to be registered; or

(b) the Minister considers on reasonable grounds that because of the applicant's past conduct, in relation to road safety or to road transportation generally, the transportation of hazardous waste, waste management or environmental matters, the applicant is not a fit person to be registered.

(2) In granting the application, the Minister shall specify the kinds of waste that may be carried in accordance with the letter of registration.

(3) There shall be a right of appeal, in accordance with Article 97, against a decision of the Minister under this Article.

42 Duration of registration

(1) In granting an application for registration as a waste carrier, the Minister shall specify the date from which it is to have effect.

(2) The registration of a waste carrier shall continue in effect until it is revoked in accordance with this Law.

(3) However, the registration of a waste carrier shall not have effect to the extent that it is for the time being suspended.

43 Issue of letter of registration

On granting an application for registration as a waste carrier, the Minister shall issue a letter of registration to the applicant.

44 Effect of registration

(1) A letter of registration under Article 43 shall authorize –

(a) the person to whom it is issued; and

(b) any person who is employed by him or her and is acting under his or her general supervision,

to carry on in accordance with this Law the activity in respect of which it is issued.

(2) A letter of registration shall not be transferable.

45 Duties of registered waste carrier

(1) In carrying on the activity to which his or her registration relates –

(a) a waste carrier shall ensure that his or her employees are suitably trained;

(b) a waste carrier shall ensure that any motor vehicle or other equipment that is used is appropriately designed and maintained; and

(c) a waste carrier shall comply with any prescribed conditions and any conditions imposed under paragraph (2).

(2) Subject to the other provisions of this Law, the Minister may by a notice in writing served on a registered waste carrier –

(a) require the waste carrier to comply with such conditions as the Minister specifies in the notice in respect of the movement of waste in the course of an activity to which his or her registration relates; or

(b) vary or revoke any such condition.

(3) There shall be a right of appeal, in accordance with Article 97, against a decision by the Minister to impose or vary a condition by a notice served under paragraph (2).

46 Suspension of registration in emergency

(1) If the Minister considers on reasonable grounds that it is necessary to do so because of an emergency –

(a) the Minister may by a notice in writing served on a registered waste carrier suspend his or her registration wholly or partly for any specified period not exceeding 14 days; and

(b) the Minister may extend the suspension from time to time, in the same manner, for any period not exceeding 14 days.

(2) There shall be a right of appeal, in accordance with Article 97, against a decision of the Minister under this Article.

47 Suspension and revocation of registration in other cases

(1) If –

(a) a registered waste carrier fails for a period exceeding one month to pay any fee or charge that is due and payable by the waste carrier under this Law in connection with his or her registration; or

(b) a registered waste carrier contravenes Article 45(1), a prescribed condition of registration or a condition imposed under Article 45(2),

the Minister may, by a notice in writing served on the carrier, suspend the waste carrier's registration wholly or partly or revoke the waste carrier's registration.

(2) If the Minister considers on reasonable grounds that –

(a) a registered waste carrier is not fit, for any reason specified in sub-paragraph (a) or sub-paragraph (b) of Article 41(1), to be so registered; or

(b) a registered waste carrier is no longer carrying on the activity to which his or her registration relates, and is unlikely to do so in the foreseeable future,

the Minister may, by a notice in writing served on the carrier, suspend or revoke the waste carrier's registration.

(3) Registration may be suspended under this Article –

(a) for any specified period not exceeding 14 days; or

(b) until the registered waste carrier complies with specified conditions.

(4) If the suspension is for a specified period, the Minister may from time to time in the same manner and on the same grounds extend the suspension for any further period not exceeding 14 days.

(5) If the Minister proposes to suspend or revoke the registration of a waste carrier under this Article –

(a) the Minister shall serve a notice in writing on the waste carrier, informing him or her of the Minister's intention and telling the waste carrier that he or she may make representations about it in writing to the Minister within 21 days after the notice is served on him or her; and

(b) the Minister shall consider all representations so made by the waste carrier,

before deciding whether to suspend or revoke the waste carrier's registration, but this paragraph does not apply to an extension of a suspension.

(6) There shall be a right of appeal, in accordance with Article 97, against a decision of the Minister under this Article.

48 Revocation of registration at request of waste carrier

(1) On the application of a waste carrier, the Minister shall revoke the waste carrier's registration.

(2) However, in exceptional circumstances the Minister may first require the carrier to carry out at his or her own expense –

(a) examinations and tests; or

(b) remedial or other works,

relating to potential, suspected or actual pollution arising in consequence of the carrying on of the activity to which the registration relates.

(3) There shall be a right of appeal, in accordance with Article 97, against a decision of the Minister to impose a requirement under paragraph (2) before revoking the registration of a waste carrier.

Internal movements

49 Internal movements for which Minister's consent is required

(1) A person who undertakes any activity described in paragraph (2) in respect of an internal movement of hazardous waste or health care waste shall be guilty of an offence unless –

(a) the Minister has consented, in accordance with the standard control procedure for internal movement set out in Part 1 of Schedule 8, to that movement of waste;

(b) the Minister's consent is in effect; and

(c) the person is acting in accordance with this Law and with any conditions on which the Minister has given his or her consent.

(2) The activities to which paragraph (1) refers are –

(a) the consigning of such waste to any person, if it is to be carried on a motor vehicle on a road to which the public has access;

(b) the carrying of such a consignment; and

(c) the receipt of such a consignment.

(3) The prohibition in paragraph (1) of this Article is subject to Article 50.

(4) Any person who is guilty of an offence under paragraph (1) shall be liable to imprisonment for a term of 2 years and to a fine.

50 Exemptions from requirement for consent to internal movement

The prohibition in Article 49(1) shall not apply in respect of an internal movement of hazardous waste or health care waste if, by reason of Article 39, the prohibition in Article 38(1) does not apply in respect of that movement.

51 Standard control procedure for internal movement of waste

The standard control procedure for internal movement shall be complied with in respect of an internal movement of hazardous waste or health care waste to which the prohibition in Article 49(1) applies.

52 Non-delivery of internal consignment

If, on an internal movement of hazardous waste or health care waste to which the prohibition in Article 49(1) applies, the consignment is not delivered to and accepted by the consignee, the Minister may agree or direct that it shall be dealt with in some way other than by being returned to the consignor.

Other provisions

53 Statutory defences

(1) If a person is charged with an offence under either of Articles 38(1) and 49(1), it shall be a defence to prove that –

(a) the waste was carried in consequence of a decision to do so in an emergency that arose in circumstances beyond the person's control;

(b) the decision was reasonable;

(c) the person took all steps that were reasonably practicable for ensuring that it was carried safely; and

(d) the person gave full details of the occurrence to the Minister, or ensured that they were given to the Minister, as soon as was reasonably practicable.

(2) If a person is charged with an offence under Article 49(1), it shall be a defence to prove that –

(a) the person was not the consignor of the consignment to which the charge relates; and

(b) the person took all reasonable precautions and exercised due diligence to avoid or prevent the commission of the offence.

54 Revocation of suspension

The Minister may at any time revoke, wholly or partly, a suspension imposed by the Minister under any of Articles 35, 36, 46 and 47.

55 Notice of decisions

(1) If the Minister makes any decision under this Part in respect of a waste management licence, the Minister shall serve a written copy of the decision within 14 days on each of the following persons –

(a) each applicant, where the decision relates to an application;

(b) the licensee, where the decision relates to a variation, suspension or revocation of a licence or its surrender; and

(c) the Minister for Health and Social Services and the Minister for Social Security, in every case.

(2) If the Minister makes any decision under this Part in respect of the registration of any person as a waste carrier, the Minister shall serve a written copy of the decision within 14 days on each of the following persons –

(a) the applicant, where the decision relates to an application; and

(b) the registered waste carrier, where the decision relates to the suspension or revocation of the registration of that carrier.

56 Retention of documents under this Part

(1) A person who is required under this Part to retain a document shall do so for not less than the period of 2 years following the date on which his or her duty to retain it arose.

(2) Paragraph (1) does not limit the power of the Minister under Article 28 to impose a condition of a waste management licence requiring a person to keep a record for a longer or shorter period than 2 years.

PART 4

TRANSBOUNDARY MOVEMENTS OF WASTE

Introductory provisions

57 Purpose of this Part

The purpose of this Part is to regulate, in accordance with the Basel Convention and the OECD Decision –

(a) the export of waste from Jersey;

(b) the import of waste into Jersey; and

(c) the movement of waste in transit through Jersey in the course of a transboundary movement.

58 Restrictions on transboundary movements of waste

(1) A person who, in contravention of this Part –

(a) exports or attempts to export waste from Jersey;

(b) imports waste into Jersey; or

(c) participates in the movement of waste in transit through Jersey in the course of a transboundary movement,

shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

(2) Paragraph (1) does not apply in respect of waste that is derived from the normal operations of a ship, the discharge of which is covered by an international instrument other than the Basel Convention.

59 Contractual obligations

(1) A transboundary movement of waste to which a standard control procedure applies shall not be made unless, before the commencement of the movement, the consignor and the consignee have entered into a binding contract between themselves that includes the following obligations –

(a) both parties must be bound to comply throughout the duration of the movement with that standard control procedure in respect of the movement;

(b) the consignee must be bound to dispose of or recover the consignment, in accordance with the method specified in the consignment note and in a manner that is environmentally sound, within 180 days after he or she receives the consignment;

(c) the consignee must be bound to deliver to the consignor and to each of the competent authorities concerned, as soon as possible and in any event within 180 days after the consignee receives the consignment, a certificate confirming that the waste has been disposed of or recovered in accordance with sub-paragraph (b); and

(d) the consignor must be bound to take back the consignment at his or her own expense, if it is not delivered to and accepted by the consignee and the consignor is required to take it back by a competent authority concerned.

(2) If the transboundary movement of waste is one to which the OECD Amber control procedure applies, the contract must also include the following provisions –

(a) the contract must identify each person by whom the waste is generated, each person who will have the legal control of the waste during the course of the movement, and the recovery facility to which the waste is to be delivered;

(b) each person who is a party to the contract must be bound in respect of the movement to comply with the OECD Decision;

(c) the contract must specify the party who is responsible for the alternative management of the waste if the movement cannot be completed in accordance with the contract; and

(d) if the movement cannot be completed in accordance with the contract and the waste is consequently to be re-exported to another country, the contract must specify the party who is responsible for notifying the competent authorities of

the original country of dispatch and of the country to which it is to be re-exported,

and instead of the obligation in paragraph (1)(c), the contract must bind the consignee to deliver to the consignor, within 30 days after the waste has been recovered in accordance with the method specified in the consignment note and in any event within one year after the consignee receives the consignment, a certificate confirming that the waste has been so recovered.

60 Financial security

(1) A transboundary movement of waste to which a standard control procedure applies shall not be made unless the consignor has provided financial security to ensure that, in the event that the delivery of the consignment and the disposal or recovery of the waste cannot be completed in accordance with the contract between the consignor and the consignee and with the consignment note, there will be available to the competent authorities concerned sufficient funds to ensure –

(a) that the consignment can be returned to the country of dispatch; or

(b) that it can be dealt with by alternative arrangements that are themselves in accordance with the respective laws of each country concerned.

(2) In this Article, "financial security" means a cash deposit, bond or other realizable form of security that can be realized or released only by the Minister or by another competent authority concerned.

(3) If the Minister is holding any financial security under this Part in respect of a transboundary movement of waste and the Minister receives in accordance with this Part a certificate of disposal or recovery in respect of the waste, the Minister shall return or release the security to the person by whom it was provided, so far as –

(a) it relates to that waste; and

(b) it is not required for the satisfaction of any expenses that have already been incurred by the Minister, or by any other competent authority concerned, in dealing with the waste under this Part.

61 Good practice

(1) Waste that is the subject of a transboundary movement must be packaged, labelled and carried in conformity with generally recognized and accepted international rules, standards and practice.

(2) Paragraph (1) does not derogate from any other provision of this Law.

62 Multiple consignments

(1) If –

(a) the Minister in the Minister's capacity as a competent authority concerned receives a consignment note by way of prior notification of a proposed transboundary movement of waste;

(b) the consignment note has been completed by the consignor in the prescribed manner for prior notification of a movement by means of multiple consignments; and

(c) the conditions in paragraph (2) are fulfilled,

the Minister may, in agreeing in accordance with this Part to the movement, accept the consignment note (as so completed) as prior notification of multiple consignments of the waste to which it relates.

(2) The conditions to which paragraph (1) refers are as follows –

(a) the waste that is to comprise each consignment must possess the same physical and chemical characteristics;

(b) the consignments must be intended for shipment by the same consignor to the same consignee, through the same customs points in the countries of dispatch and destination;

(c) the consignments must be intended for delivery to the same site in the country of destination;

(d) the consignment note that the Minister has received must specify the period during which it is proposed to make the consignments;

(e) the consignment note that the Minister has received must specify the dates of the proposed consignments, if those dates are known; and

(f) the Minister must be satisfied that each other competent authority concerned will agree to prior notification of the multiple consignments in the manner described in this Article (for which purpose, in agreeing to accept that consignment note as prior notification of each of the consignments, the Minister may do so on the condition that each other competent authority concerned does so).

(3) Subject to paragraph (3A), the period to which paragraph (2)(d) refers shall not exceed 12 months.[10]

(3A) The period referred to in paragraph (3) may with the Minister's agreement be extended to a period not exceeding 3 years provided that each other competent authority concerned agrees to the same period of extension not exceeding 3 years.[11]

(4) If –

(a) the Minister has for the time being agreed under this Article to accept a consignment note as prior notification of a transboundary movement in multiple consignments;

(b) each other competent authority concerned has for the time being also agreed to do so; and

(c) the consignor complies with paragraph (5) in respect of each consignment,

the consignor need not comply with the requirements of this Part for the prior notification of a transboundary movement in respect of any of the consignments to which the Minister's agreement relates except the first consignment.

(5) However, each consignment note relating to a consignment other than the first shall be marked and numbered –

(a) so as to show on its face that it is one of multiple consignments made under the same notification, and so as to show which of those consignments it is chronologically; and

(b) so as to identify the original consignment note by which prior notification of the multiple consignments was given.

(6) The Minister may at any time, on reasonable notice to the consignor, each other competent authority concerned, and the consignee, withdraw his or her agreement under this Article.

63 Recognized traders

(1) The Minister may in writing, on the written application of any fit person, recognize the person as a trader for the purposes of transboundary movements.

(2) The Minister may at any time, by a notice in writing served on a recognized trader, withdraw its recognition of him or her under this Article.

(3) There shall be a right of appeal, in accordance with Article 97, against –

(a) a decision of the Minister to refuse an application for the recognition of a trader under this Article; or

(b) a decision by the Minister to withdraw his or her recognition of a trader under this Article.

Export of waste

64 Prohibited exports of waste

(1) A person shall not export waste to any country for a purpose other than disposal or recovery.

(2) A person shall not export waste that is subject to the Basel Convention to a destination that lies south of the 60th degree of latitude South.

(3) A person shall not export to a country that –

(a) is not bound by the Basel Convention; and

(b) is not bound by a bilateral or equivalent agreement,

waste that is subject to the Convention.

(4) A person shall not export, to a country that is specified in an Order made under Article 76(1), waste of a kind specified in the Order.

(5) A person shall not export waste, for disposal, to a country that is not specified in Schedule 9.

(6) A person shall not export for recovery, to a country that is not specified in Schedule 9, waste that is subject to the Basel Convention ban.

65 Procedures for permitted exports of waste

(1) The standard control procedure for export set out in Part 2 of Schedule 8 shall be complied with in respect of the exporting of waste for disposal.

(2) The standard control procedure for export shall be complied with in respect of the exporting of waste that is subject to the Basel Convention, for recovery, to a country that is not a member State of the OECD.

(3) The standard control procedure for export shall be complied with in respect of the exporting of waste to a member State of the OECD, for recovery, unless it is a waste to which the OECD Green control procedure applies, in which case the normal procedure for commercial transactions shall apply.

(4) The standard control procedure for export shall be complied with in respect of the exporting of waste that is not subject to the Basel Convention, but is specified in an Order made under Article 76(2), to a country specified in the Order.

(5) The normal procedure for commercial transactions shall apply in respect of the exporting of waste that is not subject to the Basel Convention, for recovery, to a country that is not a member State of the OECD.

66 Transmission of documents

(1) For the purposes of the standard control procedure for export, the Minister may publish a notice in the Jersey Gazette declaring that the Minister will undertake himself or herself the transmission of the documents of prior notification of the exporting of waste to countries of destination.

(2) The notice may relate to all documents of prior notification, or to those of any class or kind specified in the notice.

(3) The notice shall come into effect on the fourteenth day after it is published in the Jersey Gazette.

(4) The notice shall state that it shall come into effect on the date to which paragraph (3) refers.

(5) The Minister may in the same manner amend or revoke a notice published under paragraph (1).

67 Reimportation of waste by consignor

(1) If delivery of a consignment of waste that is exported from Jersey and its disposal or recovery are not completed in accordance with the consignor's contract with the consignee and with the consignment note, the Minister may by a notice in writing require the consignor to reimport the consignment into Jersey, within a time specified in the notice and at the consignor's own expense.

(2) The time to be specified in the notice shall be a reasonable period not exceeding 60 days.

(3) On reimporting the consignment, the consignor shall deliver it to the site from which it originated within Jersey or, if the Minister so agrees or directs, to some other site within Jersey that may be lawfully used for the purpose.

(4) A consignor need not comply with a requirement under paragraph (1) or paragraph (3) if the Minister agrees with any other competent authority concerned

that the consignment may be disposed of or recovered in some other manner that is environmentally sound, but in that event the consignor shall co-operate with the Minister in securing its disposal or recovery in that other manner.

Import of waste

68 Prohibited imports of waste

(1) A person shall not import waste for a purpose other than disposal or recovery.

(2) A person shall not import from a country that –

(a) is not bound by the Basel Convention; and

(b) is not bound by a bilateral or equivalent agreement,

waste that is subject to the Convention.

69 Procedures for permitted imports of waste

(1) The standard control procedure for import set out in Part 3 of Schedule 8 shall be complied with in respect of the importing of waste for disposal.

(2) The standard control procedure for import shall be complied with in respect of the importing of waste that is subject to the Basel Convention, for recovery, from a country that is not a member State of the OECD.

(3) The standard control procedure for import shall be complied with in respect of the importing of waste from a member State of the OECD, for recovery, unless it is a waste to which the OECD Green control procedure applies, in which case the normal procedure for commercial transactions shall apply.

(4) The normal procedure for commercial transactions shall apply in respect of the importing of waste that is not subject to the Basel Convention, for recovery, from a country that is not a member State of the OECD.

Waste in transit

70 Prohibited movements of waste in transit

A person shall not undertake a transboundary movement of waste in transit through Jersey in any of the following circumstances –

(a) if the movement is for any eventual purpose other than disposal or recovery;

(b) if the waste is subject to the Basel Convention, and the eventual destination lies south of the 60th degree of latitude South;

(c) if the waste is subject to the Convention, and the country of destination is not bound by the Convention and is not bound by a bilateral or equivalent agreement;

(d) if the country of destination is one that is specified in an Order made under Article 76(1), and the waste is of a kind specified in the Order;

(e) if the eventual purpose of the movement is for disposal, and the country of destination is not specified in Schedule 9;

(f) if the eventual purpose of the movement is for recovery, and the waste is subject to the Basel Convention ban, and the country of destination is not specified in Schedule 9.

71 Procedures for permitted movements of waste in transit

(1) The standard control procedure for transit set out in Part 4 of Schedule 8 shall be complied with in respect of the transboundary movement in transit through Jersey of waste for disposal.

(2) The standard control procedure for transit shall be complied with in respect of the transboundary movement, in transit through Jersey to a country that is not a member State of the OECD, of waste for recovery that is subject to the Basel Convention.

(3) The standard control procedure for transit shall be complied with in respect of the transboundary movement of waste in transit through Jersey from one member State of the OECD to another member State of the OECD, for recovery, unless it is a waste to which the OECD Green control procedure applies, in which case the normal procedure for commercial transactions shall apply.

(4) The standard control procedure for transit shall be complied with in respect of the transboundary movement of waste that is not subject to the Basel Convention, but is specified in an Order made under Article 76(2), in transit through Jersey to a country that is specified in the Order.

(5) The normal procedure for commercial transactions shall apply in respect of the transboundary movement, in transit through Jersey to a country that is not a member State of the OECD, of waste for recovery that is not subject to the Basel Convention.

Illegal traffic

72 Notification of illegal traffic

If it appears to the Minister that a transboundary movement of waste from, through or to Jersey constitutes illegal traffic, the Minister shall immediately notify each other competent authority concerned.

73 Duties of consignor in respect of illegal traffic

(1) If a transboundary movement of waste that is exported from Jersey constitutes illegal traffic in consequence of the conduct of –

(a) the person by whom the waste was generated; or

(b) the consignor of the waste,

the Minister may by a notice in writing require the consignor to reimport the consignment into Jersey at the consignor's own expense.

(2) The time to be specified in the notice shall be a reasonable period not exceeding 20 days, unless the Minister agrees to a longer period in any particular case.

(3) On reimporting the consignment, the consignor shall deliver it to the site from which it originated within Jersey or, if the Minister so agrees or directs, to some other site within Jersey that may be lawfully used for the purpose.

(4) A consignor need not comply with a requirement under paragraph (1) or paragraph (3) if the Minister agrees with any other competent authority concerned that the consignment may be disposed of or recovered in some other manner that is environmentally sound, but in that event the consignor shall co-operate with the Minister in securing its disposal or recovery in that other manner.

74 Duties of consignee in respect of illegal traffic

(1) If a transboundary movement of waste that is imported into Jersey constitutes illegal traffic in consequence of the conduct of –

(a) the person to whom the waste is consigned; or

(b) any other person by whom the consignment is to be disposed of or recovered,

the Minister may by a notice in writing require the consignee to dispose of the consignment at the consignee's own expense.

(2) The notice may specify –

(a) the method of disposal to be used;

(b) the site at which the consignment is to be disposed of;

(c) a time within which the consignment shall be disposed of, being a reasonable period not exceeding 20 days unless the Minister agrees to a longer period in any particular case; and

(d) any other requirements that the Minister may consider to be necessary or desirable for the disposal of the waste in a manner that is environmentally sound.

75 Co-operation by Minister with other competent authorities

If a transboundary movement of waste from, through or to Jersey constitutes illegal traffic, but responsibility for the illegality cannot be assigned to –

(a) the person by whom the waste was generated;

(b) the consignor of the waste;

(c) the person to whom the waste is consigned; or

(d) any other person by whom the consignment is to be disposed of or recovered,

the Minister shall co-operate with the other competent authorities concerned to ensure that the consignment is disposed of as soon as possible in a manner that is environmentally sound, either in the country of destination or in Jersey or elsewhere as appropriate.

Other provisions

76 Countries in respect of which special controls apply

(1) For the purposes of Articles 64(4) and 70, the Minister may by Order –

(a) specify any country; and

(b) in relation to that country specify any waste,

to which a transboundary movement from or through Jersey is prohibited.

(2) For the purposes of Articles 65(4) and 71(4), the Minister may by Order –

(a) specify any country; and

(b) in relation to that country specify any waste,

in respect of which, in the course of a transboundary movement to that country from or through Jersey, the standard control procedure for export or transit (as the case may be) must be complied with.

(3) An Order under paragraph (2) may modify, for the purposes of that Order, the standard procedure that must be complied with by virtue of the Order.

77 Transboundary movements of samples

(1) A transboundary movement of a sample of waste to which the OECD Amber control procedure applies may be made from, through or to Jersey, without complying with the standard control procedure for export, transit or import, if –

(a) the movement is made to enable the waste to be analyzed in a laboratory, for the purpose of assessing its physical or chemical characteristics or determining its suitability for recovery;

(b) the amount of the sample is not greater than is reasonably necessary for adequate analysis, and does not in any event exceed 25 kilograms; and

(c) the sample is suitably packaged, and is labelled to show what it is and why it is being moved.

(2) A movement to which paragraph (1) refers must nevertheless comply with the normal procedure for commercial transactions.

78 Power of Minister to act in default

(1) If –

(a) a consignor is required under Article 67 to reimport a consignment of waste into Jersey; and

(b) the consignor fails to do so within the time specified in the notice imposing the requirement,

the Minister may himself or herself cause the consignment to be reimported into Jersey and returned to the site from which it originated within Jersey.

(2) If –

(a) delivery of a consignment of waste that is imported into Jersey and its disposal or recovery are not completed in accordance with the consignor's contract with the consignee and with the consignment note; or

(b) the transboundary movement of the waste constitutes illegal traffic,

the Minister may himself or herself cause the consignment to be disposed of or recovered in either of the circumstances specified in paragraph (3).

(3) The circumstances to which paragraph (2) refers are as follows –

(a) in any case, if the Minister has in writing notified the consignor and the competent authority of dispatch, and the consignment is not reimported into the country of dispatch by the consignor or by that competent authority within 90 days after they have both been so notified; or

(b) in a case in which the Minister has served a notice on the consignee under Article 74, if the consignee fails to dispose of the consignment, in compliance with the notice, within the time specified in the notice or within such longer period as the Minister may agree to under that Article.

(4) If the Minister receives any money from the disposal or recovery of a waste under this Article, the Minister shall pay that money to the consignor, but this paragraph is subject to Article 80(1).

79 Power of Minister to act as agent of consignor or consignee

(1) For the purpose of causing a consignment to be reimported or disposed of under Article 78, the Minister may act within and from Jersey as the irrevocably appointed agent of the consignor or the consignee, or of each of them.

(2) If the Minister has informed the consignor or the consignee in writing that the Minister is so acting, each of them so informed shall provide to the Minister whenever the Minister requires him or her to do so such information and other assistance and co-operation as the Minister requires in order to secure the reimport or disposal of the consignment.

80 Recovery of expenses

(1) The Minister may recover the Minister's expenses under Article 78 and 79, in respect of a consignment of waste, from –

(a) any financial security provided in respect of the consignment; and

(b) any money received by the Minister from the disposal or recovery of the waste under Article 78.

(2) Paragraph (1) does not prevent the Minister from recovering those expenses in any other manner.

81 Offences relating to transboundary movements

Any person who –

(a) being a consignor, fails to comply with a notice served on him or her in accordance with Article 73;

(b) being a consignor who is under a duty by virtue of Article 73(4) to co-operate with the Minister in securing the disposal or recovery of a consignment, fails to discharge that duty;

(c) being a consignee, fails to comply with a notice served on him or her in accordance with Article 74;

(d) being a consignor or consignee, fails to comply with any requirement made of him or her under Article 79(2) by the Minister,

shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

PART 5

ENFORCEMENT

82 Appointment of inspectors

The Minister may in writing appoint as an inspector for the purposes of this Law any person who is employed in an administration of the States for which any Minister is assigned responsibility.

83 Proof of authority

(1) An inspector who is exercising his or her powers under this Law shall produce on request evidence of his or her authority to do so.

(2) An inspector shall also state on request –

(a) his or her name; and

(b) the power that he or she proposes to exercise.

84 Persons who may accompany inspectors

(1) In exercising his or her powers under this Law (including any powers conferred on him or her by a warrant granted under Article 85(4)), an inspector may take with him or her –

(a) such other persons; and

(b) such motor vehicles, equipment and materials,

as are reasonably necessary or expedient for the purpose.

(2) A person whom an inspector takes with him or her under paragraph (1) may perform any of the inspector's functions under this Law, but only under the latter's supervision.

85 General powers of entry and investigation

(1) A power conferred on an inspector by paragraph (3) shall only be exercisable –

(a) if there are reasonable grounds for doing so;

(b) in a manner that is proportionate and otherwise reasonable; and

(c) at a reasonable hour,

and, where it is to be exercised in respect of residential land, if the inspector has given not less than 48 hours' notice in writing to the owner or occupier.

(2) However, the requirements in paragraph (1) as to the time at which the power may be exercised and (in the case of residential land) as to the notice that must be given before it may be exercised do not apply in an emergency.

(3) An inspector may do all or any of the following things in respect of any land, motor vehicle, ship or aircraft, for the purposes of carrying this Law into effect –

(a) the inspector may enter, board, inspect or search it;

(b) the inspector may take or carry out on or in it any measurements, surveys, tests, investigations or photographs;

(c) the inspector may install, maintain or operate on or in it any monitoring equipment or other apparatus;

(d) the inspector may take or remove from it, for analysis, samples of any substances, articles or other things found there;

(e) the inspector may take or remove any substances, articles or other things found there, for the purposes of evidence in any civil or criminal proceedings under this Law; or

(f) the inspector may in the case of any land, carry out or dig on or in it any exploratory, investigatory or experimental borings, pits or holes.

(4) If the Bailiff, a Jurat or the Magistrate or Sous-Magistrat is satisfied on sworn information that –

(a) there are reasonable grounds for the exercise of any power under paragraph (3); and

(b) in the circumstances of the case it is desirable to grant a warrant under this paragraph,

he or she may grant a warrant authorizing an inspector at any time to enter or board any land, motor vehicle, ship or aircraft specified in the warrant and there exercise any other powers under paragraph (3), and in doing so to use such reasonable force as may be necessary.

(5) A warrant shall continue in force until –

(a) the purposes for which the warrant is granted have been fulfilled; or

(b) the expiry of the period of one month following its grant,

whichever event occurs first.

(6) If an inspector enters any land, motor vehicle, ship or aircraft in the exercise of his or her powers under this Article, and it is for the time being unoccupied or unmanned, the inspector shall leave it secured as effectually as the inspector found it.

(7) If an inspector has exercised any powers under this Article in respect of any land, motor vehicle, ship or aircraft, and the owner, occupier, driver, master, commander or person in charge (as the case may be) asks the inspector to do so, the inspector shall inform him or her as soon as reasonably practicable and in any event within 21 days of –

(a) the powers the inspector has so exercised; and

(b) everything the inspector has taken or removed in the course of exercising those powers.

(8) Any person who without reasonable excuse –

(a) intentionally obstructs an inspector who is exercising or seeking to exercise any power under this Article; or

(b) intentionally obstructs any person who is lawfully accompanying an inspector, or performing any function under an inspector's supervision, under Article 84,

shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

86 Co-operation by owners and others

(1) An inspector who is exercising or seeking to exercise his or her powers under Article 85 on or in any land, motor vehicle, ship or aircraft may require any person present who is or appears to the inspector to be –

(a) the owner, occupier, driver, master, commander or person in charge; or

(b) some other responsible person,

to render such assistance as the inspector may reasonably require of him or her in order that the inspector can carry out more effectively the purposes for which the inspector is exercising his or her powers.

(2) Paragraph (1) does not empower an inspector to require a person to do anything that the Minister, under any of Articles 87, 88, 89 and 90, may require a person to do.

(3) Any person who intentionally and without reasonable excuse contravenes a requirement made of the person under this Article shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

87 Access to documents and records

(1) If it appears to the Minister on reasonable grounds that a person has in his or her custody or control a document or record that is relevant to the purposes of this Law, the Minister may require the person to allow the Minister to inspect and copy it.

(2) If it is reasonably necessary or expedient to do so, the Minister or an inspector may take the document or record away temporarily, to inspect or copy it.

(3) There shall be a right of appeal, in accordance with Article 97, against the making of a requirement by the Minister under this Article.

88 Provision of information about potential pollution

(1) If it appears to the Minister on reasonable grounds that a person has any waste in his or her custody or control in circumstances in which it may cause pollution, the Minister may require the person to do all or any of the following things –

(a) to deliver to the Minister in writing details of the thing or the circumstances in which it is in his or her custody or control (including details as to its nature, origin, volume, rate, composition, properties, radioactivity, temperature or

other qualities or, if appropriate, any methods of transfer used by the person in respect of it);

(b) to deliver to the Minister in writing such other information as the Minister may reasonably require in order to determine the extent of that risk of pollution, or how best to prevent such pollution or to deal with the consequences of any pollution that does ensue; or

(c) to keep proper records for the purposes of sub-paragraph (a) or sub-paragraph (b).

(2) There shall be a right of appeal, in accordance with Article 97, against the making of a requirement by the Minister under this Article.

89 Control of potential pollution

(1) If it appears to the Minister on reasonable grounds that a person has any waste in his or her custody or control in circumstances in which it may cause pollution, the Minister may require the person to do all or any of the following things –

(a) to take reasonable precautions or undertake appropriate works or other measures (including monitoring); or

(b) to comply with reasonable conditions, while the thing is in the person's custody or control,

for the prevention of such pollution, or in anticipation of the control, reduction or elimination of such pollution.

(2) If it appears to the Minister on reasonable grounds that a person has any waste in his or her custody or control in circumstances in which it may cause pollution, and –

(a) that it is not reasonably practicable by any other means to take adequate precautions against the risk of pollution, or to deal adequately with the consequences of any pollution that does ensue; and

(b) that the nature of the risk and the consequences of waste pollution are sufficiently serious to justify the Minister in doing so,

the Minister may require the person to dispose of the thing.

(3) There shall be a right of appeal, in accordance with Article 97, against the making of a requirement by the Minister under this Article.

90 Remedial action by polluter

(1) If any person has caused or knowingly permitted pollution by reason of the introduction of any waste into the environment, the Minister may require the person to do all or any of the following things –

(a) to eliminate, reduce or control the pollution;

(b) to remedy or mitigate its effects; or

(c) to restore any land affected (or any flora or fauna that are dependent on it) to its state immediately before the pollution occurred,

as far as it is reasonably practicable for the person to do so.

(2) There shall be a right of appeal, in accordance with Article 97, against the making of a requirement by the Minister under this Article.

91 Manner of exercising powers

(1) A requirement by the Minister in the exercise of a power under any of Articles 87, 88, 89 and 90 shall be made by a notice in writing served on the person to whom it relates.

(2) The notice –

(a) shall in every case specify the document or record to be inspected and copied, the information to be delivered, the things to be done or the conditions to be complied with, as the case requires;

(b) may, in the case of a requirement under Article 89 or Article 90, specify the means by which the person is to comply with it; and

(c) shall in every case specify a period of time (being a reasonable period in the circumstances) within which the notice is to be complied with.

(3) Any person who intentionally and without reasonable excuse contravenes a notice served on the person by the Minister in the exercise of a power under Article 87 shall be guilty of an offence and liable to a fine of level 3 on the standard scale.[12]

(4) Any person who intentionally and without reasonable excuse contravenes a notice served on the person by the Minister in the exercise of a power under any of Articles 88, 89 and 90 shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

92 Remedial action by Minister

(1) If –

(a) a person on whom a notice is served in the exercise of a power under Article 89 or Article 90 contravenes the notice;

(b) it appears to the Minister after reasonable enquiry, in any case in which there are grounds for serving such a notice, that the person on whom it is to be served cannot be found; or

(c) it appears reasonably to the Minister, in any case in which there are grounds for serving such a notice, that the situation is one of urgency that warrants action under this Article,

the Minister may himself or herself do all or any of the things that the Minister has so required or could have so required the person to do.

(2) If the Minister acts under paragraph (1), the Minister may recover the Minister's reasonable expenses of doing so as a civil debt in any court of competent jurisdiction from any person on whom the notice was to be served.

(3) For the purposes of this Article, the Minister's reasonable expenses of acting under paragraph (1) shall include any expenses incurred by the Minister in investigating and establishing –

(a) the source and extent of any potential pollution or actual pollution to which the matter relates; and

(b) the identification of any person on whom a notice may be served under Article 89 or Article 90 in respect of the matter.

93 Injunctions

(1) The Minister or an inspector may apply to the Royal Court for an injunction to enforce compliance by any person with any requirement of this Law or made under this Law, or to restrain any person from contravening any provision of this Law.

(2) Paragraph (1) does not relieve a person from any criminal liability that the person may incur by reason of any act or omission, or limit any other remedies of the Minister or an inspector in respect of the person's acts or omissions.

PART 6

OTHER PROVISIONS

94 Applications for protection of trade secrets

(1) A person specified in paragraph (2) may apply to the Minister in accordance with this Article for a certificate of confidentiality in respect of any information described in that paragraph, on the ground that its disclosure will reveal a trade secret.

(2) The persons who may apply for certificates of confidentiality, and the information in respect of which they may so apply, are –

(a) any person who makes an application under this Law, in respect of any information that the person is required or wishes to give to the Minister in support of the application;

(b) any person, in respect of any information that the person wishes to give or is required to give under any of Articles 28, 87, 88 and 89; and

(c) any person, in respect of any information relating to the person, or to any business (including any research or experiment) carried on by the person, that the Minister or an inspector may obtain directly or indirectly in the course of the exercise of any power under Article 85 or Article 92.

(3) An application under this Article shall be made in writing.

(4) However, in a case to which either of sub-paragraphs (b) and (c) of paragraph (2) refers, the application may in the first instance be made –

(a) orally; and

(b) either to the person who has required or obtained the information, or to the Minister directly,

but in that event, on the expiry of the period of 14 days following the day on which it was made, it shall cease to be an application made in accordance with this Article unless the applicant has put it in writing and delivered the written application to the Minister.

(5) If the Minister is satisfied that the disclosure of the information will reveal a trade secret, the Minister shall grant a certificate of confidentiality in respect of that information.

(6) Within 14 days after determining an application for a certificate of confidentiality, the Minister shall serve on the applicant a written copy of his or her decision.

(7) There shall be a right of appeal, in accordance with Article 97, against the decision of the Minister.

95 Information that is protected

(1) While –

(a) an application for a certificate of confidentiality, having been made in accordance with Article 94, has not been determined by the Minister;

(b) any time allowed for appealing to the Royal Court against the decision of the Minister in respect of the application has not expired, and the Royal Court has not dismissed such an appeal;

(c) any time allowed for a further appeal has not expired, and the court concerned has not dismissed such an appeal; or

(d) any appeal, having been lodged, has not been determined,

the information in respect of which the application for a certificate of confidentiality was made shall be confidential, unless it is information described in Article 96.

(2) If a certificate of confidentiality is granted (whether by the Minister or on appeal), the information in respect of which it is granted shall be confidential, unless it is information described in Article 96.

(3) Any person who knowingly or recklessly –

(a) discloses to any other person any information that is confidential by virtue of paragraph (1) or paragraph (2); or

(b) uses that information otherwise than for the purposes of this Law,

shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

(4) Paragraph (3) does not apply to any disclosure –

(a) by the applicant for the certificate of confidentiality, or with his or her consent;

(b) to any Minister, any public officer or any other person specified in Article 84, for the purposes of this Law; or

(c) to a court or a party, in any civil or criminal proceedings under this Law, in private and for the purposes of those proceedings.

96 Information that is not protected

Article 95 does not apply to the following information –

(a) the name and address of the applicant for the certificate of confidentiality;

(b) the fact that the applicant has applied for or been granted such a certificate or that an appeal to the Royal Court, or any further appeal, is pending in respect of his or her application for it; and

(c) the site of the activity to which the confidential information relates.

97 Appeals

(1) The following persons shall have a right of appeal to the Royal Court under this Law –

(a) an applicant for a waste management licence, against the refusal by the Minister of his or her application or the imposing by the Minister (when granting the application) of any term or condition of his or her licence;

(b) a licensee, against the refusal by the Minister of his or her application to vary his or her licence in the way he or she has requested;

(c) a licensee, against the variation by the Minister of the Minister's own motion of any term or condition of his or her licence;

(d) a licensee, against the refusal of the Minister of an application for the transfer of his or her licence;

(e) a licensee, against the suspension or revocation of his licence by the Minister;

(f) a licensee, against the refusal by the Minister of his or her application for the surrender of his or her licence or the imposing by the Minister (when granting the application) of any condition of its surrender;

(g) an applicant for registration as a waste carrier, against the refusal by the Minister of his or her application;

(h) a registered waste carrier, against the imposing or variation of a condition by a notice served on him or her under Article 45(2);

(i) a registered waste carrier, against the suspension by the Minister of his or her registration;

(j) a registered waste carrier, against the revocation by the Minister of the Minister's own initiative of his or her registration;

(k) a registered waste carrier, against the refusal by the Minister of his or her application for the revocation of his or her registration or the imposing by the Minister (when granting the application) of any requirement under Article 48(2);

(l) an applicant for recognition under Article 63 as a trader, against the refusal by the Minister of his or her application;

(m) a recognized trader, against the withdrawal by the Minister under Article 63 of its recognition;

(n) a person of whom a requirement is made under any of Articles 87, 88, 89 and 90, against the making of the requirement; and

(o) an applicant for the grant of a certificate of confidentiality, against the refusal of the application in whole or in part.

(2) An appeal shall be brought within 21 days after the appellant is served with a written copy of the decision or the notice in writing of the requirement (as the case may be), or within such further time as the Royal Court may allow.

(3) The Minister shall give notice in writing of the appeal to every person who has made representations under Article 17(4) on the matter to which the appeal relates and has provided an address for service within Jersey, and that person may appear and be heard.

(4) Unless the Royal Court so orders, the lodging of an appeal shall not operate to stay the effect of a decision or requirement pending the determination of the appeal.

(5) On hearing the appeal, the Royal Court –

(a) may confirm, reverse or vary the decision or requirement against which the appeal is brought; and

(b) may make such order as to the costs of the appeal as it thinks fit.

(6) The appellant shall have a right of appeal to the Court of Appeal against a decision of the Royal Court under this Article.

98 Compensation

(1) If any person suffers any loss or damage in consequence of the exercise of any power under Article 85, the Minister shall be liable to pay compensation to the person for that loss or damage.

(2) Compensation shall not be payable under this Article –

(a) to the extent that the loss or damage is attributable to the claimant's fault; or

(b) to the extent that compensation for the loss or damage is payable under any other enactment or rule of law,

but this Article does not limit any right to compensation under any other enactment or rule of law.

(3) For the purposes of a claim for compensation under this Article –

(a) conforming to an approved code of practice is not conduct involving fault; and

(b) if a person claims compensation in respect of any loss or damage, the person's failure in a material way to conform to an approved code of practice within a reasonable time after the code is approved under Article 15(1) shall be admissible as evidence that the loss or damage is attributable to the person's fault.

(4) Any dispute as to the entitlement of any person to compensation under this Article, or as to the amount of compensation –

(a) shall be referred to and determined by the arbitration of a single arbitrator appointed by agreement between the Minister and the claimant; or

(b) in default of such agreement, shall be referred to and determined by the Board of Arbitrators appointed in accordance with Articles 8 and 9 of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961.

(5) In the determination of a dispute under paragraph (4) of this Article –

(a) Articles 10 and 20 of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961 shall apply; and

(b) in their application to this Law, the references in those provisions to the acquisition of land shall be read as references to the exercise of a power under Article 85 of this Law.

(6) In the determination of a dispute under paragraph (4) of this Article –

(a) Articles 12, 13, 14, 16 and 17 of that Law shall also apply; and

(b) in the application of those Articles (other than Article 13) to this Law, the references in them to the Board of Arbitrators shall be read as including a reference to a single arbitrator appointed by agreement under paragraph (4) of this Article.

(7) Interest, at the rate specified in Article 11(4) of the Compulsory Purchase of Land (Procedure) (Jersey) 1961 and calculated in accordance with that paragraph from the date on which the loss or damage occurred until the date of payment, shall be added to the amount of any compensation assessed under this Article.

99 Breach of conditions

(1) If a licensee contravenes any condition of or relating to his or her licence, or to the revocation or surrender of his or her licence, the licensee shall be guilty of an offence.

(2) If a registered waste carrier contravenes any condition of or relating to his or her registration, or to the revocation of his or her registration, the registered waste carrier shall be guilty of an offence.

(3) A person who is guilty of an offence under paragraph (1) or paragraph (2) shall be liable to imprisonment for a term of 2 years and to a fine.

100 False information

Any person who –

(a) in support of an application made under this Law;

(b) on being required under a condition of a waste management licence, or under Article 88, to give or deliver any information to the Minister; or

(c) in completing and signing any part of a consignment note,

knowingly or recklessly makes a statement that is false or misleading in a material particular shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

101 Interference with apparatus

Any person who maliciously or dishonestly interferes or tampers with any meter or other apparatus installed on or in any land, motor vehicle, ship or aircraft –

(a) by the Minister, for the purposes of this Law; or

(b) by any other person, in accordance with a requirement of or under this Law,

shall be guilty of an offence and liable to imprisonment for a term of 2 years and to a fine.

102 Criminal liability

(1) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

(2) If an offence under this Law committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of –

(a) a person who is a director, manager, secretary or other similar officer of the body corporate; or

(b) any person purporting to act in any such capacity,

the person shall also be guilty of the offence and liable in the same manner as the body corporate to the penalty provided for that offence.

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

103 Evidence

(1) If, in any civil or criminal proceedings under this Law, evidence is adduced of information recorded by a meter or other apparatus that is approved or used by the Minister in carrying out the functions conferred on it by this Law, it shall be presumed until the contrary is proved that the meter or apparatus has at all material times recorded information accurately.

(2) A statement that is made by a person in compliance with a requirement –

(a) of a condition of a waste management licence;

(b) of a prescribed condition of registration as a waste carrier or a condition imposed under Article 45(2); or

(c) under Article 88,

shall not be used in evidence in any criminal proceedings against that person.

(3) However, the restriction in paragraph (2) does not apply to criminal proceedings in which the person is charged with an offence of which one of the ingredients is that the statement is false or misleading in a material particular.

(4) Subject to paragraph (2), in any civil or criminal proceedings under this Law information that is provided by or obtained from any person under a condition of a waste management licence, a prescribed condition of registration as a waste carrier or a condition imposed under Article 45(2), shall be admissible in evidence against that person.

104 Limitation of liability of Minister

Neither the Minister nor any officer, employee or agent in an administration of the States for which the Minister is assigned responsibility shall incur any civil or criminal liability in respect of –

(a) the grant, variation, transfer, suspension, revocation or surrender of a waste management licence;

(b) the registration of a waste carrier, or the suspension or revocation of the registration of a waste carrier; or

(c) the consent or agreement of the Minister to an internal or transboundary movement of waste,

unless it is proved that the Minister or the officer, employee or agent in an administration of the States for which the Minister is assigned responsibility (as the case may be) was acting in bad faith.

105 Service of documents

(1) A document may be served under this Law in any of the following ways –

(a) on an individual, by delivering it to the individual personally or by leaving it at the individual's proper address or by sending it by recorded delivery post to the individual at that address;

(b) on a body corporate, by serving it in accordance with sub-paragraph (a) on the secretary or clerk of that body;

(c) on a partnership, by serving it in accordance with sub-paragraph (a) on a partner or a person having the control or management of the partnership business; or

(d) on an unincorporated body or unincorporated association of persons, by serving it in accordance with sub-paragraph (a) on any person having the control or management of its affairs.

(2) For the purposes of this Article, and of Article 7 of the Interpretation (Jersey) Law 1954 (which relates to the service of documents by post) in its application to this Article, the proper address of any person on whom a document is to be served is the person's last known address, except that –

(a) in the case of service on a body corporate or its secretary or clerk, it is the address of the registered or principal office of the body; or

(b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it is the address of the principal office of the partnership.

(3) In the case of a body incorporated outside Jersey or of a partnership carrying on business outside Jersey, its principal office within Jersey is its principal office for the purposes of this Article.

(4) If a person who is to be served under this Law with any document has specified an address within Jersey other than the person's proper address (as determined in accordance with paragraph (2)) as the one at which the person or someone on his or her behalf will accept service of documents, that address may be treated as the proper address for the purposes of this Article.

(5) If a document is to be served under this Law –

(a) on the owner or person in charge of any land, motor vehicle, ship or aircraft; or

(b) on the occupier of any land, the driver of a motor vehicle, the master of a ship or the commander of an aircraft,

and after reasonable enquiry he or she cannot be found and his or her name and address cannot be ascertained, and the document relates to the land, motor vehicle, ship or aircraft, the document may be served by delivering it personally to some other responsible person who is or appears to be resident or employed on or in it, or by affixing it (or a copy) conspicuously to any part of the land, motor vehicle, ship or aircraft.

(6) This Article does not apply to any document for which provision for service is made by Rules of Court, but it does not prevent service by any other mode that is permitted by any other enactment or rule of law.

106 Fees

(1) The Minister may prescribe –

(a) fees that shall be payable to the Minister in respect of applications for the grant, variation, transfer, revocation or surrender of waste management licences;

(b) fees that shall be payable to the Minister in respect of applications for the grant or revocation of registration as waste carriers;

(c) fees that shall be payable to the Minister periodically by licensees or registered persons under this Law; and

(d) fees that shall be payable for the supplying by the Minister to any persons of consignment notes.

(2) In prescribing such fees, the Minister shall have regard to the amounts that are needed to meet his or her expenditure in carrying out his or her functions under this Law in respect of the matters for which the fees are payable.

(3) In prescribing fees –

(a) the Minister may set different amounts in respect of different parts of any periods during which any licence or registration remains in force;

(b) the Minister may set different amounts according to the kinds or scale of activity, the kinds or amounts of any substances, the localities or circumstances and the number of different activities to which any licence or registration relates; and

(c) the Minister may set different amounts for the supplying of consignment notes for internal movements and those for transboundary movements.

(4) If any fee is prescribed under this Law, the Minister may refuse to do anything for which it is payable until it is paid (without prejudice to the right of the Minister to recover the money).

107 Amendment of Schedules

The States may by Regulations amend any of Schedules 1, 2, 3, 4, 5, 6, 7, 8 and 9.

108 Subordinate legislation

(1) The Minister may make Orders relating to all or any of the following matters –

(a) prescribing forms for the purposes of this Law;

(b) prescribing information that is to be included in or to accompany applications under this Law;

(c) providing for any other matters that are to be or is may be prescribed under any other provisions of this Law;

(d) providing for such other matters as are reasonably necessary for or incidental to the purpose of carrying this Law into effect.

(2) Regulations and Orders made under this Law may make different provision for different Parts, Articles, Schedules or other divisions of this Law or different classes of case.

(3) [13]

(4) The powers of the Superior Number of the Royal Court to make rules under the Royal Court (Jersey) Law 1948 shall include power to make rules for the purposes of this Law.

109 Relationship to other enactments

(1) This Law does not relieve any person from an obligation to obtain any approval, authorization, consent or permission that is required by or under any other enactment.

(2) Nothing in any of Articles 89, 90 and 92 –

(a) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under any such Article; or

(b) affects any restriction imposed by or under any other enactment.

110 Implementation of international obligations

The States may by Regulations modify this Law to give effect to any international agreement, other international instrument or international obligation, that relates to the control of waste pollution within Jersey, or the regulation of the transboundary movement of wastes, and is applicable to or binding on Jersey.

111 Application to Crown

(1) Subject to this Article, this Law shall bind the Crown.

(2) No contravention by the Crown of any provision of this Law shall make the Crown criminally liable.

(3) However –

(a) the Royal Court may, on the application of the Minister, declare unlawful any act or omission of the Crown that contravenes a provision of this Law; and

(b) the provisions of this Law apply in any event to persons in the public service of the Crown as they apply to other persons.

(4) If the Lieutenant-Governor certifies that it appears to him or her that it is requisite or expedient that, in the interests of national security, any powers in or under this Law that are specified in the certificate should not be exercisable in relation to any Crown land specified in the certificate, those powers shall not be exercisable in respect of that land.

(5) This Law does not apply to His Majesty in his private capacity.[14]

112 Transitional provisions

This Law shall have effect subject to the transitional provisions set out in Schedules 10 and 11.

113 Citation

This Law may be cited as the Waste Management (Jersey) Law 2005.

SCHEDULE 1

(Article 1(1))

DISPOSAL AND RECOVERY OPERATIONS

PART 1

DISPOSAL OPERATIONS

D1 Deposit on land, (for example, landfill).

D2 Land treatment, (for example, biodegradation of liquid or sludgy discards in soils).

D3 Deep injection, (for example, injection of pumpable discards into wells, salt domes or naturally occurring repositories).

D4 Surface impoundment, (for example, placement of liquid or sludge discards into pits, ponds or lagoons).

D5 Specially engineered landfill (for example, placement into lined discrete cells that are capped and isolated from one another and the environment).

D6 Release into a water body except a sea or ocean.

D7 Release into a sea or ocean, including seabed insertion.

D8 Biological treatment, not specified elsewhere in this Schedule, that results in final compounds or mixtures that are discarded by means of any of the operations in this Part of this Schedule.

D9 Physico-chemical treatment, not specified elsewhere in this Schedule, that results in final compounds or mixtures that are discarded by means of any of the operations in this Part of this Schedule (for example, evaporation, drying, calcination, neutralisation or precipitation).

D10 Incineration on land.

D11 Incineration at sea.

D12 Permanent storage (for example, emplacement of containers in a mine).

D13 Blending or mixing prior to submission to any of the operations in this Schedule.

D14 Repacking prior to submission to any of the operations in this Part of this Schedule.

D15 Storage pending any of the operations in this Part of this Schedule.

PART 2[15]

RECOVERY OPERATIONS

R1 Use principally as a fuel or other means to generate energy, which includes use in an incineration facility that meets all of the requirements described in the footnote to the recovery operation numbered R1 in Annex II to the Waste Framework Directive, as amended from time to time, including in particular the requirements in that footnote as to energy efficiency.

R2 Solvent reclamation or regeneration.

R3 Recycling or reclamation of organic substances that are not used as solvents.

R4 Recycling or reclamation of metals and metal compounds.

R5 Recycling or reclamation of other inorganic materials.

R6 Regeneration of acids or bases.

R7 Recovery of components used for pollution abatement.

R8 Recovery of components from catalysts.

R9 Re-refining of used oil or other reuses of previously used oil.

R10 Land treatment resulting in benefit to agriculture or ecological improvement.

R11 Uses of residual materials obtained from any of the operations numbered R1 – R10.

R12 Exchange of wastes for submission to any of the operations numbered R1 – R11.

R13 Accumulation of material intended for any operation in this Part of this Schedule.

SCHEDULE 2

(Article 3(1))

HAZARDOUS WASTES

PART 1

HAZARDOUS WASTE SPECIFIED IN BASEL CONVENTION

Section A: Categories

Waste streams

Y1 Clinical wastes from medical care in hospitals, medical centres and clinics.

Y2 Wastes from the production and preparation of pharmaceutical products.

Y3 Waste pharmaceuticals, drugs and medicines.

Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals.

Y5 Wastes from the manufacture, formulation and use of wood preserving chemicals.

Y6 Wastes from the production, formulation and use of organic solvents.

Y7 Wastes from heat treatment and tempering operations containing cyanides.

Y8 Waste mineral oils unfit for their originally intended use.

Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions.

Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs).

Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment.

Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers or varnish.

Y13 Wastes from production, formulation and use of resins, latex, plasticizers or glues/adhesives.

Y14 Waste chemical substances arising from research and development or teaching activities that are not identified and/or are new and whose effects on man and/or the environment are not known.

Y15 Wastes of an explosive nature not subject to other legislation.

Y16 Wastes from production, formulation and use of photographic chemicals and processing materials.

Y17 Wastes resulting from surface treatment of metals and plastics.

Y18 Residues arising from industrial waste disposal operations.

Wastes having as constituents –

Y19 metal carbonyls;

Y20 beryllium or beryllium compounds;

Y21 hexavalent chromium compounds;

Y22 copper compounds;

Y23 zinc compounds;

Y24 arsenic or arsenic compounds;

Y25 selenium or selenium compounds;

Y26 cadmium or cadmium compounds;

Y27 antimony or antimony compounds;

Y28 tellurium or tellurium compounds;

Y29 mercury or mercury compounds;

Y30 thallium or thallium compounds;

Y31 lead or lead compounds;

Y32 inorganic fluorine compounds (excluding calcium fluoride);

Y33 inorganic cyanides;

Y34 acidic solutions or acids in solid form;

Y35 basic solutions or bases in solid form;

Y36 asbestos (dust and fibres);

Y37 organic phosphorous compounds;

Y38 organic cyanides;

Y39 phenols or phenol compounds (including chlorophenols);

Y40 ethers;

Y41 halogenated organic solvents;

Y42 organic solvents excluding halogenated solvents;

Y43 any congenor of polychlorinated dibenzo-furan;

Y44 any congenor of polychlorinated dibenzo-p-dioxin; or

Y45 organohalogen compounds other than substances referred to in this Part of this Schedule (for example Y39, Y41, Y42, Y43, Y44).

Section B: Hazardous characteristics		
*UN Class**	*Code*	*Characteristics*
1	H1	Explosive substances or wastes An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) that is in itself 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.
3	H3	Flammable liquids The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints or varnishes, lacquers, but not including substances or wastes otherwise classified on account of their dangerous characteristics) that give off a flammable vapour at temperatures of not more than 60.5°C, closed-cup test, or not more than 65.6°C, open-cup test. (Because the results of open-cup tests and of closed-cup tests are not strictly comparable and individual results even by the same test are often variable, results varying from the above figures to make allowance for such differences are within the scope of this definition.)
4.1	H4.1	Flammable solids Solids, or waste solids, other than those classed as explosives, that under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.
4.2	H4.2	Substances or wastes liable to spontaneous combustion Substances or wastes that are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and are then liable to catch fire.
4.3	H4.3	Substances or wastes that, in contact with water, emit flammable gases Substances or wastes that, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.
5.1	H5.1	Oxidizing substances or wastes Substances or wastes that, while in themselves not necessarily combustible, may (usually by yielding oxygen) cause or contribute to the combustion of other materials.
5.2	H5.2	Organic peroxides or wastes Organic substances or wastes that contain the bivalent-O-O-structure and are thermally unstable substances that may undergo exothermic self-accelerating decomposition.
* Corresponds to the hazard classification system included in the United Nations Recommendations on the Transport of Dangerous Goods (ST/SG/AC.10/1/Rev.5, United Nations, New York, 1988).		

6.1	H6.1	Poisonous substances or wastes

		Substances or wastes that are liable either to cause death or serious injury or harm to human health if swallowed or inhaled or by skin contact.
6.2	H6.2	Infectious substances Substances or wastes containing viable micro-organisms or their toxins that are known or suspected to cause disease in animals or humans.
9	H8	Corrosives Substances or wastes that, by chemical action, will cause severe damage when in contact with living tissue, or, in the case of leakage, will materially damage or even destroy other goods or the means of transport (whether or not they may cause other hazards).
9	H10	Liberation of toxic gases in contact with air or water Substances or wastes that, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
9	H11	Toxic substances or wastes delayed or chronic Substances or wastes that, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
9	H12	Ecotoxic substances or wastes Substances or wastes that, if released, present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
9	H13	Other substances or wastes Substances or wastes, that, by any means, are capable after disposal of yielding another material (for example, leachate) that possesses any of the characteristics listed above.

PART 2

HAZARDOUS WASTE BY NATIONAL DEFINITION

Any waste that is the subject of a transboundary movement (whether or not it is hazardous waste within the meaning of Part 1 of this Schedule), if it is defined or considered to be a hazardous waste by the domestic legislation of the country of dispatch or any country of transit or the country of destination.

SCHEDULE 3

(Article 7)

WASTES THAT ARE SUBJECT TO THE BASEL CONVENTION

1. Hazardous waste.
2. Household waste, within the meaning of the Basel Convention.
3. The residues from the incineration of household waste, within the meaning of the Basel Convention.

SCHEDULE 4

(Article 8(1), (2))

WASTES THAT MAY BE SUBJECT TO THE BASEL CONVENTION BAN

PART 1[16]

WASTES THAT ARE NORMALLY SUBJECT TO THE BASEL CONVENTION BAN

A1 Metal and metal-bearing wastes

A1010 Metal wastes and waste consisting of alloys of any of the following:

- Antimony
- Arsenic
- Beryllium
- Cadmium
- Lead
- Mercury
- Selenium
- Tellurium
- Thallium

but excluding such wastes specifically listed in Part 2 of this Schedule.

A1020 Waste having as constituents or contaminants, excluding metal waste in massive form, any of the following:

- Antimony; antimony compounds
- Beryllium; beryllium compounds
- Cadmium; cadmium compounds
- Lead; lead compounds
- Selenium; selenium compounds
- Tellurium; tellurium compounds

A1030 Wastes having as constituents or contaminants any of the following:

- Arsenic; arsenic compounds
- Mercury; mercury compounds.
- Thallium; thallium compounds

A1040 Wastes having as constituents any of the following:

- Metal carbonyls

- Hexavalent chromium compounds.

A1050 Galvanic sludges

A1060 Waste liquors from the pickling of metals

A1070 Leaching residues from zinc processing, dust and sludges such as jarosite, hematite, etc.

A1080 Waste zinc residues not included in Part 2 of this Schedule, containing lead and cadmium in concentrations sufficient to exhibit characteristics described in Section B of Part 1 of Schedule 2

A1090 Ashes from the incineration of insulated copper wire

A1100 Dusts and residues from gas cleaning systems of copper smelters

A1110 Spent electrolytic solutions from copper electrorefining and electrowinning operations

A1120 Waste sludges, excluding anode slimes, from electrolyte purification systems in copper electrorefining and electrowinning operations

A1130 Spent etching solutions containing dissolved copper

A1140 Waste cupric chloride and copper cyanide catalysts

A1150 Precious metal ash from incineration of printed circuit boards not included in Part 2 of this Schedule[(1)]

A1160 Waste lead-acid batteries, whole or crushed

A1170 Unsorted waste batteries excluding mixtures only of batteries specified in Part 2 of this Schedule. Waste batteries not specified in Part 2 of this Schedule containing constituents described in Section A of Part 1 of Schedule 2 to an extent to render them hazardous

A1180 Waste electrical and electronic assemblies or scrap[(2)] containing components such as accumulators and other batteries included in this Part of this Schedule, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or contaminated with constituents described in Section A of Part 1 of Schedule 2 (e.g., cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they possess any of the characteristics described in Section B of Part 1 of Schedule 2 (note the related entry B1110 in Part 2 of this Schedule)[(3)]

A2 Wastes containing principally inorganic constituents, which may contain metals and organic materials

A2010 Glass waste from cathode-ray tubes and other activated glasses

A2020 Waste inorganic fluorine compounds in the form of liquids or sludges but excluding such wastes specified in Part 2 of this Schedule

A2030 Waste catalysts but excluding such wastes specified in Part 2 of this Schedule

A2040 Waste gypsum arising from chemical industry processes, when containing constituents described in Section A of Part 1 of Schedule 2 to the extent that it exhibits an hazardous characteristic described in Section B of Part 1 of Schedule 2 (note the related entry B2080 in Part 2 of this Schedule)

A2050 Waste asbestos (dusts and fibres)

A2060 Coal-fired power plant fly-ash containing substances described in Section A of Part 1 of Schedule 2 in concentrations sufficient to exhibit characteristics described in Section B of Part 1 of Schedule 2 (note the related entry B2050 in Part 2 of this Schedule)

A3 Wastes containing principally organic constituents, which may contain metals and inorganic materials

A3010 Waste from the production or processing of petroleum coke and bitumen

A3020 Waste mineral oils unfit for their originally intended use

A3030 Wastes that contain, consist of or are contaminated with leaded anti-knock compound sludges

A3040 Waste thermal (heat transfer) fluids

A3050 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives excluding such wastes specified in Part 2 of this Schedule (note the related entry B4020 in that Part)

A3060 Waste nitrocellulose

A3070 Waste phenols, phenol compounds including chlorophenol in the form of liquids or sludges

A3080 Waste ethers not including those specified in Part 2 of this Schedule

A3090 Waste leather dust, ash, sludges and flours when containing hexavalent chromium compounds or biocides (note the related entry B3100 in Part 2 of this Schedule)

A3100 Waste paring and other waste of leather or of composition leather not suitable for the manufacture of leather articles containing hexavalent chromium compounds or biocides (note the related entry in B3090 in Part 2 of this Schedule)

A3110 Fellmongery wastes containing hexavalent chromium compounds or biocides or infectious substances (note the related entry in B3110 in Part 2 of this Schedule)

A3120 Fluff – light fraction from shredding

A3130 Waste organic phosphorous compounds

A3140 Waste non-halogenated organic solvents but excluding such wastes specified in Part 2 of this Schedule

A3150 Waste halogenated organic solvents

A3160 Waste halogenated or unhalogenated non-aqueous distillation residues arising from organic solvent recovery operations

A3170 Wastes arising from the production of aliphatic halogenated hydrocarbons (such as chloromethane, dichloro-ethane, vinyl chloride, vinylidene chloride, allyl chloride and epichlorhydrin)

A3180 Wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB), polychlorinated terphenyl (PCT), polychlorinated naphthalene (PCN) or polybrominated biphenyl (PBB), or any other polybrominated analogues of these compounds, at a concentration level of 50 mg/kg or more[(4)]

A3190 Waste tarry residues (excluding asphalt cements) arising from refining, distillation and any pyrolitic treatment of organic materials

A3200 Bituminous materials (asphalt waste) from road construction and maintenance, containing tar (note the related entry in B2130 in Part B of this Schedule)

A4 Wastes which may contain either inorganic or organic constituents

A4010 Wastes from the production, preparation and use of pharmaceutical products but excluding such wastes specified in Part 2 of this Schedule

A4020 Clinical and related wastes; that is wastes arising from medical, nursing, dental, veterinary, or similar practices, and wastes generated in hospitals or other facilities during the investigation or treatment of patients, or research projects

A4030 Wastes from the production, formulation and use of biocides and phytopharmaceuticals, including waste pesticides and herbicides which are off-specification, outdated,[(5)] or unfit for their originally intended use

A4040 Wastes from the manufacture, formulation and use of wood-preserving chemicals[(6)]

A4050 Wastes that contain, consist of or are contaminated with any of the following:

- Inorganic cyanides, excepting precious-metal-bearing residues in solid form containing traces of inorganic cyanides
- Organic cyanides

A4060 Waste oils/water, hydrocarbons/water mixtures, emulsions

A4070 Wastes from the production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish excluding any such waste specified in Part 2 of this Schedule (note the related entry B4010 in that Part)

A4080 Wastes of an explosive nature (but excluding such wastes specified in Part 2 of this Schedule)

A4090 Waste acidic or basic solutions, other than those specified in the corresponding entry in Part 2 of this Schedule (note the related entry B2120 in that Part)

A4100 Wastes from industrial pollution control devices for cleaning of industrial off-gases but excluding such wastes specified in Part 2 of this Schedule

A4110 Wastes that contain, consist of or are contaminated with any of the following:

- Any congenor of polychlorinated dibenzo-furan
- Any congenor of polychlorinated dibenzo-dioxin

A4120 Wastes that contain, consist of or are contaminated with peroxides

A4130 Waste packages and containers containing substances described in Section A of Part 1 of Schedule 2 in concentrations sufficient to exhibit hazard characteristics described in Section B of Part 1 of Schedule 2

A4140 Waste consisting of or containing off-specification or outdated[(7)] chemicals corresponding to categories described in Section A of Part 1 of Schedule 2 and exhibiting hazard characteristics described in Section B of Part 1 of Schedule 2

A4150 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on human health and/or the environment are not known

A4160 Spent activated carbon not included in Part 2 of this Schedule (note the related entry B2060 in that Part)

PART 2[17]

WASTES THAT ARE NOT NORMALLY SUBJECT TO THE BASEL CONVENTION BAN

B1 Metal and metal-bearing wastes

B1010 Metal and metal-alloy wastes in metallic, non-dispersible form:

- Precious metals (gold, silver, the platinum group, but not mercury)
- Iron and steel scrap
- Copper scrap
- Nickel scrap
- Aluminium scrap
- Zinc scrap
- Tin scrap
- Tungsten scrap
- Molybdenum scrap
- Tantalum scrap
- Magnesium scrap
- Cobalt scrap
- Bismuth scrap
- Titanium scrap
- Zirconium scrap
- Manganese scrap
- Germanium scrap
- Vanadium scrap
- Scrap of hafnium, indium, niobium, rhenium and gallium
- Thorium scrap
- Rare earths scrap
- Chromium scrap

B1020 Clean, uncontaminated metal scrap, including alloys, in bulk finished form (sheet, plate, beams, rods, etc), of:

- Antimony scrap
- Beryllium scrap
- Cadmium scrap
- Lead scrap (but excluding lead-acid batteries)
- Selenium scrap

- Tellurium scrap

B1030 Refractory metals containing residues

B1031 Molybdenum, tungsten, titanium, tantalum, niobium and rhenium metal and metal alloy wastes in metallic dispersible form (metal powder) excluding such wastes as specified in list A under entry A1050 – Galvanic sludges

B1040 Scrap assemblies from electrical power generation not contaminated with lubricating oil, PCB or PCT to an extent to render them hazardous

B1050 Mixed non-ferrous metal, heavy fraction scrap, not containing materials described in Section A of Part 1 of Schedule 2 in concentrations sufficient to exhibit characteristics[8] described in Section B of Part 1 of Schedule 2

B1060 Waste selenium and tellurium in metallic elemental form including powder

B1070 Waste of copper and copper alloys in dispersible form, unless they contain constituents described in Section A of Part 1 of Schedule 2 to an extent that they exhibit characteristics described in Section B of Part 1 of Schedule 2

B1080 Zinc ash and residues including zinc alloys residues in dispersible form unless containing constituents described in Section A of Part 1 of Schedule 2 in concentration such as to exhibit described in Section B of Part 1 of Schedule 2 characteristics or exhibiting hazard characteristic H4.3[9]

B1090 Waste batteries conforming to a specification, excluding those made with lead, cadmium or mercury

B1100 Metal-bearing wastes arising from melting, smelting and refining of metals:

- Hard zinc spelter
- Zinc-containing drosses:
  - Galvanizing slab zinc top dross (>90% Zn)
  - Galvanizing slab zinc bottom dross (>92% Zn)
  - Zinc die casting dross (>85% Zn)
  - Hot dip galvanizers slab zinc dross (batch)(>92% Zn)
  - Zinc skimmings
- Aluminium skimmings (or skims) excluding salt slag
- Slags from copper processing for further processing or refining not containing arsenic, lead or cadmium to an extend that they exhibit hazard characteristics described in Section B of Part 1 of Schedule 2
- Wastes of refractory linings, including crucibles, originating from copper smelting
- Slags from precious metals processing for further refining
- Tantalum-bearing tin slags with less than 0.5% tin

B1110 Electrical and electronic assemblies:

- Electronic assemblies consisting only of metals or alloys
- Waste electrical and electronic assemblies or scrap[10] (including printed circuit boards) not containing components such as accumulators and other batteries

included in Part 1 of this Schedule, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or not contaminated with constituents described in Section A of Part 1 of Schedule 2 (e.g., cadmium, mercury, lead, polychlorinated biphenyl) or from which these have been removed, to an extent that they do not possess any of the characteristics described in Section B of Part 1 of Schedule 2 (note the related entry A1180 in Part 1 of this Schedule)

- Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct reuse,(11) and not for recycling or final disposal(12)

B1120 Spent catalysts excluding liquids used as catalysts, containing any of:

Transition metals, excluding waste catalysts (spent catalysts, liquid used catalysts or other catalysts) in Part 1 of this Schedule:	Scandium	Titanium
	Vanadium	Chromium
	Manganese	Iron
	Cobalt	Nickel
	Copper	Zinc
	Yttrium	Zirconium
	Niobium	Molybdenum
	Hafnium	Tantalum
	Tungsten	Rhenium
Lanthanides (rare earth metals):	Lanthanum	Cerium
	Praseodymium	Neody
	Samarium	Europium
	Gadolinium	Terbium
	Dysprosium	Holmium
	Erbium	Thulium
	Ytterbium	Lutetium

B1130 Cleaned spent precious-metal-bearing catalysts

B1140 Precious-metal-bearing residues in solid form which contain traces of inorganic cyanides

B1150 Precious metals and alloy wastes (gold, silver, the platinum group, but not mercury) in a dispersible, non-liquid form with appropriate packaging and labelling

B1160 Precious-metal ash from the incineration of printed circuit boards (note the related entry A1150 in Part 1 of this Schedule)

B1170 Precious-metal ash from the incineration of photographic film

B1180 Waste photographic film containing silver halides and metallic silver

B1190 Waste photographic paper containing silver halides and metallic silver

B1200 Granulated slag arising from the manufacture of iron and steel

B1210 Slag arising from the manufacture of iron and steel including slags as a source of TiO_2 and vanadium

B1220 Slag from zinc production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g., DIN 4301) mainly for construction

B1230 Mill scaling arising from the manufacture of iron and steel

B1240 Copper oxide mill-scale

B1250 Waste end-of-life motor vehicles, containing neither liquids nor other hazardous components

B2 Wastes containing principally inorganic constituents, which may contain metals and organic materials

B2010 Wastes from mining operations in non-dispersible form:

- Natural graphite waste
- Slate waste, whether or not roughly trimmed or merely cut, by sawing or otherwise
- Mica waste
- Leucite, nepheline and nepheline syenite waste
- Feldspar waste
- Fluorspar waste
- Silica wastes in solid form excluding those used in foundry operations

B2020 Glass waste in non-dispersible form:

- Cullet and other waste and scrap of glass except for glass from cathode-ray tubes and other activated glasses

B2030 Ceramic wastes in non-dispersible form:

- Cermet wastes and scrap (metal ceramic composites)
- Ceramic based fibres not elsewhere specified or included

B2040 Other wastes containing principally inorganic constituents:

- Partially refined calcium sulphate produced from flue-gas desulphurization (FGD)
- Waste gypsum wallboard or plasterboard arising from the demolition of buildings
- Slag from copper production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g., DIN 4301 and DIN 8201) mainly for construction and abrasive applications
- Sulphur in solid form
- Limestone from the production of calcium cyanamide (having a pH less than 9)
- Sodium, potassium, calcium chlorides
- Carborundum (silicon carbide)
- Broken concrete
- Lithium-tantalum and lithium-niobium containing glass scraps

B2050 Coal-fired power plant fly-ash, not included in Part 1 of this Schedule (note the related entry A2060 in Part 1 of this Schedule)

B2060 Spent activated carbon resulting from the treatment of potable water and processes of the food industry and vitamin production (note the related entry A4160 in Part 1 of this Schedule)

B2070 Calcium fluoride sludge

B2080 Waste gypsum arising from chemical industry processes not included in Part 1 of this Schedule (note the related entry A2040 in that Part)

B2090 Waste anode butts from steel or aluminium production made of petroleum coke or bitumen and cleaned to normal industry specifications (excluding anode butts from chlor-alkali electrolyses and from metallurgical industry)

B2100 Waste hydrates of aluminium and waste alumina and residues from alumina production excluding such materials used for gas cleaning, flocculation or filtration processes

B2110 Bauxite residue ("red mud") (pH moderated to less than 11.5)

B2120 Waste acidic or basic solutions with a pH greater than 2 and less than 11.5, which are not corrosive or otherwise hazardous (note the related entry A4090 in Part 1 of this Schedule)

B2130 Bituminous material (asphalt waste) from road construction and maintenance, not containing tar[a] (note the related entry on List A, A3200)

B3 Wastes containing principally organic constituents, which may contain metals and inorganic materials

B3010 Solid plastic waste:

The following plastic or mixed plastic materials, provided they are not mixed with other wastes and are prepared to a specification:

- Scrap plastic of non-halogenated polymers and co-polymers, including but not limited to the following(13):
  - ethylene
  - styrene
  - polypropylene
  - polyethylene terephthalate
  - acrylonitrile
  - butadiene
  - polyacetals
  - polyamides
  - polybutylene terephthalate
  - polycarbonates
  - polyethers
  - polyphenylene sulphides
  - acrylic polymers
  - alkanes C10-C13 (plasticiser)
  - polyurethane (not containing CFCs)

- polysiloxanes
- polymethyl methacrylate
- polyvinyl alcohol
- polyvinyl butyral
- polyvinyl acetate

- Cured waste resins or condensation products including the following:
  - urea formaldehyde resins
  - phenol formaldehyde resins
  - melamine formaldehyde resins
  - epoxy resins
  - alkyd resins
  - polyamides.
- The following fluorinated polymer wastes[14]
  - perfluoroethylene/propylene (FEP)
  - perfluoroalkoxy alkane (PFA)
  - perfluoroalkoxy alkane (MFA)
  - polyvinylfluoride (PVF)
  - polyvinylidenefluoride (PVDF)

B3020 Paper, paperboard and paper product wastes

The following materials, provided they are not mixed with hazardous wastes:

Waste and scrap of paper or paperboard of:

- unbleached paper or paperboard or of corrugated paper or paperboard
- other paper or paperboard, made mainly of bleached chemical pulp, not coloured in the mass
- paper or paperboard made mainly of mechanical pulp (for example, newspapers, journals and similar printed matter)
- other, including but not limited to 1) laminated paperboard 2) unsorted scrap.

B3030 Textile wastes

The following materials, provided they are not mixed with other wastes and are prepared to a specification:

- Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock)
  - not carded or combed
  - other
- Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock
  - noils of wool or of fine animal hair

- – other waste of wool or of fine animal hair
- – waste of coarse animal hair

- Cotton waste (including yarn waste and garnetted stock)
  - – yarn waste (including thread waste)
  - – garnetted stock
  - – other
- Flax tow and waste
- Tow and waste (including yarn waste and garnetted stock) of true hemp (Cannabis sativa L.)
- Tow and waste (including yarn waste and garnetted stock) of jute and other textile bast fibres (excluding flax, true hemp and ramie)
- Tow and waste (including yarn waste and garnetted stock) of sisal and other textile fibres of the genus Agave
- Tow, noils and waste (including yarn waste and garnetted stock) of coconut
- Tow, noils and waste (including yarn waste and garnetted stock) of abaca (Manila hemp or Musa textilis Nee)
- Tow, noils and waste (including yarn waste and garnetted stock) of ramie and other vegetable textile fibres, not elsewhere specified or included
- Waste (including noils, yarn waste and garnetted stock) of man-made fibres
  - – of synthetic fibres
  - – of artificial fibres
- Worn clothing and other worn textile articles
- Used rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables of textile materials
  - – sorted
  - – other

B3035 Waste textile floor coverings, carpets

B3040 Rubber wastes

The following materials, provided they are not mixed with other wastes:

- Waste and scrap of hard rubber (e.g., ebonite)
- Other rubber wastes (excluding such wastes specified elsewhere)

B3050 Untreated cork and wood waste:

- Wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
- Cork waste: crushed, granulated or ground cork

B3060 Wastes arising from agro-food industries provided they are not infectious:

- Wine lees

- Dried and sterilized vegetable waste, residues and byproducts, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included
- Degras: residues resulting from the treatment of fatty substances or animal or vegetable waxes
- Waste of bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised
- Fish waste
- Cocoa shells, husks, skins and other cocoa waste
- Other wastes from the agro-food industry excluding by-products which meet national and international requirements and standards for human or animal consumption

B3065 Waste edible fats and oils of animal or vegetable origin (e.g. frying oils), provided they do not exhibit an Annex III characteristic

B3070 The following wastes:

- Waste of human hair
- Waste straw
- Deactivated fungus mycelium from penicillin production to be used as animal feed

B3080 Waste parings and scrap of rubber

B3090 Paring and other wastes of leather or of composition leather not suitable for the manufacture of leather articles, excluding leather sludges, not containing hexavalent chromium compounds and biocides (note the related entry A3100 in Part 1 of this Schedule)

B3100 Leather dust, ash, sludges or flours not containing hexavalent chromium compounds or biocides (note the related entry A3090 in Part 1 of this Schedule)

B3110 Fellmongery wastes not containing hexavalent chromium compounds or biocides or infectious substances (note the related entry A3110 in Part 1 of this Schedule)

B3120 Wastes consisting of food dyes

B3130 Waste polymer ethers and waste non-hazardous monomer ethers incapable of forming peroxides

B3140 Waste pneumatic tyres, excluding those destined for operations described in Annex IVA of the Basel Convention

B4 Wastes which may contain either inorganic or organic constituents

B4010 Wastes consisting mainly of water-based/latex paints, inks and hardened varnishes not containing organic solvents, heavy metals or biocides to an extent to render them hazardous (note the related entry A4070 in Part 1 of this Schedule)

B4020 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives, not listed in Part 1 of this Schedule, free of solvents and other contaminants to an extent that they do not exhibit Annex III characteristics, e.g., water-based, or glues based on casein starch, dextrin, cellulose ethers, polyvinyl alcohols (note the related entry A3050 in Part 1 of this Schedule)

B4030 Used single-use cameras, with batteries not included in Part 1 of this Schedule

Footnotes

(1) Note that mirror entry in Part 2 of this Schedule (B1160) does not specify exceptions.

(2) This entry does not include scrap assemblies from electric power generation.

(3) PCBs are at a concentration level of 50 mg/kg or more.

(4) The 50 mg/kg level is considered to be an internationally practical level for all wastes. However, many individual countries have established lower regulatory levels (e.g., 20 mg/kg) for specific wastes.

(5) "Outdated" means unused within the period recommended by the manufacturer.

(6) This entry does not include wood treated with wood preserving chemicals.

(7) "Outdated" means unused within the period recommended by the manufacturer.

(8) Note that even where low level contamination with materials described in Section A of Part 1 of Schedule 2 initially exists, subsequent processes, including recycling processes, may result in separated fractions containing significantly enhanced concentrations of those materials.

(9) The status of zinc ash is currently under review and there is a recommendation with the United Nations Conference on Trade and Development (UNCTAD) that zinc ashes should not be dangerous goods.

(10) This entry does not include scrap from electrical power generation.

(11) Reuse can include repair, refurbishment or upgrading, but not major reassembly.

(12) In some countries these materials destined for direct re-use are not considered wastes.

(13) It is understood that such scraps are completely polymerized.

(14) – Post-consumer wastes are excluded from this entry

– Wastes shall not be mixed

– Problems arising from open-burning practices to be considered

SCHEDULE 5

(Article 9(2), (3), (4), (5), (6))

WASTES TO WHICH THE OECD CONTROL PROCEDURES APPLY

PART 1[18]

LIST OF WASTES SUBJECT TO THE AMBER CONTROL PROCEDURE

Section A:

Wastes listed in Annexes II and VIII of the Basel Convention.

For the purposes of this Law:

(a) Any reference to List B in Annex VIII of the Basel Convention shall be understood as a reference to Part 2 of Schedule 4 to this Law.

(b) In Basel entry A1010, the term "excluding such wastes specifically listed on List B (Annex IX)" is a reference both to Basel entry B1020 and the note on B1020 in Part 2 of Schedule 4 to this Law.

(c) Basel entries A1180 and A2060 do not apply and the entries GC010, GC020 and GG040 in Section B of Part 2 of this Schedule apply instead when appropriate.

(d) Basel entry A4050 includes spent potlinings from aluminium smelting because they contain Y33 inorganic cyanides. If the cyanides have been destroyed, spent potlinings are assigned to entry AB120 in Section B of this Part of this Schedule because they contain Y32, inorganic fluorine compounds excluding calcium fluoride.

Section B:

The following wastes will also be subject to the Amber control procedure:

Metal Bearing Wastes

AA010	261900	Dross, scalings and other wastes from the manufacture of iron and steel*
AA060	262050	Vanadium ashes and residues
AA190	810420 ex 810430	Magnesium waste and scrap that is flammable, pyrophoric or emits, upon contact with water, flammable gases in dangerous quantities

* This listing includes wastes in the form of ash, residue, slag, dross, skimming, scaling, dust, powder, sludge and cake, unless a material is expressly listed elsewhere.

Wastes Containing Principally Inorganic Constituents, Which May Contain Metals and Organic Materials

AB030		Wastes from non-cyanide based systems which arise from surface treatment of metals
AB070		Sands used in foundry operations
AB120	ex 281290 ex 3824	Inorganic halide compounds, not elsewhere specified or included
AB130		Used blasting grit
AB150	ex 382490	Unrefined calcium sulphite and calcium sulphate from flue gas desulphurisation (FGD)

Wastes Containing Principally Organic Constituents, Which May Contain Metals and Inorganic Materials

AC060	ex 381900	Hydraulic fluids
AC070	ex 381900	Brake fluids
AC080	ex 382000	Antifreeze fluids
AC150		Chlorofluorocarbons
AC160		Halons
AC170	ex 440310	Treated cork and wood wastes
AC250		Surface active agents (surfactants)
AC260	ex 3101	Liquid pig manure; faeces
AC270		Sewage sludge

Wastes Which May Contain either Inorganic or Organic Constituents

AD090	ex 382490	Wastes from production, formulation and use of reprographic and photographic chemicals and materials not elsewhere specified or included
AD100		Wastes from non-cyanide based systems which arise from surface treatment of plastics
AD120	ex 391400 ex 3915	Ion exchange resins
AD150		Naturally occurring organic material used as a filter medium (such as bio-filters)

Wastes Containing Principally Inorganic Constituents, Which May Contain Metals and Organic Materials

RB020	ex 6815	Ceramic based fibres of physico-chemical characteristics similar to those of asbestos

PART 2

LIST OF WASTES SUBJECT TO THE GREEN CONTROL PROCEDURE

Regardless of whether or not wastes are included on this list, they may not be subject to the Green control procedure if they are contaminated by other materials to an extent that (a) increases the risks associated with the wastes sufficiently to render them appropriate for submission to the Amber control procedure, when taking into account the criteria in Part 3 of this Schedule, or (b) prevents the recovery of the wastes in an environmentally sound manner.

Section A:

Wastes listed in Annex IX of the Basel Convention.

For the purposes of this Decision:

(a) Any reference to list A in Annex IX of the Basel Convention shall be understood as a reference to Part 1 of Schedule 4 to this Law.

(b) In Basel entry B1020 the term "bulk finished form" includes all metallic non-dispersible* forms of the scrap listed therein.

(c) The part of Basel entry B1100 that refers to "Slags from copper processing" etc does not apply and entry GB040 in this Part of this Schedule applies instead.

(d) Basel entry B1110 does not apply and entries GC010 and GC020 in this Part of this Schedule apply instead.

(e) Basel entry B2050 does not apply and entry GG040 in this Part of this Schedule applies instead.

(f) The reference in Basel entry B3010 to fluorinated polymer wastes shall be deemed to include polymers and co-polymers of fluorinated ethylene (PTFE).

Section B:

The following wastes will also be subject to the Green control procedure:

Metal Bearing Wastes Arising from Melting, Smelting and Refining of Metals

GB040	7112 262030 262090	Slags from precious metals and copper processing for further refining

Other Wastes Containing Metals

GC010	Electrical assemblies consisting only of metals or alloys.
GC020	Electronic scrap (e.g. printed circuit boards, electronic components, wire, etc.) and reclaimed electronic components suitable for base and precious metal recovery.

GC030	ex 890800	Vessels and other floating structures for breaking up, properly emptied of any cargo and other materials arising from the operation of the vessel which may have been classified as a dangerous substance or waste
GC050		Spent Fluid Catalytic Cracking (FCC) Catalysts (e.g.: aluminium oxide, zeolites)

Glass Waste in Non-dispersible Form

GE020	ex 7001 ex 701939	Glass Fibre Waste

Ceramic Wastes in Non-Dispersible Form

GF010		Ceramic wastes which have been fired after shaping, including ceramic vessels (before and/or after use)

Other Wastes Containing Principally Inorganic Constituents, Which May Contain Metals and Organic Materials

GG030	ex 2621	Bottom ash and slag tap from coal fired power plants
GG040	ex 2621	Coal fired power plants fly ash

Solid Plastic Wastes

GH013	391530 ex 390410-40	Polymers of vinyl chloride

Wastes Arising from Tanning and Fellmongery Operations and Leather Use

GN010	ex 050200	Waste of pigs', hogs' or boars' bristles and hair or of badger hair and other brush making hair
GN020	ex 050300	Horsehair waste, whether or not put up as a layer with or without supporting material
GN030	ex 050590	Waste of skins and other parts of birds, with their feathers or down, of feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation

PART 3

CRITERIA FOR THE OECD RISK-BASED APPROACH

Section A Properties

1. Does the waste normally exhibit any of the hazardous characteristics listed in Part 1 of this Schedule? Furthermore, it is useful to know if the waste is legally defined as or considered to be a hazardous waste in one or more Member countries.
2. Is the waste typically contaminated?

3. What is the physical state of the waste?

4. What is the degree of difficulty of cleanup in the case of accidental spillage or mismanagement?

5. What is the economic value of the waste bearing in mind historical price fluctuations?

Section B Management

6. Does the technological capability to recover the waste exist?

7. Is there a history of adverse environmental incidents arising from transboundary movements of the waste or associated recovery operations?

8. Is the waste routinely traded through established channels and is that evidenced by commercial classification?

9. Is the waste usually moved internationally under the terms of a valid contract or chain of contracts?

10. What is the extent of reuse and recovery of the waste and how is any portion separated from the waste but not subject to recovery managed?

11. What are the overall environmental benefits arising from the recovery operations?

SCHEDULE 6

(Article 14(2))

INFORMATION THAT IS TO BE MADE AVAILABLE TO THE PUBLIC

1. Approved codes of practice.
2. Copies of –
   (a) current waste management licences; and
   (b) current letters of registration as waste carriers,

   and of supporting documents that form part of those licences or letters of registration.
3. Copies of applications for the grant, variation, transfer, revocation or surrender of –
   (a) waste management licences; and
   (b) letters of registration as waste carriers,

   and of supporting documents that form part of those applications.
4. Information obtained by the Minister under conditions of waste management licences.
5. Details of the suspension and revocation of waste management licences and of registration as waste carriers.
6. The results of analyses of samples taken under this Law.
7. Copies of notices served in accordance with Article 91.
8. Copies of consignment notes received by the Minister under Part 3 and Part 4 of this Law.
9. The results of civil and criminal proceedings instituted under this Law.
10. In respect of certificates of confidentiality, the information to which Article 96 refers.

SCHEDULE 7

(Article 14(6))

INFORMATION THAT NEED NOT BE MADE AVAILABLE TO THE PUBLIC

Any information –

(a) affecting the confidentiality of the deliberations of any public or parish authority;

(b) relating to international relations, national defence or public security;

(c) relating to matters that are under enquiry (whether or not the enquiry is of a disciplinary nature) or to documents that are still in draft form or to any internal communications of a public or parish authority;

(d) relating to matters that are or have been the subject of legal or other proceedings (whether actual or prospective) or to any investigations taken with a view to such proceedings;

(e) relating to matters to which commercial or industrial confidentiality attaches (including matters of that character relating to intellectual property);

(f) relating to matters to which domestic or personal confidentiality attaches;

(g) supplied to the Minister by a person who was not under a legal obligation to do so;

(h) if the Minister, reasonably, is not satisfied of the reliability of the information;

(i) that cannot be separated, for the purpose of making it available, from information specified in any of paragraphs (a) to (h) (inclusive);

(j) if the request for information is manifestly unreasonable or is formulated in too general a manner; or

(k) in the case of documents to which paragraph 9 of Schedule 6 refers, if they are more than 5 years old.

SCHEDULE 8

(Articles 49(1), 65(1), 69(1) and 71(1))

CONTROL PROCEDURES FOR THE MOVEMENT OF WASTE

INTRODUCTION[19]

1 This Schedule sets out the standard control procedures for internal movements of waste and transboundary movements of waste. These procedures require that –

(a) prior notification of a proposed movement;

(b) all necessary approvals for the proposed movement; and

(c) the history of the actual movement itself,

are recorded on a consignment note.

2 There is a prescribed form of consignment note for internal movements, and there is also a prescribed form of consignment note for transboundary movements.

3 A consignment note for an internal movement or for the export of waste from Jersey may only be obtained from the Minister, and a consignment note for any other transboundary movement may only be obtained from the Minister or from the appropriate competent authority of another country involved in the movement.

4 A consignment note is issued in copies, so that the following steps can be taken at the appropriate stages in the standard control procedures –

(a) At each stage of the movement, the relevant part of each available copy of the consignment note is completed and signed by the persons involved. Accordingly, a requirement in a standard control procedure to "sign" any part of a consignment note is a requirement to complete and sign that part of the note.

(b) One copy each is retained by the Minister, the consignor and every carrier who takes part in the movement.

(c) In the case of a transboundary movement, one copy is also retained by each of the overseas authorities to whom it must be sent.

(d) Two copies are received by the consignee, on accepting delivery. The consignee is then to return one of his or her copies, showing the full history of the movement, to the authority by which the movement was approved. The consignee is to retain the other copy, which must also show the full history of the movement.

5 In this Schedule, references to a consignment note are to a consignment note in sufficient copies to enable the relevant standard control procedure to be complied with.

6

(1) Any consent that is given by the Minister in respect of an internal movement of waste shall cease to have effect after the expiry of the following period of time –

(a) if the consent relates to a single consignment, the period of 30 days following the day on which the Minister gives his or her consent or, if the Minister specifies a shorter period in his or her consent, that shorter period; or

(b) if the consent relates to repeated consignments, the period of 12 months following the day on which the Minister gives his or her consent or, if the Minister specifies a shorter period in his or her consent, that shorter period.

(2) Any consent or agreement to proceed that is given or may be taken to have been given by the Minister or by any other competent authority concerned, in respect of a transboundary movement of waste to which the OECD Amber control procedure applies, shall cease to have effect on the expiry of the following period of time –

(a) if the consent or agreement to proceed is given in writing –

(i) the period of 12 months, or

(ii) such other period not exceeding 3 years as may be agreed by the Minister and any other competent authority concerned,

following the date on which the competent authority of import has acknowledged receipt of its copy of the consignment note; or

(b) if the consent or agreement is tacit (i.e., where it may be assumed) the period of 12 months following the date from which it may be taken to have been given.

PART 1

THE STANDARD CONTROL PROCEDURE FOR INTERNAL MOVEMENT

Procedure for prior notification of internal movement

1 Notice of proposed internal movement

Before the commencement of an internal movement of hazardous waste or health care waste –

(a) the consignor shall sign in respect of the movement the part of a consignment note that relates to the prior notification of such a movement; and

(b) the consignor shall deliver the consignment note, as so signed, to the Minister.

2 Notice of repeated movements

(1) If a consignor proposes to make repeated consignments of waste, the notification under paragraph 1 may also relate to any of the other proposed movements that are

to be made within a period that is not longer than 12 months from the date on which the Minister consents to the first movement.

(2) However, a single notification of repeated consignments may only be made in respect of waste that possesses the same physical and chemical characteristics, and the consignments are by way of internal movement to the same consignee at the same site and so as to be dealt with in the same way.

3 Action by Minister on receiving notice of proposed movement

(1) When the Minister receives a consignment note in accordance with paragraph 1, the Minister shall within 5 working days take one of the following steps in accordance with this Law –

(a) the Minister shall return the consignment note to the consignor, endorsed with the Minister's unconditional consent to the movement or movements;

(b) the Minister shall return the consignment note to the consignor, endorsed with the Minister's consent to the movement or movements upon conditions specified in the endorsement;

(c) the Minister shall return the consignment note to the consignor, endorsed with the Minister's refusal to consent to the movement or movements; or

(d) the Minister shall by a notice in writing request the consignor to clarify the information provided by the consignor, or request further information from the consignor, to enable the Minister to decide whether or not to consent.

(2) If the Minister returns the consignment note to the consignor, the Minister shall himself or herself retain one copy of the note as endorsed by him or her.

4 Cases in which Minister may withhold decision

(1) The Minister may withhold his or her decision in respect of a movement as long as the Minister reasonably requires clarification of any information given by the consignor, or any more information from the consignor, in order to enable the Minister to discharge his or her functions under this Law.

(2) For the purposes of this paragraph, the Minister may from time to time by notice in writing make further requests to the consignor for clarification or additional information.

(3) However, if –

(a) the Minister obtains such clarification or additional information; or

(b) the Minister does not reasonably require clarification or additional information,

the Minister shall then within 5 working days take one of the steps specified in clauses (a), (b) and (c) of paragraph 3(1).

5 Cases in which Minister must refuse consent to movement

The Minister shall under paragraph 3 refuse his or her consent to a movement that would be in contravention of this Law.

6 Cases in which Minister may refuse consent to movement

(1) The Minister may under paragraph 3 refuse to consent to more than one movement under a single notification made in accordance with paragraph 2.

(2) The Minister may under paragraph 3 refuse to consent to a movement –

(a) if the Minister considers on reasonable grounds that the movement is unnecessary; or

(b) if the Minister considers on reasonable grounds that the movement is undesirable because it would give rise to a serious risk of pollution.

(3) If the Minister refuses to consent to a movement, but subsequently considers that the reasons for his or her refusal no longer apply, the Minister may in accordance with paragraph 3 consent to the movement unconditionally or conditionally.

7 Cases in which Minister must consent to movement

The Minister shall consent under paragraph 3 to a movement unless –

(a) the Minister is required under paragraph 5 to refuse his or her consent;

(b) the Minister may under paragraph 6 refuse his or her consent; or

(c) the Minister has under paragraph 3(1)(d) requested the clarification of information, or additional information, and the Minister is entitled for the time being under paragraph 4 to withhold his or her decision.

8 Conditions of consent

(1) The Minister may consent under paragraph 3 on conditions relating to any of the following matters –

(a) a date and time at which a movement shall or shall not take place;

(b) a route by which a movement shall or shall not be made;

(c) a motor vehicle by which the waste shall or shall not be carried;

(d) a manner in which the waste shall or shall not be packaged;

(e) the separation of waste from any other waste or any other thing in the consignment; and

(f) any other conditions that are reasonable in the circumstances of the case.

(2) If the Minister subsequently considers that the reasons for a condition no longer apply, the Minister may revoke that condition.

(3) If the Minister under sub-paragraph (2) revokes a condition –

(a) the Minister shall notify the consignor in writing; and

(b) on receipt of that notice, the consignor shall in writing immediately notify every carrier who is either in possession of the waste or is still to take delivery of the waste, and the consignee, that the condition has been revoked.

9 Effective date of consent

If the Minister consents under paragraph 3 (whether unconditionally or conditionally) to a movement or movements, the Minister's consent shall come into effect on the expiry of the period of 3 working days after it is given.

Procedure after notification

10 Duties of consignor and carrier on collection of consignment for delivery

At the time when a consignment in respect of which the Minister's consent has been given under paragraph 3 is collected by a carrier from the consignor –

(a) the consignor and that carrier shall each sign the relevant part of the consignment note;

(b) the consignor shall retain a copy of the consignment note, as so signed, for the period specified in Article 56; and

(c) the consignor shall give the remaining copies (as so signed) to the carrier, who shall retain them in accordance with the following requirements of the standard control procedure.

11 Transfer of consignment between carriers

If the consignment is to be transferred from one carrier to another in the course of its delivery from the consignor to the consignee –

(a) each of the carriers shall, at the time when it is transferred, sign the relevant part of the consignment note;

(b) the transferring carrier shall retain a copy of the consignment note (as so signed) for the period specified in Article 56; and

(c) the transferring carrier shall give the remaining copies of the consignment note (as so signed) to the other carrier, who shall retain them in accordance with the following requirements of the standard control procedure.

12 Duties of carrier and consignee on delivery

If the consignment is delivered to and accepted by the consignee –

(a) the carrier who delivers it and the consignee shall, at the time of delivery, each sign the relevant part of the consignment note;

(b) the carrier shall retain a copy of the consignment note, as so signed, for the period specified in Article 56;

(c) the carrier shall at that time give the remaining copies of the consignment note (as so signed) to the consignee; and

(d) the consignee shall deliver one of those copies of the consignment note to the Minister within 3 working days, and retain the other copy for the period specified in Article 56.

13 Duties of carrier, consignee and consignor in event of non-delivery

(1) If the consignment is not delivered to and accepted by the consignee –

(a) the carrier by whom it is being carried;

(b) the consignor; and

(c) the consignee,

each have a general duty to inform the Minister as soon as he or she becomes aware of the non-delivery of the consignment, but the obligations in sub-paragraphs (2) and (4) are in addition to that duty.

(2) If the consignment is not delivered to and accepted by the consignee –

(a) the carrier who is to deliver it to the consignee shall endorse on the consignment note the fact that it has not been delivered; and

(b) the carrier shall also endorse on the consignment note the date, time and place of the refusal and the reasons (if any) given by the consignee for refusing, if the consignment has not been delivered because the consignee has refused to accept it.

(3) The consignee may only refuse to accept delivery of the consignment on one or more of the following grounds, namely –

(a) that the consignee has not agreed with the consignor, or with any person for whom the consignor is acting as an agent, to accept delivery of the consignment, and the consignee is not legally bound to accept delivery;

(b) that the delivery has been made in contravention of this Law;

(c) that the delivery has been made outside the working hours of the site to which it was to be made;

(d) that the site does not at the time of delivery have sufficient available capacity for the safe reception, storage or treatment of the consignment; or

(e) any other ground that the Minister accepts as reasonable in the circumstances of the case.

(4) If the consignee refuses to accept delivery of the consignment –

(a) the consignee shall immediately inform the carrier by whom the consignment is delivered, and the consignor, and shall tell them the reasons for his or her refusal; and

(b) the consignee shall within 3 working days confirm in writing to the Minister, that the consignee has refused acceptance of the consignment and the reasons for his or her refusal.

14 Action after non-delivery

(1) If the consignment is not delivered to and accepted by the consignee –

(a) the carrier by whom it is being carried;

(b) the consignor; and

(c) the consignee,

each have a duty to co-operate with each other and the Minister, for the purpose of ensuring that the consignment is returned to the consignor safely or, if the Minister under Article 52 agrees or directs that the consignment shall be dealt with in any other way, that it is so dealt with.

(2) Unless the Minister agrees or directs that the consignment be dealt with in any other way –

(a) the carrier shall return it to the consignor;

(b) the consignor shall accept the return of the consignment;

(c) the consignor shall acknowledge receipt of the consignment on all of the copies of the consignment note that the carrier has been required to retain, and shall sign them, and the carrier shall countersign those copies;

(d) the carrier shall give the consignor all of those copies of the consignment note (as so signed and countersigned) except the carrier's copy;

(e) the consignor shall within 3 working days deliver one copy of the consignment note, as so signed and countersigned, to the Minister; and

(f) the consignor and the carrier shall retain their own remaining copies of the consignment note for the period specified in Article 56.

PART 2[20]

THE STANDARD CONTROL PROCEDURE FOR EXPORT

Procedure for prior notification of transboundary movement

1 Notice of proposed export

(1) Before the commencement of a transboundary movement for the export of waste, the consignor shall sign in respect of the movement the part of a consignment note that relates to the prior notification of such a movement.

(2) If the Minister has not decided in accordance with Article 66 to undertake himself or herself the transmission of the documents of prior notification of consignments of that class or type to countries of destination, the consignor shall deliver copies of the consignment note (as so signed) to the following persons before the commencement of the movement, namely –

(a) the Minister;

(b) the competent authority of the country of destination;

(c) the competent authority of each country of transit;

(d) the consignee; and

(e) if the movement is one that is described in sub-paragraph (3), the competent authority of the country from which it was exported to Jersey.

(3) The movements to which sub-paragraph (2)(e) refers are –

(a) a movement to which the OECD Amber control procedure applies, where the waste has been imported into Jersey for recovery but cannot be recovered in Jersey in accordance with the contract and the consignment note in respect of

that import, and is to be re-exported to a country other than that from which it was imported into Jersey; and

(b) a movement to which the OECD Amber control procedure applies, where the waste has been imported into Jersey for a recovery operation described in item R12 or item R13 of Part 2 of Schedule 1, and is to be re-exported for recovery in an operation described in any of items R1 to R11 (inclusive) of that Part of that Schedule to a country other than that from which it was imported into Jersey.

(4) If the Minister has decided in accordance with Article 66 to undertake the onward transmission of the documents, the consignor shall instead deliver all of the copies to which sub-paragraph (2) refers to the Minister.

2 Acknowledgement of receipt of consignment note

(1) Within the appropriate time limit in sub-paragraph (2) or sub-paragraph (3), the Minister shall send to –

(a) the consignor; and

(b) each other competent authority or person to whom the consignor is required by paragraph 1(2) to deliver a copy of the consignment note,

an acknowledgement in writing that the Minister has received the consignment note.

(2) If the movement is one to which the OECD Amber control procedure applies, the time limit to which sub-paragraph (1) refers is the expiry of the period of 3 working days following the date on which the notification is completed, that is to say, the date by which the completed consignment note and all other information that the Minister may require under paragraph 3 have been provided to the Minister.

(3) In any other case, the time limit to which sub-paragraph (1) refers is the expiry of the period of 3 working days following the date on which the consignment note is delivered to the Minister.

3 Further information

If at any time the Minister reasonably requires –

(a) the clarification of any information given by the consignor; or

(b) more information regarding the proposed export,

in order to enable the Minister to discharge his or her functions properly under this Law, the Minister may require the consignor to provide that clarification or information before the Minister proceeds to deal further with the matter.

4 Cases in which the Minister must object to the movement

(1) The Minister shall object to the movement –

(a) if, in any case, the part of the consignment note relating to the prior notification of the proposed export is in any material way unclear, incomplete or incorrect;

(b) if, in any case, the Minister is not satisfied that the movement would comply with this Law;

(c) if, in any case, the Minister has reason to believe that the site to which it is proposed to consign the waste in the country of destination is inappropriate for that waste; or

(d) if the export is for disposal, and the Minister considers that the waste can be disposed of within Jersey in a manner that is effective and environmentally sound.

(2) However, the Minister's duty to object to a movement on the ground set out in sub-paragraph (1)(a) is subject to his or her discretion under paragraph 3 to require the consignor to provide additional information.

5 Cases in which the Minister may object to the movement

The Minister may object to the movement –

(a) if, in any case, the movement would contravene a national law relating to environmental protection, health protection, public safety or public order;

(b) if, in any case, the consignor or consignee has previously been guilty of illegal trafficking;

(c) if, in any case, the movement would conflict with an obligation arising from an international agreement by which any of the countries concerned is bound;

(d) if, in the case of a movement for disposal, the Minister considers that he or she should object to the movement in order to implement any of the principles of proximity, priority for recovery and self-sufficiency to which Article 11 of the European Community Regulation refers, in accordance with the Waste Framework Directive;

(e) if, in the case of a movement for disposal, the movement would contravene a waste management plan of any country concerned; or

(f) if, in the case of a movement for recovery and having regard to the ratio of the waste that will be recovered to that which will not, the estimated value of the materials to be recovered and the costs of the recovery and of the portion of the waste that is not recovered, the recovery is not economically and environmentally justified.

6 Cases in which the Minister must agree to the movement

(1) If the Minister does not have an objection under paragraph 4 or paragraph 5 to the movement, the Minister shall agree to the movement.

(2) If the Minister agrees to the movement, he or she may do so either unconditionally or on such conditions as he or she specifies.

7 Cases in which agreement to the movement may be assumed

(1) If –

(a) the movement is one to which the OECD Amber control procedure applies;

(b) the Minister has in writing acknowledged, to the competent authority of the country of destination, receipt of the Minister's copy of the consignment note; and

(c) the Minister has not, within 30 days after so acknowledging receipt, objected to the movement,

the Minister may be taken to agree unconditionally to the movement.

(2) If the movement is not one to which the OECD Amber control movement applies, and the Minister is the appropriate competent authority to issue to the consignor an authorization to proceed, the Minister may assume that the competent authority of a country of transit agrees unconditionally to the movement if –

(a) the country of transit is bound by the Basel Convention, and has previously indicated that the consent of its competent authority may be presumed if no objection has been received from it within 60 days after it receives its copy of the consignment note;

(b) that competent authority has in writing acknowledged receipt of that copy; and

(c) no such objection has been received.

8 Action by Minister if Minister objects to the movement

(1) This paragraph applies in every case in which the Minister objects under paragraph 4 or paragraph 5 to the movement.

(2) If the Minister has not decided in accordance with Article 66 to undertake the onward transmission of the documents, the Minister shall in writing within the appropriate time limit in sub-paragraph (4) notify –

(a) the consignor;

(b) each other competent authority concerned; and

(c) the consignee,

that the Minister objects to the movement.

(3) If the Minister has decided in accordance with Article 66 to undertake the onward transmission of the documents –

(a) the Minister shall in writing, within the appropriate time limit in sub-paragraph (4), notify the consignor that the Minister objects to the movement; and

(b) having notified the consignor, the Minister need not take any further action in the matter.

(4) The time limits to which sub-paragraphs (2) and (3) refer are –

(a) the expiry of the period of 30 days following the date on which the competent authority of the country of destination acknowledges receipt of the consignment note, if the movement is one to which the OECD Amber control procedure applies;

(b) the expiry of the period of 20 days following the date on which the Minister acknowledges receipt of the consignment note, if the movement is not one to which the OECD Amber control movement applies, the country of destination is the United Kingdom, or a member State of the European Union, and the

Minister is not the appropriate competent authority to issue to the consignor an authorization to proceed;

(c) the expiry of the period of 30 days following the date on which the Minister acknowledges receipt of the consignment note, if the movement is one to which the OECD Amber control procedure applies, the country of destination is the United Kingdom, or a member State of the European Union, and the Minister is the appropriate competent authority to issue to the consignor an authorization to proceed; and

(d) the expiry of the period of 60 days following the date on which the Minister receives the consignment note, in any other case.

(5) In every case, the notification shall state the Minister's reasons for the objection.

9 Written notification of the Minister's agreement to an OECD Amber control procedure movement

(1) If –

(a) the movement is one to which the OECD Amber control procedure applies; and

(b) the Minister agrees unconditionally or conditionally to the movement,

the Minister may in writing, within the time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of destination that the Minister so agrees.

(2) The time limit to which sub-paragraph (1) refers is the expiry of the period of 30 days following the date on which the competent authority of the country of destination acknowledges receipt of the consignment note.

(3) Sub-paragraph (1) is without prejudice to paragraph 7(1) (which relates to cases in which the Minister's agreement may be assumed).

10 Notification of the Minister's agreement to a UK or EU movement

(1) If –

(a) the movement is not one to which the OECD Amber control movement applies;

(b) the country of destination is the United Kingdom or a member State of the European Union; and

(c) the Minister agrees unconditionally or conditionally to the movement,

the Minister shall in writing, within the appropriate time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of destination that the Minister so agrees.

(2) The time limits to which sub-paragraph (1) refers are –

(a) the expiry of the period of 20 days following the date on which the Minister receives the consignment note, if the Minister is not the appropriate competent authority to issue to the consignor an authorization to proceed; and

(b) the expiry of the period of 30 days following the date on which the Minister receives the consignment note, if the Minister is the appropriate competent authority to issue to the consignor an authorization to proceed.

11 Notification of the Minister's agreement to any other movement

(1) If –

(a) the movement is not one to which the OECD Amber control movement applies;

(b) the country of destination is neither the United Kingdom nor a member State of the European Union; and

(c) the Minister agrees unconditionally or conditionally to the movement,

the Minister shall in writing, within the appropriate time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of destination that the Minister so agrees.

(2) The time limits to which sub-paragraph (1) refers are –

(a) the expiry of the period of 60 days following the date on which the Minister receives the consignment note, if the Minister is not the appropriate competent authority to issue to the consignor an authorization to proceed; and

(b) the expiry of the period of 70 days following the date on which the Minister receives the consignment note, if the Minister is the appropriate competent authority to issue to the consignor an authorization to proceed.

12 Action by the Minister if the Minister is the appropriate authority to issue an authorization to proceed

(1) This paragraph applies only if the case is not one to which the OECD Amber control movement applies, and if the Minister is the appropriate competent authority to issue to the consignor an authorization to proceed.

(2) If the Minister does not object to the movement under paragraph 4 or paragraph 5, the Minister shall issue an authorization to proceed if (but only if) –

(a) the Minister is in possession of written evidence that the competent authority of the country of destination has agreed to the movement;

(b) where the movement will involve a country of transit, the Minister is in possession of written evidence that the competent authority of that country has agreed to the movement through that country; and

(c) where any competent authority has agreed conditionally to the movement, the Minister is satisfied that, as far as it is within the Minister's power to ensure compliance, those conditions have been or will be fulfilled.

(3) The requirement in sub-paragraph (2) that the Minister must be in possession of the written evidence to which sub-paragraph (2)(b) refers is without prejudice to paragraph 7(2) (which relate to cases in which the agreement of competent authorities of transit may be assumed).

(4) The authorization to proceed shall show on its face –

(a) that the requirements of sub-paragraph (2) have been complied with; and

(b) if the agreement of any competent authority of transit has been assumed under paragraph 7(2), that such agreement has been so assumed.

(5) The Minister shall –

(a) issue the authorization to proceed to the consignor; and

(b) notify each other competent authority concerned that he or she has done so,

before the expiry of the period of 70 days following the date on which the Minister receives the consignment note.

13 Review of decisions

(1) The Minister may review and withdraw an objection, or a condition imposed by the Minister, if it is shown that the reasons for the objection or condition are incorrect or insufficient, or that they no longer apply.

(2) If the Minister withdraws an objection or condition, he or she shall in writing notify each person to whom he or she was required to give notice of the objection or condition.

Procedure after notification

14 Cases in which the movement may proceed

(1) If the movement is one to which the OECD Amber control procedure applies, the consignor may commence the transboundary movement for the export of the waste if (but only if) –

(a) the Minister;

(b) the competent authority of the country of destination; and

(c) the competent authority of each country of transit,

all agree or may be taken to agree to the movement.

(2) If the movement is not one to which the OECD Amber control procedure applies, the consignor may commence the movement if (but only if) –

(a) the Minister and the competent authorities of the country of destination and each country of transit all agree or may be taken to agree to the movement; and

(b) the appropriate competent authority has issued to the consignor an authorization to proceed.

(3) For the purposes of this paragraph, "the appropriate competent authority" means –

(a) the competent authority of the country of destination, if the Minister and that competent authority have agreed that the latter shall issue to the consignor an authorization to proceed;

(b) the Minister, if the Minister and that competent authority have agreed that the Minister shall issue to the consignor an authorization to proceed; or

(c) the Minister, if the Minister and that competent authority have not agreed which of them shall issue to the consignor an authorization to proceed.

15 Compliance with conditions

If the Minister has agreed to the movement on conditions, the movement may only proceed in accordance with those conditions.

16 Record of the movement

(1) The consignor shall not commence the movement unless, at least 3 working days before the consignment is shipped –

(a) the consignor signs the part of the consignment note that relates to notification of commencement of the movement (including the completion of the date on which the consignment is dispatched for shipment); and

(b) the consignor sends copies of the consignment note (as so signed) to the Minister and to the competent authority of each other country concerned.

(2) On making the shipment –

(a) the consignor and the carrier to whom he or she delivers the consignment shall sign the relevant part of the consignment note (as so signed);

(b) the consignor shall retain one copy of the consignment note (as so signed); and

(c) the consignor shall hand to the carrier the other copies of the consignment note (as so signed).

(3) If the carrier or any subsequent carrier delivers the consignment to any other carrier within Jersey –

(a) both carriers shall sign the relevant part of the consignment note;

(b) the carrier transferring the consignment shall retain one copy of the consignment note (as so signed); and

(c) the carrier transferring the consignment shall hand to the other carrier the other copies of the consignment note (as so signed).

(4) The last carrier by whom the consignment is carried within Jersey shall retain one copy of the consignment note.

17 Retention of documents

The consignor, and each carrier by whom the consignment is carried within Jersey, shall retain their copies of the consignment note for the period of 3 years following –

(a) the date on which the consignment is delivered to the consignee; or

(b) if such delivery is not completed, the date on which it becomes apparent that it will not be completed.

PART 3[21]

THE STANDARD CONTROL PROCEDURE FOR IMPORT

Procedure for prior notification of import

1 Notice of proposed import

Before the commencement of a transboundary movement for the importing of waste into Jersey –

(a) the consignor must have signed in respect of the movement the part of a consignment note that relates to the prior notification of a proposed export of waste from the country of dispatch; and

(b) the consignment note (as so signed) must have been delivered to the Minister (either directly by the consignor or, if the competent authority of the country of dispatch has decided to undertake itself the transmission of the documents of prior notification of consignments of that class or type to countries of destination, by that competent authority).

2 Acknowledgement of receipt of consignment note

(1) Within the appropriate time limit in sub-paragraph (2) or sub-paragraph (3), the Minister shall send to –

(a) the consignor;

(b) the competent authority of the country of dispatch;

(c) if the importing of the waste into Jersey will involve movement through a country of transit, the competent authority of that country; and

(d) the consignee,

an acknowledgement in writing that the Minister has received the consignment note.

(2) If the transboundary movement of waste is one to which the OECD Amber control procedure applies, the time limit to which sub-paragraph (1) refers is the expiry of the period of 3 working days following the date on which the notification is completed, that is to say, the date by which the completed consignment note and all other information that the Minister may require under paragraph 3 have been provided to the Minister.

(3) In any other case, the time limit to which sub-paragraph (1) refers is the expiry of the period of 3 working days following the date on which the consignment note is delivered to the Minister.

3 Further information

If at any time the Minister reasonably requires –

(a) the clarification of any information given by the consignor; or

(b) more information regarding the proposed import,

in order to enable the Minister to discharge his or her functions properly under this Law, the Minister may require the consignor to provide that clarification or information before the Minister proceeds to deal further with the matter.

4 Cases in which Minister must object to the movement

(1) The Minister shall object to the movement –

(a) if, in any case, the part of the consignment note relating to the prior notification of the proposed import is in any material way unclear, incomplete or incorrect;

(b) if, in any case, the Minister is not satisfied that the movement would comply with this Law;

(c) if, in any case, the operator of the site to which it is proposed to consign the waste within Jersey is required to have but does not have a waste management licence, authorizing disposal or recovery (as the case may be) of the waste at that site;

(d) if, in any case in which the operator is not required to have such a licence, the Minister nevertheless considers that the site is inappropriate for the disposal or recovery, as the case may be, of the waste; or

(e) if the import is for disposal, and the Minister considers that the waste can be disposed of within the country of dispatch in a manner that is effective and environmentally sound.

(2) However, the Minister's duty to object to a movement on the ground set out in sub-paragraph (1)(a) is subject to his or her discretion under paragraph 3 to require the consignor to provide additional information.

5 Cases in which Minister may object to the movement

The Minister may object to the movement –

(a) if, in any case, the movement would be in contravention of a national law relating to environmental protection, health protection, public safety or public order;

(b) if, in any case, the consignor or consignee has previously been guilty of illegal trafficking;

(c) if, in any case, the movement would conflict with an obligation arising from an international agreement by which any of the countries concerned is bound;

(d) if, in any case, the capacity of the facility at the site to which it is proposed to consign the waste in Jersey is such that its acceptance of the waste might prejudice the ability of the facility to accept and deal with wastes, from locations within Jersey, that the Minister considers should have priority of treatment;

(e) if, in the case of a movement for disposal, the Minister considers that he or she should object to the movement in order to implement any of the principles of proximity, priority for recovery and self-sufficiency to which Article 11 of the European Community Regulation refers, in accordance with the Waste Framework Directive;

(f) if, in the case of a movement for disposal, the movement would contravene a waste management plan of any country concerned; or

(g) if, in the case of a movement for recovery and having regard to the ratio of the waste that will be recovered to that which will not, the estimated value of the materials to be recovered and the costs of the recovery and of the portion of the waste that is not recovered, the recovery is not economically and environmentally justified.

6 Cases in which the Minister must agree to the movement

(1) If the Minister does not have an objection under paragraph 4 or paragraph 5 to the movement, the Minister shall agree to the movement.

(2) If the Minister agrees to the movement, the Minister may do so either unconditionally or on such conditions as he or she specifies.

7 Cases in which agreement to the movement may be assumed

(1) If –

(a) the movement is one to which the OECD Amber control procedure applies;

(b) the Minister has in writing acknowledged, to the competent authority of the country of dispatch, receipt of the Minister's copy of the consignment note; and

(c) the Minister has not, within 30 days after so acknowledging receipt, objected to the movement,

the Minister may be taken to agree unconditionally to the movement.

(2) If the movement is not one to which the OECD Amber control movement applies, and the Minister is the appropriate competent authority to issue to the consignor an authorization to proceed, the Minister may assume that the competent authority of a country of transit agrees unconditionally to the movement if –

(a) the country of transit is bound by the Basel Convention, and has previously indicated that the consent of its competent authority may be presumed if no objection has been received from it within 60 days after it receives its copy of the consignment note;

(b) that competent authority has in writing acknowledged receipt of that copy;

(c) no such objection has been received.

8 Action by Minister if the Minister objects to the movement

(1) This paragraph applies in every case in which the Minister objects under paragraph 4 or paragraph 5 to the movement.

(2) The Minister shall in writing, within the appropriate time limit in sub-paragraph (3), notify –

(a) the consignor;

(b) each other competent authority concerned; and

(c) the consignee,

that the Minister objects to the movement.

(3) The time limits to which sub-paragraph (2) refers are –

(a) the expiry of the period of 30 days following the date on which the Minister acknowledges receipt of the consignment note, if the movement is one to which the OECD Amber control procedure applies;

(b) the expiry of the period of 20 days following the date on which the Minister acknowledges receipt of the consignment note, if the movement is not one to which the OECD Amber control movement applies, the country of dispatch is the United Kingdom, or a member State of the European Union, and the Minister is not the appropriate competent authority to issue to the consignor an authorization to proceed;

(c) the expiry of the period of 30 days following the date on which the Minister acknowledges receipt of the consignment note, if the movement is one to which the OECD Amber control procedure applies, the country of dispatch is the United Kingdom, or a member State of the European Union, and the Minister is the appropriate competent authority to issue to the consignor an authorization to proceed; and

(d) the expiry of the period of 60 days following the date on which the Minister receives the consignment note, in any other case.

(5) In every case, the notification shall state the Minister's reasons for the objection.

9 Written notification of the Minister's agreement to an OECD Amber control procedure movement

(1) If –

(a) the movement is one to which the OECD Amber control procedure applies; and

(b) the Minister agrees unconditionally or conditionally to the movement,

the Minister may in writing, within the time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of dispatch that he or she so agrees.

(2) The time limit to which sub-paragraph (1) refers is the expiry of the period of 30 days following the date on which the Minister acknowledges receipt of the consignment note.

(3) Sub-paragraph (1) is without prejudice to paragraph 7(1) (which relates to cases in which the Minister's agreement may be assumed).

10 Notification of the Minister's agreement to a UK or EU movement

(1) If –

(a) the movement is not one to which the OECD Amber control movement applies;

(b) the country of dispatch is the United Kingdom or a member State of the European Union; and

(c) the Minister agrees unconditionally or conditionally to the movement,

the Minister shall in writing, within the appropriate time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of dispatch that he or she so agrees.

(2) The time limits to which sub-paragraph (1) refers are –

(a) the expiry of the period of 20 days following the date on which the Minister receives the consignment note, if the Minister is not the appropriate competent authority to issue to the consignor an authorization to proceed; and

(b) the expiry of the period of 30 days following the date on which the Minister receives the consignment note, if the Minister is the appropriate competent authority to issue to the consignor an authorization to proceed.

11 Notification of the Minister's agreement to any other movement

(1) If –

(a) the movement is not one to which the OECD Amber control movement applies;

(b) the country of dispatch is neither the United Kingdom nor a member State of the European Union; and

(c) the Minister agrees unconditionally or conditionally to the movement,

the Minister shall in writing, within the appropriate time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of dispatch that the Minister so agrees.

(2) The time limits to which sub-paragraph (1) refers are –

(a) the expiry of the period of 60 days following the date on which the Minister receives the consignment note, if the Minister is not the appropriate competent authority to issue to the consignor an authorization to proceed; and

(b) the expiry of the period of 70 days following the date on which the Minister receives the consignment note, if the Minister is the appropriate competent authority to issue to the consignor an authorization to proceed.

12 Action by the Minister if the Minister is the appropriate authority to issue an authorization to proceed

(1) This paragraph applies only if the case is not one to which the OECD Amber control procedure applies, and if the Minister is the appropriate competent authority to issue to the consignor an authorization to proceed.

(2) If the Minister does not object to the movement under paragraph 4 or paragraph 5, the Minister shall issue an authorization to proceed if (but only if) –

(a) the Minister is in possession of written evidence that the competent authority of the country of dispatch has agreed to the movement;

(b) where the movement will involve a country of transit, the Minister is in possession of written evidence that the competent authority of that country has agreed to the movement through that country; and

(c) where any competent authority has agreed conditionally to the movement, the Minister is satisfied that, as far as it is within the Minister's power to ensure compliance, those conditions have been or will be fulfilled.

(3) The requirement in sub-paragraph (2) that the Minister must be in possession of the written evidence is without prejudice to paragraph 7(2) (which relate to cases in which the agreement of competent authorities of transit may be assumed).

(4) The authorization to proceed shall show on its face –

(a) that the requirements of sub-paragraph (2) have been complied with; and

(b) if the agreement of any competent authority of transit has been assumed under paragraph 7(2), that such agreement has been so assumed.

(5) The Minister shall –

(a) issue the authorization to proceed to the consignor; and

(b) notify each other competent authority concerned that he or she has done so,

before the expiry of the period of 70 days following the date on which the Minister receives the consignment note.

13 Review of decisions

(1) The Minister may review and withdraw an objection, or a condition imposed by it, if it is shown that the reasons for the objection or condition are incorrect or insufficient, or that they no longer apply.

(2) If the Minister withdraws an objection or condition, the Minister shall in writing notify each person to whom he or she was required to give notice of the objection or condition.

Procedure after notification

14 Cases in which the movement may proceed

(1) If the movement is one to which the OECD Amber control procedure applies, the importing of the waste into Jersey may commence if (but only if) –

(a) the Minister;

(b) the competent authority of the country of dispatch; and

(c) the competent authority of each country of transit,

all agree or may be taken to agree to the movement of the waste from the country of dispatch to Jersey.

(2) If the movement is not one to which the OECD Amber control procedure applies, the importing of the waste into Jersey may commence if (but only if) –

(a) the Minister and the competent authorities of the country of dispatch and each country of transit all agree or may be taken to agree to the movement of the waste from the country of dispatch to Jersey; and

(b) the appropriate competent authority has issued to the consignor an authorization to proceed.

(3) For the purposes of this paragraph, "the appropriate competent authority" means –

(a) the competent authority of the country of dispatch, if the Minister and that competent authority have agreed that the latter shall issue to the consignor an authorization to proceed;

(b) the Minister, if the Minister and that competent authority have agreed that the Minister shall issue to the consignor an authorization to proceed; or

(c) the Minister, if the Minister and that competent authority have not agreed which of them shall issue to the consignor an authorization to proceed.

15 Compliance with conditions

If the Minister has agreed to the movement on conditions, the movement may only proceed in accordance with those conditions.

16 Record of movement before delivery

(1) The waste shall not be imported into Jersey unless, at least 3 working days before the consignment is shipped in the country of dispatch –

(a) the consignor has signed the part of a copy of the consignment note that relates to notification of commencement of the consigning of the waste (including the date on which the consignment is dispatched for shipment); and

(b) the consignor has delivered a copy of the consignment note (as so signed) to the Minister.

(2) At the time when the waste is imported into Jersey –

(a) the person by whom it is being carried must be in possession of the consignment note (other than those copies that have already been given to any other person or authority in accordance with a standard control procedure); and

(b) the consignment note must have been signed by every person who has had possession of the consignment in the course of the movement to the point of its importation, so has to show in accordance with the relevant parts of the note the record of the movement to that point.

(3) If the person by whom the waste is being carried at the time when it is imported into Jersey or any subsequent carrier within Jersey delivers the consignment to any other carrier within Jersey before it is delivered to and accepted by the consignee –

(a) both carriers shall sign the consignment note;

(b) the carrier transferring the consignment shall retain one copy of the consignment note (as so signed); and

(c) the carrier transferring the consignment shall hand to the other carrier the other copies of the consignment note (as so signed).

17 Action on delivery of consignment

On the delivery of the consignment to the consignee –

(a) the consignee and the carrier making the delivery shall each sign the consignment note;

(b) the carrier shall retain a copy of the consignment note, as so signed; and

(c) the carrier shall give the other copies of the consignment note, as so signed, to the consignee.

18 Duties of consignee after delivery

(1) Within 3 working days after the delivery of the consignment, the consignee shall deliver copies of the consignment note, as so signed, to –

(a) the Minister;

(b) the consignor; and

(c) each other competent authority concerned.

(2) In any of the following circumstances, namely –

(a) if the consignment is not delivered within a reasonable time after the expected date of delivery;

(b) if the consignee becomes aware at any time before the disposal or recovery by the consignee of the waste of the possibility of a failure of delivery or loss of or damage to the consignment;

(c) if the consignee has reason to believe at any time before the disposal or recovery of the waste by the consignee that the consignment is in any material way inconsistent with the information in the consignment note or with any other delivery of waste under the same authorization; or

(d) if the consignee, after the consignment is delivered to the consignee, is unable to dispose of or recover it,

the consignee shall immediately inform the Minister in writing.

(3) If the waste is disposed of or recovered, the consignee shall deliver to the Minister and each other competent authority concerned, within the appropriate time limit in sub-paragraph (5), a certificate confirming that it has been disposed of or recovered.

(4) If –

(a) the transboundary movement of the waste is one to which the OECD Amber control procedure applies;

(b) the recovery operation is one described in any of items R1 to R11 (inclusive) of Part 2 of Schedule 1; and

(c) the consignee has received the waste directly or indirectly from a recovery operation described in item R12 or item R13 of Part 2 of Schedule 1 in a country other than the country of dispatch or Jersey,

the consignee shall also deliver a certificate, confirming that it has been disposed of or recovered, to the operator of that other recovery operation within the appropriate time limit in sub-paragraph (5).

(5) The appropriate time limit to which sub-paragraphs (3) and (4) refer is –

(a) as soon as possible, but in any case within one year after the consignment is delivered to the consignee, if the case is one to which sub-paragraph (4) refers;

(b) within 30 days after completion of the consignee's recovery operation but in any case within one year after the consignment is delivered to the consignee, if the transboundary movement of the waste is one to which the OECD Amber control procedure applies and clause (a) does not apply;

(c) as soon as possible, but in any case within 30 days after completion of the consignee's recovery operation and in any case within 350 days after the consignment is delivered to the consignee, if the transboundary movement of the waste is one to which the OECD Amber control procedure applies, the recovery operation is one described in item R12 or item R13 of Part 2 of Schedule 1 and neither of clauses (a) and (b) applies; and

(d) within 180 days after the consignment is delivered to the consignee, in any other case.

(6) In this paragraph, "each other competent authority concerned" means –

(a) the authorities specified in clauses (b) and (c) of paragraph 2(1); and

(b) if the transboundary movement of the waste is one to which the OECD Amber control procedure applies, and the consignee has received the waste for the purposes of a recovery operation described in item R12 or item R13 of Part 2 of Schedule 1, and the waste is eventually to be recovered in an operation described in any of items R1 to R11 (inclusive) of that Part of that Schedule in a country other than the country of dispatch or Jersey, the competent authority of destination of that other country.

19 Additional duties of consignee for exchange or accumulation of wastes

If a consignee to whom paragraph 18(6)(b) refers receives from the operator by whom the waste is eventually to be recovered in an operation described in any of items R1 to R11 (inclusive) of Part 2 of Schedule 1 a certificate that the waste has been so recovered, the consignee shall deliver the certificate to the Minister and each other competent authority concerned as soon as possible but in any case within one year after the consignee has delivered the waste to that operator.

20 Retention of documents

(1) The consignee, and each carrier by whom the consignment is carried within Jersey, shall retain their copies of the consignment note for the period of 3 years following –

(a) the date on which the consignment is delivered to the consignee; or

(b) if such delivery is not completed, the date on which it becomes apparent that it will not be completed.

PART 4[22]

THE STANDARD CONTROL PROCEDURE FOR TRANSIT

Procedure for prior notification of movement in transit

1 Notice of proposed movement in transit

Before the commencement of a transboundary movement of waste in transit through Jersey, the consignor or the competent authority of the country of dispatch must have sent to the Minister a consignment note of which the part that relates to the prior notification of an export has been signed in respect of the waste.

2 Acknowledgement of receipt of consignment note

(1) Within the appropriate time limit in sub-paragraph (2) or sub-paragraph (3), the Minister shall send to –

(a) the consignor;

(b) the competent authority of the country of dispatch;

(c) if the transboundary movement will involve any other country of transit, the competent authority of that country;

(d) the competent authority of the country of destination; and

(e) the consignee,

an acknowledgement in writing that the Minister has received the consignment note.

(2) If the transboundary movement of waste is one to which the OECD Amber control procedure applies, the appropriate time limit to which sub-paragraph (1) refers is the expiry of the period of 3 working days following the date on which the notification is completed, that is to say, the date by which the completed consignment note and all other information that the Minister may require under paragraph 3 have been provided to the Minister.

(3) In any other case, the appropriate time limit to which sub-paragraph (1) refers is the expiry of the period of 3 working days following the date on which the consignment note is delivered to the Minister.

3 Further information

If at any time the Minister reasonably requires –

(a) the clarification of any information given by the consignor; or

(b) more information regarding the proposed movement,

in order to enable it to discharge its functions properly under this Law, the Minister may require the consignor to provide that clarification or information before the Minister proceeds to deal further with the matter.

4 Cases in which Minister must object to the movement

(1) The Minister shall object to the movement –

(a) if, in any case, the part of the consignment note relating to the prior notification of the proposed import is in any material way unclear, incomplete or incorrect; or

(b) if, in any case, the Minister is not satisfied that the movement would comply with this Law.

(2) However, the Minister's duty to object to a movement on the ground set out in sub-paragraph (1)(a) is subject to his or her discretion under paragraph 3 to require the consignor to provide additional information.

5 Cases in which Minister may object to the movement

The Minister may object to the movement –

(a) if, in any case, the movement would be in contravention of a national law relating to environmental protection, health protection, public safety or public order;

(b) if, in any case, the consignor or consignee has previously been guilty of illegal trafficking.

6 Cases in which the Minister must agree to the movement

(1) If the Minister does not have an objection under paragraph 4 or paragraph 5 to the movement, the Minister shall agree to the movement.

(2) If the Minister agrees to the movement, he or she may do so either unconditionally or on such conditions as he or she specifies.

7 Cases in which agreement to the movement may be assumed

(1) If –

(a) the movement is one to which the OECD Amber control procedure applies;

(b) the Minister has in writing acknowledged, to the competent authority of the country of dispatch, receipt of the Minister's copy of the consignment note; and

(c) the Minister has not, within 30 days after so acknowledging receipt, objected to the movement,

the Minister may be taken to agree unconditionally to the movement.

(2) In any other case in which –

(a) the Minister has previously indicated that his or her consent may be presumed if no objection has been received from the Minister within 60 days after the Minister receives his or her copy of the consignment note;

(b) the Minister has in writing acknowledged receipt of that copy; and

(c) no such objection has been received from the Minister,

the Minister may be taken to agree unconditionally to the movement.

8 Action by Minister if the Minister objects to the movement

(1) This paragraph applies in every case in which the Minister objects under paragraph 4 or paragraph 5 to the movement.

(2) The Minister shall in writing, within the appropriate time limit in sub-paragraph (2) notify –

(a) the consignor; and

(b) each other competent authority concerned,

that the Minister objects to the movement.

(3) The time limits to which sub-paragraph (2) refers are –

(a) the expiry of the period of 30 days following the date on which the competent authority of the country of destination acknowledges receipt of the consignment note, if the movement is one to which the OECD Amber control procedure applies;

(b) the expiry of the period of 20 days following the date on which the Minister acknowledges receipt of the consignment note, if the movement is not one to which the OECD Amber control procedure applies and the country of destination is the United Kingdom or a member State of the European Union; and

(c) the expiry of the period of 60 days following the date on which the Minister receives the consignment note, in any other case.

(4) In every case, the notification shall state the Minister's reasons for the objection.

9 Written notification of the Minister's agreement to an OECD Amber control procedure movement

(1) If –

(a) the movement is one to which the OECD Amber control procedure applies; and

(b) the Minister agrees unconditionally or conditionally to the movement,

the Minister may in writing, within the time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of destination that the Minister so agrees.

(2) The time limit to which sub-paragraph (1) refers is the expiry of the period of 30 days following the date on which the competent authority of the country of destination acknowledges receipt of the consignment note.

(3) Sub-paragraph (1) is without prejudice to paragraph 7(1) (which relates to cases in which the Minister's agreement may be assumed).

10 Notification of the Minister's agreement to a UK or EU movement

(1) If –

(a) the movement is not one to which the OECD Amber control procedure applies;

(b) the country of destination is the United Kingdom or a member State of the European Union; and

(c) the Minister agrees unconditionally or conditionally to the movement,

the Minister shall in writing, within the time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of destination that the Minister so agrees.

(2) The time limit to which sub-paragraph (1) refers is the expiry of the period of 20 days following the date on which the Minister receives the consignment note.

(3) Sub-paragraph (1) is without prejudice to paragraph 7 (which relates to cases in which the Minister's agreement may be assumed).

11 Notification of the Minister's agreement to any other movement

(1) If –

(a) the movement is not one to which the OECD Amber control procedure applies;

(b) the country of destination is neither the United Kingdom nor a member State of the European Union; and

(c) the Minister agrees unconditionally or conditionally to the movement,

the Minister shall in writing, within the time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of destination that the Minister so agrees.

(2) The time limit to which sub-paragraph (1) refers is the expiry of the period of 60 days following the date on which the Minister receives the consignment note.

(3) Sub-paragraph (1) is without prejudice to paragraph 7 (which relates to cases in which the Minister's agreement may be assumed).

12 Review of decisions

(1) The Minister may review and withdraw an objection, or a condition imposed by him or her, if it is shown that the reasons for the objection or condition are incorrect or insufficient, or that they no longer apply.

(2) If the Minister withdraws an objection or condition, the Minister shall in writing notify each person to whom he or she was required to give notice of the objection or condition.

Procedure after notification

13 Cases in which the movement may proceed

(1) If the movement is one to which the OECD Amber control procedure applies, the consignor may commence the movement of the waste in transit through Jersey if (but only if) –

(a) the Minister;

(b) the competent authority of the country of destination; and

(c) the competent authority of each country of transit,

all agree or may be taken to agree to the movement.

(2) If the movement is not one to which the OECD Amber control procedure applies, the consignor may commence the movement of the waste in transit through Jersey if (but only if) –

(a) the Minister and the competent authorities of the country of destination and each country of transit all agree or may be taken to agree to the movement; and

(b) the appropriate competent authority has issued to the consignor an authorization to proceed.

(3) For the purposes of this paragraph, "the appropriate competent authority" means –

(a) the competent authority of the country of dispatch, if that competent authority and the competent authority of the country of destination have so agreed; or

(b) the competent authority of the country of destination, if that competent authority and the competent authority of the country of dispatch have so agreed.

14 Compliance with conditions

If the Minister has agreed to the movement on conditions, the movement in transit through Jersey may only proceed in accordance with those conditions.

15 Record of movement in transit

(1) The movement in transit through Jersey may proceed if (but only if) at least 3 working days before the consignment is shipped in the country of dispatch –

(a) the consignor has signed the part of a copy of the consignment note that relates to notification of commencement of the consigning of the waste (including the date on which the consignment is dispatched for shipment); and

(b) the consignor has delivered a copy of the consignment note (as so signed) to the Minister.

(2) At all times when the waste is being moved in transit through Jersey –

(a) the person by whom it is being carried must be in possession of the consignment note (other than those copies that have already been given to any other person or authority in accordance with a standard control procedure); and

(b) the consignment note must have been signed by every person who has had possession of the consignment in the course of the whole transboundary movement, so as to show in accordance with the relevant parts of the note the record of the movement so far as it has already gone.

(3) If at any time while the waste is being moved in transit through Jersey, the person by whom it is being carried delivers the consignment to any other carrier –

(a) both carriers shall sign the consignment note;

(b) the carrier transferring the consignment shall retain one copy of the consignment note (as so signed); and

(c) the carrier transferring the consignment shall hand to the other carrier the other copies of the consignment note (as so signed).

16 Retention of documents

Each carrier by whom the consignment is carried in transit through Jersey shall retain his or her copy of the consignment note for the period of 3 years following –

(a) the date on which the consignment is delivered to the consignee; or

(b) if such delivery is not completed, the date on which it becomes apparent that it will not be completed.

17 Subsequent movement

(1) The Minister's agreement to the movement of waste in transit through Jersey from the country of dispatch to the country of destination (whether or not the delivery of the consignment also involves movement in transit through any other country) does not itself authorize any subsequent movement in transit through Jersey in the course of a return of the consignment to the consignor.

(2) However, if the Minister is subsequently informed by the competent authority of the country of destination that it is being so returned because it has not been delivered to and accepted by the consignee, the Minister shall agree to that subsequent movement.

SCHEDULE 9

(Article 64(5) and (6))

COUNTRIES THAT ARE NOT SUBJECT TO THE PROHIBITION ON EXPORT FOR DISPOSAL OR TO THE BASEL CONVENTION BAN ON EXPORT FOR RECOVERY

1. Any country that is a member State of the OECD.
2. Any country that is a member State of the European Union.
3. Liechtenstein.

SCHEDULE 10

(Article 112)

TRANSITIONAL PROVISIONS

PART 1

INTERNAL ACTIVITIES RELATING TO WASTE

1. This Part of this Schedule applies to any person who, immediately before the commencement of Articles 23, 38 and 49, is lawfully carrying on by way of business –

   (a) any activity described in Article 23(2);

   (b) the carriage of hazardous waste or health care waste in the course of internal movements; or

   (c) any other activity described in Article 49(2) in respect of such movements.

2. Notwithstanding Articles 23(1), 38(1) and 49(1), such a person may continue to carry on for the period of 6 months following the commencement of those Articles the business by reason of which this Part of this Schedule applies to the person, as if he or she were the holder of a licence to do so or registered as a waste carrier to do so (as the case may be).

3. Notwithstanding Articles 23(1) and 38(1) –

   (a) if the person applies in accordance with this Law, within that period of 6 months, for a waste management licence in respect of the activity (if it is one to which paragraph 1(a) refers) or for registration as a waste carrier (if it is one to which paragraph 1(b) refers; and

   (b) the application is not determined within that period of 6 months,

   the person may continue to carry on the business until the application is determined, as if he or she were the holder of a licence to do so or registered as a waste carrier to do so (as the case may be).

PART 2

TRANSBOUNDARY MOVEMENTS

1. This Part of this Schedule applies to any person who, immediately before the commencement of Part 4 of this Law, has obtained permission in accordance with the laws of a country to which this Part of this Schedule applies to export waste to that country at any time before the expiry of the period of 12 months following the commencement of that Part of this Law.

2. A person to whom paragraph 1 of this Part of this Schedule applies may during the period to which that paragraph refers export to that other country, as if Part 4 of this Law had not been enacted, any waste in respect of which such permission was given.

3. However, if for any reason permission in accordance with the laws of that country is revoked in respect of the export of any waste, this Part of this Schedule shall cease to apply to the person in respect of the exporting of that waste.

4. The countries to which this Part of this Schedule applies are –

   (a) the United Kingdom; and

   (b) any other country that is specified in Schedule 9.

SCHEDULE 11[23]

(Article 112)

OPERATIONS BY MINISTER FOR PLANNING AND REGULATION

1 Interpretation of Schedule

(1) In this Schedule, references to the Minister for Planning and Regulation as the regulator are references to that Minister in that Minister's capacity as the Minister responsible for exercising and performing the functions, powers and duties that are for the time being conferred and imposed on the Minister for Planning and Regulation by the provisions of this Law other than this Schedule.

(2) In this Schedule –

"waste management certificate" means a waste management certificate that is issued by the Minister under this Schedule;

"vary", when referring to a waste management certificate, means to vary any term or condition of the certificate.

2 Application

(1) While –

(a) the Minister is the regulator; and

(b) the Minister is also charged with the administration (otherwise than as the regulator) of public services that involve the Minister's carrying on of any activity to which Article 23 applies,

Articles 23(1), 24(1), 38(1), 49(1), 53 and 59 shall not apply to the Minister, but this Schedule shall apply instead.

(2) If the Minister ceases to be the regulator, this Schedule shall expire.

3 Restrictions on operations by Minister

(1) The Minister shall not carry on otherwise than as the regulator an activity to which Article 23 applies unless the Minister is acting in accordance with a waste management certificate that is issued by the Minister under this Schedule and is for the time being in effect.

(2) If the Minister contravenes sub-paragraph (1), the Minister shall be guilty of an offence.

(3) If the Minister contravenes any condition of a waste management certificate, the Minister shall be guilty of an offence.

(4) If the Minister commits an offence under sub-paragraph (2) or sub-paragraph (3), the Minister shall be liable to a fine.

4 Consultation and public notice

(1) Before issuing, varying or revoking a waste management certificate, the Minister shall comply with Articles 16(1) and 17(1) as if the Minister's proposal to do so were an application for the grant, variation or surrender (as the case may be) of a waste management licence.

(2) Paragraphs (2) and (3) of Article 16 and paragraphs (2), (3), (4), (5), (7) and (8) of Article 17 shall also apply accordingly.

5 Issue of waste management certificate

If the Minister issues a waste management certificate, the Minister shall specify in the certificate –

(a) the activity that is to be carried on by the Minister in accordance with the certificate;

(b) the land on which the activity will be carried on in accordance with the certificate; and

(c) the period for which the certificate shall have effect.

6 Conditions of certificate

(1) It is a condition of every waste management certificate that the Minister shall not carry on the activity to which the certificate relates on any land that the Minister may not lawfully use for that purpose.

(1A) For the purposes of fulfilling the condition specified in sub-paragraph (1), land is being lawfully used for the purpose of carrying on the activity to which the certificate relates in the following cases –

(a) where the land is owned by the Public of the Island –

(i) the Minister is using that land in accordance with planning permission granted (where required) for the purpose of carrying on the activity to which the certificate relates, or

(ii) the Minister is continuing to carry on the activity to which certificate relates, on land in respect of which that activity has been carried on prior to 1st April 1965 and has continued to be carried on (without a break) since that date;

(b) where the land is not owned by the Public of the Island –

(i) the Minister is, with the land-owner's consent, occupying that land for the purpose of carrying on the activity to which the certificate relates, and

(ii) the Minister is using that land in accordance with planning permission as described in sub-paragraph (1A)(a)(i), or

(iii) the Minister is continuing to carry on the activity to which the certificate relates as described in sub-paragraph (1A)(a)(ii).

(2) If the Minister issues a waste management certificate, the Minister may also specify in the certificate other conditions on which the activity will be carried on.

(3) In any civil or criminal proceedings under this Law, information that is provided by or obtained from any person under any condition of a waste management certificate shall be admissible in evidence against the person.

7 Variation of waste management certificate

Subject to the other provisions of this Schedule, the Minister may vary a waste management certificate.

8 Duration of waste management certificate

(1) A waste management certificate or its variation shall take effect from a date to be specified in the certificate by the Minister (being not sooner than 21 days after the Minister complies with paragraph 9 in respect of its decision).

(2) The Minister shall not –

(a) issue a waste management certificate for a term exceeding 10 years from the date of his or her decision to issue the certificate; or

(b) on any one occasion vary a certificate by extending its term for a period exceeding 10 years from the date of his or her decision to vary the certificate,

unless there are exceptional circumstances.

9 Revocation of waste management certificate

(1) The Minister may revoke a waste management certificate.

(2) Before revoking a waste management certificate, or ceasing the activity in respect of which it is issued, the Minister shall take –

(a) appropriate measures to prevent the occurrence of environmental problems in consequence of the activity; and

(b) appropriate measures to remedy all environmental problems that have arisen in consequence of the activity.

10 Notice of decision

If the Minister makes any decision under this Schedule in respect of a waste management certificate, the Minister shall serve a written copy of the decision within 14 days on each of the following persons –

(a) the Minister for Health and Social Services and the Minister for Social Security; and

(b) every person who has made representations under Article 17(4) (as applied by paragraph 4) in respect of the matter, and has provided an address for service within Jersey.

11 Review of Minister's decision

(1) If the Minister issues, varies or revokes a waste management certificate, any person who –

(a) has made representations under Article 17(4) (as applied by paragraph 4) in respect of the Minister's proposal to do so; and

(b) has provided an address for service within Jersey,

may apply to the Royal Court to review the decision.

(2) An application under sub-paragraph (1) shall be made –

(a) within 21 days after the applicant is served with a written copy of the Minister's decision (or within such further time as the Royal Court may allow); and

(b) on notice to the Minister.

(3) If the Minister issues, varies or revokes a waste management certificate, the Attorney General may apply to the Royal Court at any time, on notice to the Minister, to review the decision.

(4) Rules of Court may provide for the manner in which applications for review under this paragraph shall be brought, heard and determined.

(5) Unless the Royal Court so orders, the lodging of an application for review under this paragraph shall not operate to stay the effect of a decision pending the determination of the application.

(6) On hearing an application for review –

(a) the Royal Court may in its own judgment confirm, reverse or vary the decision of the Minister; and

(b) the court may make such order as to the costs of the review as it thinks fit.

(7) The Attorney General shall have a right of appeal to the Court of Appeal against a decision of the Royal Court under this Article.

12 Information about waste management certificates

The information to be made available by the Minister under Article 6 shall include proposals for and the issue, variation, suspension and revocation of waste management certificates.

13 General duty of Minister in respect of its waste activities

In carrying on –

(a) any activity to which Article 23(1) applies; or

(b) any activity to which the prohibition in Article 38(1) applies,

the Minister shall for the Minister's own part observe standards of practice (including conditions) that are at least as high as those imposed by or under this Law on persons other than the Minister who carry on activities of that kind.

14 Duties of Minister in respect of its waste-carrying activities

(1) The Minister shall establish and maintain a record of all motor vehicles that the Minister uses for movements of hazardous waste or health care waste to which the prohibition in Article 49(1) applies.

(2) In carrying on any activity involving a movement of hazardous waste or health care waste to which the prohibition in Article 49(1) applies –

(a) the Minister shall ensure that his or her employees are suitably trained;

(b) the Minister shall ensure that any motor vehicle or other equipment that is used is appropriately designed and maintained;

(c) the Minister shall comply with any prescribed conditions in respect of registered waste carriers carrying on an activity of that kind; and

(d) the Minister shall comply with the standard control procedure for internal movement (other than those provisions requiring a consignor, carrier or consignee to obtain the consent of the Minister or to deliver any document to the Minister).

15 False statements

(1) Any person who –

(a) in connection with the issue, variation, suspension or revocation of a waste management certificate; or

(b) on being required under a condition of a certificate to give any information to any person,

knowingly or recklessly makes a statement that is false or misleading in a material respect shall be guilty of an offence.

(2) If the Minister commits an offence under sub-paragraph (1), the Minister shall be liable to a fine.

(3) If any person other than the Minister commits an offence under sub-paragraph (1), the person shall be liable to imprisonment for a term of 2 years and to a fine.

16 Transitional arrangements if Minister ceases to be the regulator

Notwithstanding paragraph 2(2), on and after the day on which the Minister ceases to be the regulator, every waste management certificate that is in effect immediately before that day shall continue in effect according to its tenor, subject to the provisions of this Law, as if it were a waste management licence.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	*Projet No (where applicable)
Waste Management (Jersey) Law 2005	L.7/2005	1 November 2006, except – 1 February 2007 (Articles 23, 38 and 49, Part 4, Articles 86, 87, 88, 89, 90, 91, 92 and 112 (as far as it relates to Schedule 11) and paragraphs 3, 13 and 14 of Schedule 11) (R&O.114/2006)	P.88/2004
States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005	R&O.132/2005	9 December 2005	P.216/2005
Waste Management (OECD Revised Decision) (Jersey) Regulations 2006	R&O.113/2006	1 November 2006	P.97/2006
Waste Management (Amendment) (Jersey) Regulations 2012	R&O.89/2012	24 July 2012	P.57/2012
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	R&O.158/2015	1 January 2016	P.46/2015 (re-issue)
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	L.1/2016	20 September 2016 (R&O.98/2016)	P.87/2015
Waste Management (Amendment No. 2) (Jersey) Regulations 2017	R&O.78/2017	26 July 2017	P.46/2017
European Union (United Kingdom Exit – Miscellaneous Amendments) (Jersey) Regulations 2019	R&O.9/2019	11pm on 31 January 2020 (R&O.3/2020)	P.148/2018
Legislation (Jersey) Law 2021	L.8/2021 (R&O.112/2021)	28 September 2021	P.26/2021
States of Jersey (Ministerial Offices) Amendment Order 2026	R&O.84/2026	11.06 a.m. on 14 July 2026	

*Projets available at www.statesassembly.gov.je

Table of Renumbered Provisions

Original	Current
1(5)	Otiose, omitted
1(6)	Otiose, omitted
1(7)(a)	Otiose, omitted
1(7)(b)	1(5)
113(1)	113
113(2)	Spent, omitted

Table of Endnote References

[1] *This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government.*

[2] *Article 1(1)* — *amended by R&O.113/2006, R&O.89/2012, R&O.158/2015, R&O.84/2026*

[3] *Article 26(2)* — *substituted by R&O.89/2012*

[4] *Article 26(3)* — *substituted by R&O.89/2012, amended by R&O.78/2017*

[5] *Article 26(4)* — *amended by R&O.89/2012, R&O.78/2017*

[6] *Article 26(5)* — *amended by R&O.78/2017*

[7] *Article 26(6)* — *added by R&O.89/2012*

[8] *Article 28(1)* — *substituted by R&O.89/2012, amended by R&O.78/2017*

[9] *Article 28(1A)* — *added by R&O.89/2012, substituted by R&O.78/2017*

[10] *Article 62(3)* — *amended by R&O.89/2012*

[11] *Article 62(3A)* — *inserted by R&O.89/2012*

[12] *Article 91(3)* — *amended by L.1/2016*

[13] *Article 108(3)* — *deleted by L.8/2021*

[14] *Article 111(5)* — *revised on 11 January 2024 by Law Revision Board item 2023/1*

[15] *Schedule 1* — *Part 2 amended by R&O.78/2017*

[16] *Schedule 4* — *Part 1 amended by R&O.113/2006*

[17] *Schedule 4* — *Part 2 amended by R&O.113/2006*

[18] *Schedule 5* — *Part 1 amended by R&O.113/2006*

[19] *Schedule 8* — *Introduction amended by R&O.89/2012*

[20] *Schedule 8* — *Part 2 amended by R&O.113/2006, R&O.89/2012, R&O.9/2019*

[21] *Schedule 8* — *Part 3 amended by R&O.113.2006, R&O.89/2012, R&O.9/2019*

[22] *Schedule 8* — *Part 4 amended by R&O.9/2019*

[23] *Schedule 11* — *amended by R&O.89/2012, R&O.158/2015, R&O.78/2017, R&O.84/2026*