

DATA BASE Record N°
0 3 5 2 1 3

L.N. 166 of 2002

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

**Waste Management (Polychlorinated Biphenyls and
Polychlorinated Terphenyls) Regulations, 2002**

BY virtue of the powers conferred by articles 9, 11(1)(b) and 28 of the Environment Protection Act, hereinafter referred to as "the Act", the Minister for Home Affairs and the Environment has made the following regulations:-

1. (1) The title of these regulations is the Waste Management (Polychlorinated Biphenyls and Polychlorinated Terphenyls) Regulations, 2002. Citation, commencement and objectives.

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

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

(3) These regulations provide additional measures, L.N. 337 of 2001. procedures and guidance to those in the Waste Management (Permit and Control) Regulations, 2001, on the controlled disposal of Polychlorinated Biphenyls and Polychlorinated Terphenyls, hereafter collectively referred to as PCBs, the decontamination or disposal of equipment containing PCBs and, or the disposal of used PCBs in order to eliminate them completely.

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

"PCBs" means :

(a) polychlorinated biphenyls,

(b) polychlorinated terphenyls,

(c) Monomethyl-tetrachlorodiphenyl methane, Monomethyl-dichloro-diphenyl methane, Monomethyl-dibromo-diphenyl methane,

(d) any mixture containing any of the above mentioned substances in a total of more than 0.005% by weight;

“equipment containing PCBs” means any equipment containing PCBs or having contained PCBs (e.g. transformers, capacitors, receptacles containing residual stocks) which has not been decontaminated. Provided that equipment of a type which may contain PCBs shall be treated as if it contains PCBs unless it is reasonable to assume the contrary;

“used PCBs” means any PCBs which are waste within the meaning of the Waste Management (Permit and Control Control and Permit) Regulations, 2001;

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

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

“disposal” means operations D 8, D 9, D 10, D 12 (only in safe, deep, underground storage in dry rock formations and only for equipment containing PCBs and used PCBs which cannot be decontaminated) and D 15 provided for in Schedule 4 of the Waste Management (Permit and Control Control and Permit) Regulations, 2001;

“authorised undertaking” means an undertaking that holds a valid permit under the Waste Management (Permit and Control Control and Permit) Regulations;

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

different bodies or persons may be designated as the competent authority for different provisions and different purposes of these regulations.

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

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

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

(2) All holders of equipment containing PCB volumes greater than 5 dm³, shall submit to the competent authority the information detailed in sub-regulation (3) of this regulation by not later than 12 months of the entry onto force of these regulations:

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

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

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

(4) The inventory shall comprise the following:

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

(5) The holders of such equipment listed in the inventory shall notify the competent authority of any changes in this respect. The inventory shall be updated regularly.

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

Labelling of equipment.

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

Permit.

6. All undertakings engaged in the decontamination and, or disposal of PCBs, used PCBs and, or equipment containing PCBs shall be in possession of a permit in accordance with the Waste Management (Permit and Control) Regulations, 2001:

Provided that where incineration is used for disposal, the Waste Management (Incineration) Regulations, 2001 shall apply:

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

Registers and receipts.

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

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

Monitoring.

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

Prohibitions.

9. The following are prohibited:

(a) The separation of PCBs from other substances for the purpose of reusing the PCBs;

(b) The topping up of transformers with PCBs;

(c) The incineration of PCBs and, or used PCBs on ships;

(d) The landfilling of PCBs and equipment containing PCBs.

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

Continued maintenance of transformers containing PCBs.

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

Transfer to authorised undertakings.

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

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

Removal of equipment.

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

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

(a) The objective of the decontamination shall be to reduce the level of PCBs to less than 0.05% by weight and, if possible, to no more than 0.005% by weight;

(b) The replacement fluid not containing PCBs shall entail markedly lesser risks;

(c) The replacement fluid shall not compromise the subsequent disposal of the PCBs;

(d) The labelling of the transformer after decontamination shall be replaced by the labelling specified in Schedule 1.

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

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

Standard analytical
methods.

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

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

Offences.

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

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

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

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

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

Penalties.

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

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

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

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

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

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

Applicability of
Cap. 9.

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

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

19. Schedule 1 to these regulations is being published in the English Language with the English text of these regulations.

Language of
Schedule.

SCHEDULE 1

Labelling of decontaminated PCB equipment

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

DECONAMINATED PCB EQUIPMENT

Fluid containing PCBs was replaced

-with (name of the substitute)

-on (date)

-by (undertaking).

Concentration of PCBs in

-old fluid% by weight

-new fluid % by weight