

STATES OF JERSEY

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DRAFT WASTE MANAGEMENT (JERSEY) LAW 200

Lodged au Greffe on 11th May 2004
by the Environment and Public Services Committee

STATES GREFFE



Jersey

DRAFT WASTE MANAGEMENT (JERSEY) LAW 200

European Convention on Human Rights

The President of the Environment and Public Services Committee has made the following statement –

In the view of the Environment and Public Services Committee the provisions of the Draft Waste Management (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Senator P.F.C. Ozouf**

REPORT

This legislation is required in order that the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (the Basel Convention) may be extended to Jersey. Ratification will be performed on Jersey's behalf by the United Kingdom. The legislation will also bring into effect the OECD Decision on the Control of Transfrontier Movements of Wastes Destined for Recovery Operations (the OECD Decision), that is already in force in the U.K. and which Jersey is obliged to implement.

The Basel Convention is a United Nations generated global convention concerned principally with the movement of hazardous, and certain other wastes, across national frontiers. It was adopted in March 1989 and came into force in May 1992. There are currently more than 150 Nation States with ratified status. All European Union (EU) members, including the United Kingdom, are fully ratified Parties.

All EU members are also members of the OECD. The OECD Decision is one of a number of measures taken by that organisation to promote environmental protection. The OECD Decision draws on the requirements of the Convention, but seeks to establish a procedure for use within the OECD area to facilitate the movement of all wastes destined for recovery activities. The OECD Decision, whilst applying only to waste moving within the OECD for recovery, applies to all wastes doing so, not just hazardous wastes.

Legislation to implement the Basel Convention and the OECD Decision was enacted at EU level in the form of Council Regulation No. 259/93 of 1st February 1993 and was subsequently amended. This regulation has direct effect in EU member states, but some (including the U.K.) have enacted supplementary regulations to provide better definition of some of the requirements.

The need for Jersey to achieve ratified status to the Basel Convention stems from its dependence on overseas facilities for the disposal of hazardous wastes. Whilst waste management facilities in Jersey are adequate for wastes generated by domestic households, commercial activities and most industries, they are not generally suitable for the genuinely hazardous wastes that arise each year.

Provision of suitable specialised facilities for such waste would be technically difficult and economically unattractive. So that these wastes may be disposed of safely in an environmentally sound manner, with minimal threat to the environment, it has been the practice for many years to export them to specialised facilities overseas, mainly in the U.K.

This option is now controlled by provisions of the Basel Convention. The Convention allows waste movements between Parties, but bans such movements between Parties and non-Parties unless a bilateral or similar agreement is in force. Jersey has had such an agreement with the U.K. in the past, but the U.K. Government has made it clear that it will not offer further extensions to the agreement and it wishes Jersey to achieve ratified Party status, in which case exports of hazardous waste to the U.K., or other Parties to the Basel Convention, should be able to continue.

Whilst the measures required by the Basel Convention and the OECD Decision focus principally on the authorisation and control of transboundary movements of hazardous and certain other wastes, there are some obligations that bear on the procedures and practices operated within the national territory of Parties. The concept of 'environmentally sound management of hazardous and other wastes' is vital to the objectives of the Basel Convention and is a prerequisite not only of the transboundary waste movements themselves, but of the waste management practices adopted by the Parties within their own countries and for their own internal activities.

EU Member States, including the U.K., already have in place a substantial body of waste management policy and legislation which more than covers the wider requirements of the Basel Convention. As there is no waste management legislation currently in place in Jersey, legislation enacted must cover all the Basel Convention requirements, that is, those directly related to the transboundary movement of waste and those that affect internal aspects of Jersey's waste management operations. These requirements include the introduction of a licensing system for certain facilities, introducing a documentary system for tracking the movements of certain categories of waste, the registration of carriers of certain wastes and the introduction of fees and charges to cover the enforcement and administrative aspects of the law, in line with the well established principle of 'the polluter pays'.

These measures will apply to all relevant activities, both those established after the date on which the legislation

comes into force, as well as those that are already in operation. Transitional arrangements will be introduced for existing activities to continue whilst moving towards compliance with any new requirements.

Waste management activities that potentially have a minor impact on the environment will be exempt from the need to be licensed by the Waste Management (Exemptions from Licensing) (Jersey) Order 200-, which will be implemented at the same time as the Draft Law.

In addition to requiring the implementation of internal measures and the adoption of a control procedure for transboundary waste movements, the Basel Convention may also restrict Jersey's freedom of choice as to the destination of any wastes it wishes to export. It is thought that this will not cause a problem in practice. In 1995, the Parties to the Basel Convention agreed an amendment, which is not yet in force, preventing the sending of most wastes covered by the Basel Convention (known as 'banned' wastes) from, in effect, any developed country to any developing country, whether the waste is intended for disposal or recovery. Although this amendment is not yet in force, the EU has chosen to implement it via an amendment to the Council Regulation 259/93.

The Draft Waste Management (Jersey) Law 200- provides the necessary administrative framework to enable the Basel Convention to be ratified by the U.K. on behalf of the Island and for the OECD Decision to be implemented. The Island will thus be able to honour its international obligations to these important international agreements.

It will allow the continued export from the Island to other 'Basel' states of hazardous and certain other wastes for disposal and for the export of all wastes to other OECD states for recovery. It also introduces additional requirements for 'environmentally sound waste management' within the Island as required by the Convention.

Financial and manpower implications

The potential operational cost associated with this Law has been derived from a risk analysis undertaken by the Public Services Department and consultants which considered all the department's sites and identified potential enhancements that may be required when the new Law is implemented. Although this identified that the total expenditure *may* be considerable, the exact nature of any improvements required would be for the regulator to determine and it is most likely that the extent of the resultant works would be a pragmatic compromise between the regulator and the operator. Moreover, the majority of the cost relates to improvements at the Bellozanne site which will either be superceded by, or encompassed within, the new Energy from Waste Plant project.

The staffing required will be one post for the Regulator and 4 for the Operator – 5 in total, 2 Civil Servants and 3 Manual Workers. However, the department have 3 unfunded manual worker posts, which can be utilised and will defer requesting one of the Civil Service posts pending a review following the implementation of the Law. The total staffing costs are estimated at £119,000. The funding and overheads for the specialist post for the Regulator has been approved under the Fundamental Spending Review for 2005, the post has been evaluated at Civil Service Grade 12 and the Filter Group has agreed that it should be a permanent appointment.

The additional costs to the operator will be funded through a Waste Management Charge on the 'user-pays' principle. The staffing cost for the Regulator will be offset by charges also introduced on the user-pays principle. Most of these latter charges will be payable by the Public Services Department, being the prime Waste Management Operator in the Island, so these costs will be incorporated in the Waste Management Charge.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a *Projet de Loi* to make a statement about the compatibility of the provisions of the *Projet* with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 6th May 2004 the Environment and Public Services Committee made the following statement before Second Reading of this *projet* in the States Assembly –

In the view of the Environment and Public Services Committee the provisions of the Draft Waste Management (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

If enacted, this draft Law will have two main effects –

- By means of the licensing of waste plants and the registration of waste carriers, it will regulate waste operations within the Island.
- It will also regulate overseas movements of wastes involving the Island – the exporting or importing of wastes and the passage of wastes in transit through the Island. In this respect, the Law is intended to facilitate the extension to the Island of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22nd March 1989. It is also intended to implement the Decision of the Council of the Organisation for Economic Co-operation and Development of 30th March 1992, as revised on 22nd May 2001, by which the Island is bound.

“Waste” means a substance or object that is discarded, or is intended to be discarded or is required by law to be discarded. The Law is concerned particularly with “controlled waste”, which means hazardous waste, health care waste and municipal (including household) waste. These categories are in turn defined.

The Basel Convention applies to hazardous waste and to household waste and its residues. It only permits transboundary movements for the recovery of reusable materials or for the disposal of the waste. A subsequent amendment to the Convention has also imposed special restrictions on the transboundary movement of hazardous wastes to developing countries. In this Law, these special limitations are described as “the Basel Convention ban” (see Article 8 below).

The OECD Decision applies to all wastes, but only if they are being moved between OECD countries for recovery.

Both the Basel Convention and the OECD Decision impose control procedures for movements of waste that are not prohibited.

The Law will be administered by a waste management regulator, which will be responsible for licensing waste operations and registering waste carriers within the Island.

The regulator will also be the competent authority in the Island for controlling transboundary movements.

Initially, the Environment and Public Services Committee will perform the functions of the regulator. Because it also has operational responsibilities, it will be required in respect of its own waste activities to observe a separate certification procedure (*q.v.*). This procedure, and the other obligations with which the Committee must comply in respect of its operations, are set out in Schedule 11. If the Committee ceases either to be the regulator or to have operational responsibilities for waste activities, Schedule 11 will expire. The Committee will then have to comply with the licensing and registration requirements in the Law, in respect of any waste activities that it may still undertake, in the same way as other operators.

The Law is arranged in the following way –

PART I

Introductory provisions

This Part defines expressions that are used in the Law.

Article 1 is the general interpretation clause.

In the context of international consignments of waste, a “transboundary” movement is one involving at least two countries; and the “competent authorities” of the countries of “dispatch”, “transit” and “destination” are the bodies responsible for controlling such movements.

The expression “standard control procedure” refers to the procedure that must be followed for a permitted movement of waste, whether internal or transboundary, unless the Law provides in any particular case for an alternative procedure.

Article 2 defines “controlled waste” to mean hazardous waste, health care waste or municipal waste. It also

enables the States, by Regulations, to provide that any other kind of waste shall be a controlled waste.

Article 3 defines the meaning of “hazardous waste”. There are three categories –

- (a) waste that is hazardous according to criteria set out in the Basel Convention itself;
- (b) waste that is treated as hazardous waste by the domestic legislation of any other country involved in a transboundary movement; and
- (c) waste that the States, by Regulations, declare to be hazardous.

However, radioactive waste or waste from the normal operations of a ship will not be regarded as hazardous for the purposes of a transboundary movement, if it is regulated internationally otherwise than under the Basel Convention.

Article 4 defines “health care waste”. This means waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice.

However, if such waste is also municipal waste arising from a domestic source – for example, a private household – it will not be treated as health care waste unless the States, by Regulations, so prescribe.

Conversely, although other kinds of municipal waste that also fall within the definition “health care waste” will ordinarily be treated as such, the States may by Regulations exclude them from that definition to the extent set out in the Regulations.

Article 5 defines “household waste”. In relation to transboundary movements, it has the same meaning as it has in the Basel Convention. For the other purposes of the draft Law, it specifically includes waste from such places as campsites, schools, residential homes and penal institutions.

Article 6 defines “municipal waste”, which includes household waste and commercial and trade refuse.

Article 7 provides that, for the purposes of this Law, waste shall be regarded as subject to the Basel Convention (and therefore to the provisions in the Law implementing the Convention) if it is described in Schedule 3. For the time being, this Schedule specifies hazardous waste, household waste and the residues from the incineration of household waste.

Article 8 explains the way in which it is to be ascertained whether a waste is subject to the special restrictions in Article 4A of the Convention (i.e. to the Basel Convention ban).

Waste is to be regarded as subject to the ban if –

- (a) it is hazardous waste as described in the Convention itself (as distinct from waste that is hazardous by national definition);
- (b) it is waste described in Part 1 of Schedule 4, and it contains hazardous waste as described in the Convention, to such an extent that it exhibits at least one hazardous characteristic itself; or
- (c) it is waste to which the OECD Amber control procedure applies.

However, if a waste is described in Part 2 of Schedule 4 and does not exhibit a hazardous characteristic, it is not subject to the ban.

Article 9 provides for the identification of wastes that are to be regarded as subject to the OECD Amber and Green control procedures.

The Law is in this respect intended to implement a special regime that is to be followed under the OECD Decision. These arrangements apply only to transboundary movements, for recovery, between OECD countries.

In general terms, the Amber control procedure applies to wastes that are hazardous under the Basel Convention, and to additional wastes to which OECD member States have agreed that procedure should apply. The Green control procedure applies to other wastes that are subject to the Basel Convention, and to other wastes to which OECD member States have agreed that the Green control procedure should apply.

Waste that is being moved between OECD countries for recovery is subject to the OECD Amber control procedure if it is a waste described in Part 1 of Schedule 5.

Waste that is being moved between OECD countries for recovery is subject to the OECD Green control procedure if it is a waste described in Part 2 of Schedule 5.

If such a movement involves the Island, but the waste is not for the time being described in either Part of Schedule 5, the regulator must identify the waste and notify the Secretary of State. If the waste demonstrates any hazardous characteristic described in Section B of Part 1 of Schedule 2, the regulator must treat it as a waste that

is subject to the OECD Amber control procedure. In any other case, the regulator is to treat it as being subject to the OECD Green control procedure.

If the OECD Amber control procedure applies to a waste, it will under this Law be governed by the appropriate standard control procedure for export, transit or import, subject to a dispensation by which the agreement of other competent authorities concerned may be assumed in the absence of expressed objections.

If the OECD Green control procedure applies, the movement will be subject only to normal commercial controls.

PART 2

Administration

Article 10 provides that in carrying out its functions, the regulator shall have regard to the following objectives –

- (a) the minimizing of the generation of waste within the Island;
- (b) the adequacy, for the environmentally sound management of controlled wastes within the Island, of facilities used by persons who carry on activities relating to those wastes;
- (c) the taking, by those persons, of measures to prevent pollution; and
- (d) compliance with international obligations relating to transboundary movements of waste.

Article 11 allows the regulator to take also into account other States policies relating to waste management.

Article 12 requires the regulator, in administering the Law, to have regard to best environmental practice, a precautionary approach in anticipating and preventing pollution from waste operations and a cost principle by which the persons who cause pollution or the risk of pollution from waste activities are responsible for the costs of dealing with it.

Article 13 provides that, within the Island, the regulator will be the competent authority for export and import, and will also carry out on behalf of the Secretary of State his functions as competent authority of transit, in respect of transboundary movements of waste.

Article 14 obliges the regulator to make information about its functions under the Law available to the public.

Article 15 provides for the approval of codes of practice for the purposes of the Law.

Article 16 requires the regulator to consult certain States Committees, and allows it to consult other persons, before making decisions about proposals relating to internal waste operations.

Article 17 requires the regulator to give public notice of proposals relating to the grant, variation, transfer or surrender of waste management licences, before making decisions. The public will have the right to make representations, and the regulator must take them into account before reaching its decisions.

Article 18 sets out the manner in which applications are to be made under the Law to the regulator.

Article 19 requires the regulator to give reasons for its decisions under the Law in respect of internal waste operations. (In the case of transboundary movements, the standard control procedures themselves require it to give reasons for objecting to such movements.)

Article 20 requires the regulator, when considering applications relating to internal waste operations under the Law, to give decisions within 3 months (unless otherwise agreed with the applicant). If it fails to do so, the regulator will be taken to have refused the application without giving reasons and the applicant will accordingly have a right of appeal on that basis to the Royal Court. (Again, in the case of transboundary movements, the standard control procedures themselves impose time limits for decisions.)

This Article also provides that if the regulator consults a States Committee in accordance with its duty under the Law, and that Committee does not respond within 3 weeks, the regulator shall be entitled to assume that it has no objection.

Article 21 provides for forms of consignment notes for movements of wastes within the Island and for transboundary movements of wastes.

Consignment notes will be the means by which persons moving controlled waste give notice of their intention to proceed and, if a movement is authorized, the progress of the consignment is subsequently tracked.

The form of a consignment note for a transboundary movement must comply with the requirements of the Basel Convention and the OECD Decision.

Under *Article 22* the regulator must supply, to an applicant who pays the prescribed fee, sufficient copies of a

consignment note to enable him to comply with the Law in respect of a movement.

PART 3

Waste management within the Island

This Part of the Law controls internal waste operations within the Island.

Licensing of waste operations

Article 23 prohibits the depositing, keeping, treatment, disposal or recovery of waste within the Island, unless it is done in accordance with a waste management licence or the activity is exempted from the requirement for a licence.

Article 23 also makes it an offence to deal with waste in a manner that is likely to cause pollution.

Article 24 enables the regulator, by Order, to exempt from the licensing requirement in Article 23 activities that are adequately controlled under other legislation or relate to household waste, small and inconsequential deposits of waste, and methods of treatment or disposal that do not cause significant danger.

An exemption may be granted under this Article on conditions specified in the Order. These may include a requirement to notify the regulator of the activity.

Article 25 provides that the regulator may only grant a waste management licence, or approve the transfer of such a licence, to the person who will carry on the activity to which it relates.

The regulator must be satisfied that the applicant is a fit person to undertake the operation. For that purpose, it is to have regard to his financial and technical resources and to any relevant previous convictions either of the applicant or of any person who is to be employed in a position of managerial responsibility.

Article 26 sets out particular requirements for applications for waste management licences or their transfer.

An application must be accompanied by evidence that the applicant may lawfully use the land concerned for the purposes of the licence.

If he is not the owner of the land, he must also produce evidence that the owner has given a binding undertaking for himself and his successors, to the effect that the licensee will be allowed to carry out any future works that the regulator may require for the avoidance of pollution or the protection of the environment.

Article 27 provides for the determination of an application for a licence and that, if the regulator grants the application, it must specify the activity that may be carried on under the licence and the land on which the operation may be undertaken.

Article 28 specifies conditions that will apply to every licence. It also sets out other conditions that the regulator may in its discretion attach to a licence.

Article 29 provides that in granting a licence, the regulator shall specify the date from which it will take effect. It also provides that a licence shall continue in force (except while suspended) until it is revoked or surrendered in accordance with the Law.

Article 30 provides for the issue of a licence.

Article 31 describes the effect of a licence.

Article 32 provides for the variation of a licence on the application of the licensee.

Article 33 provides for the variation of a licence on the initiative of the regulator, if necessary to avoid pollution or to take account of evolving scientific knowledge or changing environmental standards.

Article 34 provides for the transfer of a licence.

Article 35 provides for the suspension of a licence by the regulator in an emergency.

Article 36 provides for the suspension or revocation of a licence by the regulator if the licensee has failed to pay charges due under the Law or he has contravened a condition of the licence, or if he is not fit to hold the licence.

The regulator may also suspend or revoke a licence if the activity is causing the risk of pollution, or actual pollution, and it is not possible to deal with the matter by varying the conditions of the licence.

Article 37 enables a licensee to apply to surrender his licence. In deciding whether to allow him to do so, the regulator must have regard to the environmental effects of the licensed activity, and it may stipulate conditions that he must fulfil before the licence may be surrendered.

Registration of waste carriers

Article 38 prohibits the carriage of hazardous wastes or health care wastes by a motor vehicle on a public road in the Island, except by a registered waste carrier.

Article 39 sets out circumstances in which carriage within the Island is exempted from the prohibition in Article 38.

This includes carriage in the course of an authorized transboundary movement, by a foreign carrier who is subject to an equivalent regime of control in the country in which he is based.

Article 40 deals with applications for registration as a waste carrier.

Article 41 deals with the determination of such applications.

Article 42 provides that the registration of a waste carrier shall remain in force (except while it is suspended) until it is revoked under the Law.

Article 43 provides for the issue of letters of registration.

Article 44 describes the effect of registration.

Article 45 imposes duties on registered waste carriers in the conduct of their operations. They will be responsible for ensuring that their staff are suitably trained and that the equipment they use is appropriately designed and maintained.

They must observe any standard conditions that are prescribed by Order, and the regulator will also have power by notice to impose conditions on individual carriers.

Article 46 enables the regulator to suspend the registration of a waste carrier in an emergency.

Under *Article 47*, it may suspend or revoke registration for non-payment of charges due under the Law or for contravention of conditions of registration, or if a person is not fit to be registered or has ceased to operate and is unlikely to resume operations.

Article 48 enables a waste carrier to apply to the regulator for the revocation of his registration. In exceptional circumstances, the regulator may require him to carry out investigations or work in respect of the possible environmental consequences of his operations before it grants the application.

Internal movements

Article 49 prohibits internal movements of hazardous waste or health care wastes in the Island without the consent of the regulator.

Article 50 provides that the prohibition in Article 49 shall not apply to an internal movement to which an exemption in Article 39 applies.

Article 51 provides that the standard control procedure for internal movements must be observed during a movement to which the prohibition in Article 49 does apply.

Article 52 provides that if a movement for which the regulator's consent is required is not completed, the regulator may authorize or direct that the consignment be dealt with otherwise than by being returned to the consignor.

Other provisions

Article 53 creates two statutory defences to a charge of carrying hazardous or health care waste unlawfully within the Island.

A person will not be guilty of an offence if he shows that he was acting upon a reasonable decision taken in an emergency that arose in circumstances beyond his control, and that he took reasonable precautions and reported the incident promptly to the regulator.

A person (other than the consignor) will be not guilty of the offence of carrying or receiving hazardous or health care waste without complying with the requirements of the standard control procedure, if he shows that he took reasonable precautions and exercised due diligence to avoid the commission of the offence.

Article 54 enables the regulator to revoke the suspension of a licence or of a registered carrier.

Article 55 requires the regulator to serve written notice of its decisions within 14 days on those persons and bodies who have an interest in them.

Article 56 stipulates that if a person has a duty to retain a document under this Part of the Law, he must do so for 2 years.

PART 4

Transboundary movements of waste

This Part of the Law controls transboundary movements of waste, prohibiting them in certain circumstances and imposing control procedures for movements that are permitted.

Introductory provisions

Article 57 states that the purpose of Part 4 is to regulate transboundary movements of waste in accordance with the Basel Convention and the OECD Decision.

Article 58 provides that it is an offence to undertake a transboundary movement in contravention of Part 4.

This Article does not apply to waste derived from the normal operations of a ship, if such discharges are covered by another international instrument.

Article 59 requires a consignor and a consignee to enter into a binding contract before making a transboundary movement to which a standard control procedure applies. The contract must commit them both to complying with the control procedure. It must commit the consignee to disposing of or recovering the waste effectively within 180 days of receiving it, and to certifying that this has been done. It must also commit the consignor to taking the consignment back at his own expense if delivery is not made or any competent authority concerned requires him to do so.

Article 59 also contains additional requirements for transboundary movements between OECD countries for the recovery of waste, if the movement is subject to the OECD Amber control procedure. In such cases, each person by whom the waste has been generated or who will have the legal control of the movement must be identified in the contract. It must specify the recovery facility, and assign responsibility for the alternative arrangements to be made if the waste cannot be delivered in accordance with the contract. A different time limit will also apply for certifying completion of recovery.

Article 60 prohibits a transboundary movement to which a standard control procedure applies, unless the consignor provides adequate financial security. The security so provided will be available to meet any expenses incurred by the competent authorities in respect of the movement, if the consignment is not delivered and dealt with in accordance with the consignment note and the contract.

Article 60 also provides for the release of financial security held by the regulator, when it is no longer needed.

Article 61 requires that transboundary movements of waste must comply with internationally recognized standards of packaging, labelling and carriage.

Article 62 enables a consignor who seeks authority for a transboundary movement to make a single application in respect of multiple consignments over any period not exceeding 12 months. The kind of waste, the consignee and the destination must be the same in each case, and the regulator in any event has a discretion whether or not to authorize multiple consignments.

Article 63 enables the regulator to recognize traders for the purposes of transboundary movements. Recognized traders will be permitted to undertake the responsibilities of consignors and consignees in respect of such movements. There will be a right of appeal against a refusal to recognize a trader, or the withdrawal of his recognition.

Export of waste

Article 64 imposes the following prohibitions on the export of waste from the Island –

- Waste may not be exported for any purpose except disposal or recovery.
- Waste that is subject to the Basel Convention may not be sent to a destination below the 60th degree of latitude South.
- Waste that is subject to the Basel Convention may not be sent to any country that is not bound by the Convention or by a bilateral or equivalent agreement recognized by the Convention.
- Waste may not be sent for disposal or recovery to any country that has indicated that it will not accept such waste for that purpose.
- Waste may not be sent for disposal to any country that is not listed in Schedule 9 to the Law. At present, this Schedule only includes member States of the OECD and the European Union, and Liechtenstein.

- Waste that is subject to the Basel Convention ban may not be sent for recovery to any country that is not listed in Schedule 9.

These prohibitions are cumulative.

Article 65 prescribes control procedures that must be followed for permitted exports of wastes. These are as follows –

- (a) if the waste is being exported anywhere for disposal, the standard control procedure for export set out in Part 2 of Schedule 8;
- (b) if the waste is subject to the Basel Convention and is being exported, for recovery, to a country that is not a member State of the OECD, the standard control procedure for export;
- (c) if the waste is being sent for recovery to a member State of the OECD, and the waste is one to which the OECD Amber control procedure applies, the standard control procedure for export;
- (d) if the waste is being sent for recovery to a member State of the OECD and the waste is one to which the OECD Green control procedure applies, the normal procedure for commercial transactions;
- (e) if waste is not subject to the Basel Convention but is specified in an Order made under Article 76 (2) in relation to another country, the standard control procedure for export;
- (f) if the waste is being sent for recovery to a country that is not a member State of the OECD, and is not subject to the Basel Convention, the normal procedure for commercial transactions.

In the case to which paragraph (c) (above) refers, the standard control procedure adopts the dispensation in the OECD Amber control procedure. The effect of this is that in such a case, the agreement of an OECD country concerned to the movement may be assumed if it does not object within 30 days. In all other cases, the standard control procedure requires express consent.

Article 66 enables the regulator, by notice in the Jersey Gazette, to declare that for the purposes of the standard control procedure for export the regulator will itself transmit to the competent authority of the country of destination documents giving notice of an intended movement, instead of leaving it to the consignor to do so. This incorporates an optional procedure under the Basel Convention.

Under *Article 67*, the regulator may require a consignor to reimport waste into the Island if it cannot be delivered and disposed of or recovered in accordance with the consignment note and the contract. The Article also permits the consignor, by agreement with the regulator, to deal with it in some other acceptable manner.

Import of waste

Article 68 imposes the following prohibitions on the importing of waste into the Island –

- Waste may not be imported for any purpose except disposal or recovery.
- Waste that is subject to the Basel Convention may not be imported from any country that is not bound by the Convention or by a bilateral or equivalent agreement recognized by the Convention.

Article 69 prescribes control procedures that must be followed for permitted imports of wastes. These are as follows –

- (a) if the waste is being imported for disposal, the standard control procedure for import set out in Part 3 of Schedule 8;
- (b) if the waste is subject to the Basel Convention and is being imported, for recovery, from a country that is not a member State of the OECD, the standard control procedure for import;
- (c) if the waste is being imported, for recovery, from a member State of the OECD, and the waste is one to which the OECD Amber control procedure applies, the standard control procedure for import;
- (d) if the waste is being imported, for recovery, from a member State of the OECD and the waste is one to which the OECD Green control procedure applies, the normal procedure for commercial transactions; and
- (e) if the waste is being imported for recovery from a country that is not a member State of the OECD, and the waste is not subject to the Basel Convention, the normal procedure for commercial transactions.

In the case to which paragraph (c) refers, the standard control procedure adopts the dispensation for tacit consent already described in relation to movements by way of export.

Waste in transit

Article 70 prohibits the transboundary movement of waste in transit through the Island, in circumstances that correspond to those in which the exporting of waste from the Island would be prohibited under Article 64.

Article 71 specifies the control procedures in respect of permitted transboundary movements of waste in transit through the Island. These correspond to those governing exports. The standard control procedure for transit is set out in Part 4 of Schedule 8.

Illegal traffic

Article 72 requires the regulator, if a transboundary movement appears to it to constitute illegal traffic, to immediately notify each other authority concerned.

Article 73 provides that if a transboundary movement from the Island constitutes illegal traffic because of the conduct of either the person who generated the waste or the consignor, the regulator may require the consignor to reimport it at his own expense.

Article 74 provides that if a transboundary movement into the Island constitutes illegal traffic because of the conduct of either the consignee or the person by whom the waste is to be disposed of or recovered, the regulator may require the consignee to dispose of it at his own expense.

Article 75 provides that if responsibility for an illegal transboundary movement of waste cannot be assigned to a person to whom Article 73 or Article 74 refers, the regulator shall co-operate with the other competent authorities concerned to ensure that it is disposed of in a manner that is environmentally sound.

Other provisions

Article 76 enables the making of Orders, specifying countries –

- (a) to which the export of particular wastes is prohibited; or
- (b) in respect of which the standard control procedure for export or transit (or a modified version of that control procedure) must be observed in particular cases, instead of the normal procedure for commercial transactions.

Article 77 permits the movement of samples of waste between OECD countries, for analysis, without compliance with a standard control procedure. A sample must not exceed 25 kilograms, and the normal procedure for commercial transactions must in any case be observed.

Article 78 enables the regulator to reimport, dispose of or recover waste if a consignor or consignee fails to comply with a requirement to do so.

Article 79 enables the regulator, for that purpose, to act as the agent of either or both of them. It also obliges consignors and consignees to assist the regulator, if required by it to do so when it is acting as their agents.

Article 80 enables the regulator to recover its expenses for acting under Article 78 or 79 from the financial security provided in respect of the consignment, or from any funds received by it from disposing of or recovering the waste.

Article 81 creates various offences relating to transboundary movements.

PART 5

Enforcement

Article 82 enables the regulator to appoint inspectors for the purposes of the Law.

Article 83 obliges an inspector to produce proof of his authority if requested to do so.

Article 84 enables an inspector to take assistants and equipment with him when exercising his powers under the Law.

Article 85 empowers an inspector, on reasonable grounds for the purposes of the Law, to enter, board, inspect and search land, premises, vehicles, vessels, hovercraft and aircraft, to carry out tests and take samples, and to remove things required as evidence.

Ordinarily, these powers may be exercised only at reasonable hours and, in the case of residential premises, on 48 hours' notice.

However, they may be exercised at any time in an emergency or if a judicial warrant has been obtained.

Under Article 98 (*q.v.*), compensation may be paid to persons who suffer loss because of the exercise of powers under Article 85.

Article 86 gives an inspector the power to require an owner, occupier or person in charge of anything entered or boarded, or any other responsible person present, to assist him in the exercise of his powers.

Article 87 empowers the regulator or an inspector to inspect and copy documents and records that are relevant to the purposes of the Law.

Article 88 gives the regulator anticipatory powers, if it appears on reasonable grounds that a person has waste in his control in circumstances in which it may cause pollution. In such a case, the regulator may require him to provide information and to keep proper records.

Under *Article 89*, the regulator may require such a person to take precautionary measures against the risk of pollution and its consequences.

If it is not reasonably practicable for him to do so, and the regulator considers on reasonable grounds that the seriousness of the risk justifies such a course of action, this Article also empowers the regulator to require the person concerned to dispose of the waste.

Article 90 empowers the regulator to require a person who is responsible for pollution that is caused by waste to deal with its consequences, as far as it is reasonably practicable to do so.

Article 91 contains general provisions relating to the powers conferred by Articles 87–90.

Article 92 authorizes the regulator itself to deal with the risk or consequences of pollution that is caused by waste, if the person who may be required to do so under Article 89 or Article 90 defaults or cannot be found, or the case is urgent. It also enables the regulator to recover its expenses from that person.

Article 93 enables the regulator or an inspector to seek an injunction from the Royal Court to enforce compliance with the Law.

This is without prejudice to any other remedies that may be available – for example, criminal prosecution.

PART 6

Other provisions

Article 94 enables a person giving information under the Law to apply to the regulator for a certificate of confidentiality, to the extent that disclosure will reveal a trade secret. If the regulator is satisfied that disclosure would reveal a trade secret, it must grant the certificate.

Under *Articles 95 and 96*, the effect of the certificate will be to restrict the persons to whom and the purposes for which the information may be disclosed.

Article 97 confers rights of appeal to the Royal Court against decisions of the regulator. Objectors to proposals relating to waste management licences will not themselves have rights of appeal, but they will be entitled to notice of such appeals, and to be heard in reply.

The appellant will have a further right of appeal to the Court of Appeal.

Article 98 provides for the payment of compensation from public funds, in accordance with the same procedure as applies under the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961, to a person who suffers loss because of the exercise of any power under Article 85.

Compensation will not be payable to the extent that loss is attributable to the fault of the claimant, or to the extent that compensation is payable under any other law.

A person will not be regarded as being at fault by reason of conforming in a material way to an approved code of practice, and nothing in the Article limits an entitlement to compensation under any other law.

However a failure in some material way to conform to an approved code of practice within a reasonable time will be admissible as evidence of a claimant's fault.

Article 99 provides that it is an offence to contravene a condition of a waste management licence, or a condition of registration as a waste carrier.

Article 100 provides that it is an offence knowingly or recklessly to give false information under the Law.

Under *Article 101*, it is an offence to interfere with equipment used for the purposes of the Law.

Article 102 provides for the criminal liability of parties to offences.

Article 103 contains evidentiary provisions.

Article 104 protects the regulator and its agents (if acting in good faith) against any criminal or civil liability in respect of decisions relating to waste management licences, registration and the authorizing of internal or transboundary movements.

Article 105 facilitates the service of documents under the Law.

Article 106 enables the regulator to prescribe charges in respect of waste management licences and the registration of carriers.

Article 107 enables the States, by Regulations, to amend any of the Schedules to the Law.

Article 108 deals with Regulations and Orders made under the Law. The Article also deals with Rules of Court.

Article 109 provides that the requirements of the Law are additional to those under other enactments.

Article 110 empowers the States, by Regulations, to modify the Law to give effect to any international agreement or obligation that applies to the Island.

This is complementary to the powers conferred on the States in respect of European Union obligations by the European Communities Legislation (Implementation) (Jersey) Law 1996.

Article 111 describes the extent to which the Law will bind the Crown.

Article 112 contains transitional arrangements (which are set out in detail in Schedules 10 and 11).

Article 113 sets out the short title by which the Law may be cited, and provides for it to come into force on a day or days to be appointed by the States, by Act.

Where the Law prescribes a penalty by way of a fine not exceeding a specified level “on the standard scale”, this is a reference to the scale set out in the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993. The maximum penalties for each level on that scale, currently, are –

Level 1 – £50

Level 2 – £500

Level 3 – £2,000

Level 4 – £5,000

Where the Law prescribes a fine but does not specify a level, the maximum fine that may be imposed is unlimited.

Schedule 1 defines disposal and recovery operations for the purposes of the Law.

Schedule 2 describes wastes that are hazardous for the purposes of the Law.

Schedule 3 describes wastes that are subject to the Basel Convention.

Schedule 4 sets out criteria for determining whether a waste is or is not subject to the Basel Convention ban.

Schedule 5 describes transboundary movements to which the OECD Amber control procedure applies, and those to which the OECD Green control procedure applies.

Schedule 6 specifies information that the regulator must make available to the public.

Schedule 7 specifies information that it need not make available to the public.

Schedule 8 contains the control procedures for internal and transboundary movements of wastes.

Schedule 9 lists the countries to which exports of waste may be made for disposal and, notwithstanding the Basel Convention ban, for recovery (unless, in a particular case, such a country imposes special restrictions on importation).

Schedule 10 contains transitional provisions for operators other than the Committee.

A person who is lawfully carrying on within the Island a waste management business or waste-carrying business may continue to do so for 6 months after the licensing or registration provisions come into force. If he applies within that time for a licence or for registration, he may continue to do so in any event until his application is determined.

A person who, before the commencement of Part 4 of the Law, has already obtained permission from the appropriate authority in the United Kingdom to export waste to a country specified in Schedule 9, during the

period of 12 months following the commencement of Part 4, may do so without obtaining further approval under this Law. However, this dispensation will cease if the authority concerned withdraws its permission.

Schedule 11 sets out the procedure the Environment and Public Services Committee must follow and the other obligations with which it must comply, in respect of its activities as an operator, as long as it is for the time being also the regulator. These provisions will apply instead of the licensing and registration requirements that apply to other operators.

The Committee will be prohibited from carrying on as an operator an activity for which an individual would require a waste management licence unless the Committee has issued a waste management certificate. Before issuing such a certificate, the Committee must undertake the same processes of consultation and public advertisement as applies to an applicant in respect of a waste management licence. It must also take into account any representations it receives.

If it nevertheless proceeds to certify its intention to carry on the activity, aggrieved persons and the Attorney General will have the right to apply to the Royal Court to review the Committee's decision. On such a review, the Royal Court will have full powers, on the merits of the case, to substitute its own judgment for that of the Committee. The Attorney General will have a further right of appeal to the Court of Appeal.

These provisions apply as well to any proposal by the Committee to vary or revoke a waste management certificate.

Schedule 11 also does the following things –

- (a) It imposes mandatory conditions for waste management certificates, corresponding to those for waste management licences.
- (b) It imposes on the Committee, in respect of its own waste operations, a general duty to observe standards that are at least as high as those imposed on other operators.
- (c) It imposes other duties on the Committee in respect of its waste-carrying operations. In general terms, these correspond to those that govern private carriers.



Jersey

DRAFT WASTE MANAGEMENT (JERSEY) LAW 200

Arrangement

Article

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Jersey

DRAFT WASTE MANAGEMENT (JERSEY) LAW 200

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

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART 1

INTRODUCTORY PROVISIONS

1 Interpretation

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

“approved” means approved in writing by the Committee;

“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;

“Committee” means the Environment and Public Services Committee;

“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 the Island, 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 Union Regulation” means Council Regulation 259/93 of 1st February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (O.J. No. L 30 6.2.93), as amended;

“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;^[1]

“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 the Island 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;

“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 of 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;^[2]

“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);

“person” includes a Committee of the States;

“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 Committee 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 the Island, 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 he intends to discard; or
- (c) any substance or object, in a person’s possession or control, that he 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 management licence” means a waste management licence that is issued by the Committee under Article 30.

- (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) A reference in this Law to a Part, Article or Schedule by number only and without further identification is a reference to the Part, Article or Schedule of that number in this Law.
- (6) A reference in an Article or other division of this Law to a paragraph or sub-paragraph by number or letter only and without further identification is a reference to the paragraph or sub-paragraph of that number or letter in the Article or other division of this Law.
- (7) Unless the context otherwise requires –
 - (a) a reference in this Law to an enactment is a reference to that enactment as amended from time to time and includes a reference to that enactment as extended or applied by or under another enactment, including another provision of this Law; and
 - (b) 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 waste 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 the Island.

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 1 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 the Island, and the waste is not described in Schedule 5 –
 - (a) the Committee 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 its functions under this Law, the Committee shall have regard to the following objectives –

- (a) the minimizing of the generation of waste within the Island;
- (b) the adequacy, for the environmentally sound management of controlled wastes within the Island, 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 the Island.

11 States waste management policy

In carrying out its functions under this Law, the Committee may also take into account any other policies for the time being of the States in respect of the management of wastes within the Island.

12 Operating considerations

In carrying out its functions under this Law, the Committee 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 Committee 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 Committee shall within the Island be the competent authority in respect of –
 - (a) the export of waste from the Island; and
 - (b) the import of waste into the Island.
- (2) For the purposes of this Law, the Committee shall within the Island carry out the functions of the competent authority of transit on behalf of the Secretary of State.

14 Dissemination of information

- (1) The Committee shall publish reports of its activities under this Law.
- (2) The Committee shall also make available, for public inspection, the other information in its 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 Committee shall also provide facilities to enable persons inspecting the information to copy it.
- (5) The Committee may make reasonable charges for providing information and facilities for copying under this Article.
- (6) The Committee may refuse to make available under this Article any information specified in Schedule 7.
- (7) If the Committee refuses any request for information under this Article, it shall give the applicant a statement in writing of its reasons.
- (8) This Article is subject to Article 95.

15 Approved codes of practice

- (1) The Committee may by Order approve any code of practice for the purposes of this Law.
- (2) In exercising its powers under paragraph (1), the Committee 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 Committee determines any proposal specified in paragraph (2), it shall consult the Health and Social Services Committee and the Employment and Social Security Committee.
- (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 Committee determines any proposal relating to a waste management licence, or the registration of a waste carrier, it may consult any person or body other than one to whom paragraph (1) refers.

17 Public notice of proposals

- (1) Before the Committee determines any proposal described in Article 16(2), it shall comply with this Article.
- (2) The Committee 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 Committee in respect of the proposal at any time before the expiry of the 7 days following the period for inspection, and the Committee shall make a copy of the proposal available accordingly for inspection.
- (3) If the Committee 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 Committee 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 Committee 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, he shall also provide in writing to the Committee an address for service within the Island.
- (6) The Committee 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 he may deliver to the Committee representations in writing in reply, within 14 days after being served.
- (7) The Committee 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 Committee 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 Committee –

- (a) the application shall be made in writing, in such form as may be prescribed or (if no form is prescribed) as the Committee may reasonably require;
- (b) it shall include such information (including maps and diagrams) as may be prescribed, and as the Committee 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 Committee may require the applicant to provide such additional information as it 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 Committee determines any application under this Law;
 - (b) acting on its own motion, it varies any term or condition of a waste management licence; or
 - (c) it suspends or revokes such a licence, or the registration of a person as a waste carrier,
- the Committee shall state in writing its 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 Committee 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 Committee to determine the application shall constitute for the purposes of this Law a decision by it to refuse, without stating its reasons, to grant the application.
- (2) If –
 - (a) for the purposes of consultation in accordance with Article 16(1), the Committee refers a proposal to another Committee that it is required by that paragraph to consult; and
 - (b) that other Committee does not respond within 21 days after the proposal is referred to it, or within such longer time limit (if any) as may be agreed between the Environment and Public Services Committee and that Committee,

the Environment and Public Services Committee may assume that the other Committee has no objection to the proposal, and proceed as if it had consulted that Committee in compliance with Article 16(1).
- (3) In paragraph (1), “the relevant date” means a date by which the applicant has done everything that he is required to do or may be required to do under this Law in respect of his 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 Committee shall supply to him 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 Committee shall assign a unique identification code or other reference to each consignment note of which it supplies copies to a person.

PART 3

WASTE MANAGEMENT WITHIN THE ISLAND

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 Committee 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 not exceeding 2 years or to a fine, or both

24 Exemptions from requirement for licence

- (1) If the Committee 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 Committee 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 Committee may make an Order under paragraph (1) on such conditions (if any) as it 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 informs the Committee 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 Committee is satisfied that he is fit to carry on the activity to which it relates.
- (3) In deciding whether he is fit to do so, the Committee shall take into account inter alia the following factors –
 - (a) his financial security;
 - (b) his 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 Committee 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 Committee.
- (2) An application for the grant of a waste management licence shall be accompanied by evidence that the applicant may lawfully use, for the purposes of the activity to which the application relates, the land on which it is to be carried on.
- (3) If the applicant is not the owner of the land, an application for the grant of a waste management licence shall also be accompanied by the written undertaking of the owner (in a form that is legally binding on the owner and the owner's successors in title) to allow the applicant to carry out such future works on the land as the Committee may under this Law require him to carry out, for the avoidance of pollution arising from the activity to which the licence relates or for the protection of the environment.
- (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) it shall be supported by such evidence, undertaking and such other documents as the proposed transferee would be required to produce if he were applying for the grant of a waste management licence.
- (5) For the purposes of paragraph (4)(b), the Committee may accept evidence and documents that have been produced to it on any previous application.

27 Determination of application for licence

- (1) The Committee 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 Committee is satisfied that the applicant is fit to hold the licence; and
 - (c) the Committee 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 it grants the application, the Committee 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 it grants the application, the Committee may do so on such conditions as it may specify in its decision.
- (4) There shall be a right of appeal, in accordance with Article 97, against a decision of the Committee under this Article.

28 Conditions of licence

- (1) The following are conditions of every waste management licence, namely –
 - (a) that the licensee must not carry on the activity to which the licence relates on any land that he may not for the time being lawfully use for that purpose;
 - (b) that if the licensee is the owner of the land, he must not dispose of his interest in the land without first obtaining from his successor in title an undertaking, in the terms described in Article 26(3), to allow the licensee to carry out the future works to which Article 26(3) refers and
 - (c) that any undertaking obtained under Article 26(3) or under sub-paragraph (b) of this paragraph

must remain legally binding until the licence is revoked or surrendered in accordance with this Law.

- (2) In granting a waste management licence, the Committee 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 Committee may prescribe standard conditions (being conditions that it may impose under paragraph (2)) that shall apply to all waste management licences or to all licences of prescribed categories, and if it 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 Committee 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 Committee 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 Committee 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 Committee to vary a licence in accordance with the application for variation.

33 Variation of licence on initiative of Committee

- (1) Subject to the other provisions of this Law, if the Committee 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 Committee shall of its own motion vary that term or condition.
- (2) If the Committee 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 Committee may of its own motion vary that term or condition.
- (3) If the Committee proposes to vary a waste management licence under this Article –
 - (a) it shall serve a notice in writing on the licensee, describing its proposal and telling him that he may make representations about it in writing to the Committee within 21 days after the notice is served on him; and
 - (b) it shall consider all representations so made by him,before deciding whether to vary the licence.
- (4) A variation under this Article shall not take effect before the Committee serves notice in writing of the variation on the licensee.
- (5) A variation under this Article shall take effect –
 - (a) when the Committee serves notice in writing of the variation on the licensee, if the Committee does not specify a later date in the notice; or
 - (b) if the Committee 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 Committee specifies those circumstances in its decision.
- (8) There shall be a right of appeal, in accordance with Article 97, against a decision of the Committee 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 Committee may grant the application on such conditions as it may specify in its decision.
- (3) With effect from the date of the Committee's decision, or from such later date as the Committee may specify in its 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 Committee under this Article.

35 Suspension of licence in emergency

- (1) If the Committee considers on reasonable grounds that it is necessary to do so because of an emergency –
 - (a) it 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) it 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 Committee 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 him under this Law to the Committee in connection with his licence; or
 - (b) a licensee contravenes any condition of his licence,the Committee may, by a notice in writing served on the licensee, suspend the licence wholly or partly or revoke the licence.
- (2) If the Committee 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 Committee 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 Committee 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 Committee proposes to suspend or revoke a waste management licence under this Article –
 - (a) the Committee shall serve a notice in writing on the licensee, informing him of its intention and telling him that he may make representations about it in writing to the Committee within 21 days after the notice is served on him; and

(b) the Committee shall consider all representations so made by him,

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 Committee under this Article.

37 Surrender of licence

- (1) A licensee may surrender his licence, but may only do so in accordance with this Article.
- (2) A licensee who wishes to surrender his licence shall apply to the Committee for permission to do so.
- (3) In deciding whether to allow the surrender of the waste management licence, the Committee 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 Committee may grant an application to surrender a licence on such conditions (if any) as it specifies in its 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 Committee grants an application to surrender a licence, it shall specify in its 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 Committee 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 the Island (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 not exceeding 2 years or to a fine, or both.

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 Committee 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 Committee 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 the Island.
 - (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 the Island but is subject in the country in which he 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 Committee.

41 Determination of application for registration

- (1) The Committee shall grant an application for registration as a waste carrier, unless –
 - (a) the Committee considers on reasonable grounds that because he has insufficient experience of road transportation, or of the transportation of hazardous waste or health care waste, and he has not shown that such experience will be available to him in the activity to which the application relates, he is not a fit person to be registered; or
 - (b) the Committee considers on reasonable grounds that because of his past conduct, in relation to road safety or to road transportation generally, the transportation of hazardous waste, waste management or environmental matters, he is not a fit person to be registered.
- (2) In granting the application, the Committee 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 Committee under this Article.

42 Duration of registration

- (1) In granting an application for registration as a waste carrier, the Committee 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 Committee 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 and is acting under his 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 registration relates –
 - (a) a waste carrier shall ensure that his employees are suitably trained;
 - (b) he shall ensure that any motor vehicle or other equipment that is used is appropriately designed and maintained; and
 - (c) he shall comply with any prescribed conditions and any conditions imposed under paragraph (2).
- (2) Subject to the other provisions of this Law, the Committee may by a notice in writing served on a registered waste carrier –
 - (a) require him to comply with such conditions as it specifies in the notice in respect of the movement of waste in the course of an activity to which his 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 Committee to impose or vary a condition by a notice served under paragraph (2).

46 Suspension of registration in emergency

- (1) If the Committee considers on reasonable grounds that it is necessary to do so because of an emergency –
 - (a) it may by a notice in writing served on a registered waste carrier suspend his registration wholly or partly for any specified period not exceeding 14 days; and
 - (b) it 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 Committee 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 him under this Law in connection with his 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 Committee may, by a notice in writing served on the carrier, suspend his registration wholly or partly or revoke his registration.
- (2) If the Committee 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 registration relates, and is unlikely to do so in the foreseeable future,
 the Committee may, by a notice in writing served on the carrier, suspend or revoke his 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 Committee 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 Committee proposes to suspend or revoke the registration of a waste carrier under this Article –
 - (a) the Committee shall serve a notice in writing on him, informing him of its intention and telling him that he may make representations about it in writing to the Committee within 21 days after the notice is served on him; and
 - (b) the Committee shall consider all representations so made by him,
 before deciding whether to suspend or revoke his 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 Committee under this Article.

48 Revocation of registration at request of waste carrier

- (1) On the application of a waste carrier, the Committee shall revoke his registration.
- (2) However, in exceptional circumstances the Committee may first require the carrier to carry out at his 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 Committee to impose a requirement under paragraph (2) before revoking the registration of a waste carrier.

Internal movements

49 Internal movements for which Committee'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 Committee 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 Committee's consent is in effect; and
 - (c) the person is acting in accordance with this Law and with any conditions on which the Committee has given its 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 not exceeding 2 years or to a fine, or both.

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 Committee 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 his control;
 - (b) the decision was reasonable;
 - (c) he took all steps that were reasonably practicable for ensuring that it was carried safely; and
 - (d) he gave full details of the occurrence to the Committee, or ensured that they were given to it, 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) he was not the consignor of the consignment to which the charge relates; and
 - (b) he took all reasonable precautions and exercised due diligence to avoid or prevent the commission of the offence.

54 Revocation of suspension

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

55 Notice of decisions

- (1) If the Committee makes any decision under this Part in respect of a waste management licence, it 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 Health and Social Services Committee and the Employment and Social Security Committee, in every case.
- (2) If the Committee makes any decision under this Part in respect of the registration of any person as a waste carrier, it 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 duty to retain it arose.
- (2) Paragraph (1) does not limit the power of the Committee under Article 28 to impose a condition of 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 the Island;
- (b) the import of waste into the Island; and
- (c) the movement of waste in transit through the Island 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 the Island;

- (b) imports waste into the Island; or
- (c) participates in the movement of waste in transit through the Island in the course of a transboundary movement,

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

- (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 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 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 Committee or by another competent authority concerned.
- (3) If the Committee is holding any financial security under this Part in respect of a transboundary movement of waste and it receives in accordance with this Part a certificate of disposal or recovery in respect of the waste, the Committee 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 Committee, 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 Committee in its 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 Committee 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 Committee has received must specify the period during which it is proposed to make the consignments;
 - (e) the consignment note that the Committee has received must specify the dates of the proposed consignments, if those dates are known; and
 - (f) the Committee 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 Committee may do so on the condition that each other competent authority concerned does so).
- (3) The period to which paragraph (2)(d) refers shall not exceed 12 months.

- (4) If –
 - (a) the Committee 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 Committee'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 Committee may at any time, on reasonable notice to the consignor, each other competent authority concerned, and the consignee, withdraw its agreement under this Article.

63 Recognized traders

- (1) The Committee may in writing, on the written application of any fit person, recognize him as a trader for the purposes of transboundary movements.
- (2) The Committee may at any time, by a notice in writing served on a recognized trader, withdraw its recognition of him under this Article.
- (3) There shall be a right of appeal, in accordance with Article 97, against–
 - (a) a decision of the Committee to refuse an application for the recognition of a trader under this Article; or
 - (b) a decision by the Committee to withdraw its 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 Committee may publish a notice in the Jersey Gazette declaring that it will undertake itself 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 Committee 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 the Island and its disposal or recovery are not completed in accordance with the consignor's contract with the consignee and with the consignment note, the Committee may by a notice in writing require the consignor to reimport the consignment into the Island, within a time specified in the notice and at his 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 the Island or, if the Committee so agrees or directs, to some other site within the Island 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 Committee 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 Committee in securing its disposal or recovery in that other manner.

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 the Island 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 the Island of waste for disposal.
- (2) The standard control procedure for transit shall be complied with in respect of the transboundary

movement, in transit through the Island 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 the Island 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 the Island 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 the Island 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 Committee that a transboundary movement of waste from, through or to the Island constitutes illegal traffic, it 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 the Island 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 Committee may by a notice in writing require the consignor to reimport the consignment into the Island at his own expense.
- (2) The time to be specified in the notice shall be a reasonable period not exceeding 20 days, unless the Committee 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 the Island or, if the Committee so agrees or directs, to some other site within the Island 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 Committee 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 Committee 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 the Island 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 Committee may by a notice in writing require the consignee to dispose of the consignment at his 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 Committee agrees to a longer period in any particular case; and
- (d) any other requirements that the Committee may consider to be necessary or desirable for the disposal of the waste in a manner that is environmentally sound.

75 Co-operation by Committee with other competent authorities

If a transboundary movement of waste from, through or to the Island 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 Committee 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 the Island 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 Committee 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 the Island is prohibited.
- (2) For the purposes of Articles 65(4) and 71(4), the Committee 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 the Island, 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 the Island, 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 Committee to act in default

- (1) If –
 - (a) a consignor is required under Article 67 to reimport a consignment of waste into the Island; and
 - (b) he fails to do so within the time specified in the notice imposing the requirement,the Committee may itself cause the consignment to be reimported into the Island and returned to the site from which it originated within the Island.
- (2) If –
 - (a) delivery of a consignment of waste that is imported into the Island 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 Committee may itself 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 Committee 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 Committee 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 Committee may agree to under that Article.
- (4) If the Committee receives any money from the disposal or recovery of a waste under this Article, it shall pay that money to the consignor, but this paragraph is subject to Article 80(1).

79 Power of Committee 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 Committee may act within and from the Island as the irrevocably appointed agent of the consignor or the consignee, or of each of them.
- (2) If the Committee has informed the consignor or the consignee in writing that it is so acting, each of them so informed shall provide to the Committee whenever it requires him to do so such information and other assistance and co-operation as it requires in order to secure the reimport or disposal of the consignment.

80 Recovery of expenses

- (1) The Committee may recover its 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 Committee from the disposal or recovery of the waste under Article 78.
- (2) Paragraph (1) does not prevent the Committee 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 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 Committee 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 in accordance with Article 74;
- (d) being a consignor or consignee, fails to comply with any requirement made of him under Article 75 (2) by the Committee,

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

PART 5

ENFORCEMENT

82 Appointment of inspectors

The Committee may in writing appoint as an inspector for the purposes of this Law any person who is employed in the service of the States.

83 Proof of authority

- (1) An inspector who is exercising his powers under this Law shall produce on request evidence of his authority to do so.
- (2) An inspector shall also state on request –
 - (a) his name; and
 - (b) the power that he proposes to exercise.

84 Persons who may accompany inspectors

- (1) In exercising his powers under this Law (including any powers conferred on him by a warrant granted under Article 85(4)), an inspector may take with him–
 - (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 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) he may enter, board, inspect or search it;
 - (b) he may take or carry out on or in it any measurements, surveys, tests, investigations or photographs;
 - (c) he may install, maintain or operate on or in it any monitoring equipment or other apparatus;
 - (d) he may take or remove from it, for analysis, samples of any substances, articles or other things found there;
 - (e) he 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) he 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 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 powers under this Article, and it is for the time being unoccupied or unmanned, he shall leave it secured as effectually as he 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 him to do so, the inspector shall inform him as soon as reasonably practicable and in any event within 21 days of–
 - (a) the powers he has so exercised; and
 - (b) everything he 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 his supervision, under Article 84,shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine or both.

- (1) An inspector who is exercising or seeking to exercise his 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 in order that the inspector can carry out more effectively the purposes for which he is exercising his powers.
- (2) Paragraph (1) does not empower an inspector to require a person to do anything that the Committee 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 him under this Article shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

87 Access to documents and records

- (1) If it appears to the Committee on reasonable grounds that a person has in his custody or control a document or record that is relevant to the purposes of this Law, the Committee may require him to allow the Committee to inspect and copy it.
- (2) If it is reasonably necessary or expedient to do so, the Committee 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 Committee under this Article.

88 Provision of information about potential pollution

- (1) If it appears to the Committee on reasonable grounds that a person has any waste in his custody or control in circumstances in which it may cause pollution, the Committee may require him to do all or any of the following things –
 - (a) to deliver to the Committee in writing details of the thing or the circumstances in which it is in his 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 Committee in writing such other information as it 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 Committee under this Article.

89 Control of potential pollution

- (1) If it appears to the Committee on reasonable grounds that a person has any waste in his custody or control in circumstances in which it may cause pollution, the Committee may require him 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 his 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 Committee on reasonable grounds that a person has any waste in his 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 it in doing so,the Committee may require him 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 Committee 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 Committee may require him 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 him to do so.
- (2) There shall be a right of appeal, in accordance with Article 97, against the making of a requirement by the Committee under this Article.

91 Manner of exercising powers

- (1) A requirement by the Committee 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 him by the Committee in the exercise of a power under Article 87 shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale^[3]
- (4) Any person who intentionally and without reasonable excuse contravenes a notice served on him by the Committee 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 not exceeding 2 years or to a fine, or both.

92 Remedial action by Committee

- (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 Committee 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 Committee, 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 Committee may itself do all or any of the things that it has so required or could have so required the person to do.

- (2) If the Committee acts under paragraph (1), it may recover its 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 Committee's reasonable expenses of acting under paragraph (1) shall include any expenses incurred by the Committee 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 Committee 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 he may incur by reason of any act or omission, or limit any other remedies of the Committee 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 Committee 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 he is required or wishes to give to the Committee in support of the application;
 - (b) any person, in respect of any information that he 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 him, or to any business (including any research or experiment) carried on by him, that the Committee 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 Committee 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 Committee.
- (5) If the Committee is satisfied that the disclosure of the information will reveal a trade secret, it 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 Committee shall serve on the applicant a written copy of its decision.
- (7) There shall be a right of appeal, in accordance with Article 97, against the decision of the Committee.

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 Committee;
 - (b) any time allowed for appealing to the Royal Court against the decision of the Committee 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 Committee itself, 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 consent;
 - (b) to any Committee of the States, 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 he 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 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 Committee of his application or the imposing by the Committee (when granting the application) of any term or condition of his licence;
 - (b) a licensee, against the refusal by the Committee of his application to vary his licence in the way requested by him;
 - (c) a licensee, against the variation by the Committee of its own motion of any term or condition of his licence;
 - (d) a licensee, against the refusal of the Committee of an application for the transfer of his licence;
 - (e) a licensee, against the suspension or revocation of his licence by the Committee;
 - (f) a licensee, against the refusal by the Committee of his application for the surrender of his licence or the imposing by the Committee (when granting the application) of any condition of its surrender;
 - (g) an applicant for registration as a waste carrier, against the refusal by the Committee of his application;
 - (h) a registered waste carrier, against the imposing or variation of a condition by a notice served on him under Article 45(2);
 - (i) a registered waste carrier, against the suspension by the Committee of his registration;
 - (j) a registered waste carrier, against the revocation by the Committee of its own initiative of his registration;
 - (k) a registered waste carrier, against the refusal by the Committee of his application for the revocation of his registration or the imposing by the Committee (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 Committee of his application;
 - (m) a recognized trader, against the withdrawal by the Committee 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 Committee 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 the Island, 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 Committee shall be liable to pay compensation to him 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, his 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 his 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 Committee 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 7 and 8 of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961.^[4]
- (5) In the determination of a dispute under paragraph (4) of this Article –
 - (a) Articles 9 and 16A of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961^[5] 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 10, 11, 12, 14 and 14A of that Law^[6] shall also apply; and
 - (b) in the application of those Articles (other than Article 11) 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 9A(4) of the Compulsory Purchase of Land (Procedure) (Jersey) 1961^[7] 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 licence, or to the revocation or surrender of his licence, he shall be guilty of an offence.
- (2) If a registered waste carrier contravenes any condition of or relating to his registration, or to the revocation of his registration, he 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 not exceeding 2 years or to a fine, or both.

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 Committee; 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 not exceeding 2 years or to a fine, or both.

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 Committee, 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 not exceeding 2 years or to a fine, or both.

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 functions of management as if he 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 Committee 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 Committee

Neither the Committee nor any of its members, officers, employees or agents 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 Committee to an internal or transboundary movement of waste,

unless it is proved that the Committee or the member, officer, employee or agent (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 him personally or by leaving it at his proper address or by sending it by recorded delivery post to him 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 12 of the Interpretation (Jersey) Law 1954^[8] (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 his 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 the Island or of a partnership carrying on business outside the Island, its principal office within the Island 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 the Island other than his proper address (as determined in accordance with paragraph (2)) as the one at which he or someone on his 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 cannot be found and his 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 Committee may prescribe –
 - (a) fees that shall be payable to the Committee in respect of applications for the grant, variation, transfer, revocation or surrender of waste management licences;
 - (b) fees that shall be payable to the Committee in respect of applications for the grant or revocation of registration as waste carriers;
 - (c) fees that shall be payable to the Committee periodically by licensees or registered persons under this Law; and
 - (d) fees that shall be payable for the supplying by the Committee to any persons of consignment notes.
- (2) In prescribing such fees, the Committee shall have regard to the amounts that are needed to meet its expenditure in carrying out its functions under this Law in respect of the matters for which the fees are payable.
- (3) In prescribing fees –
 - (a) the Committee may set different amounts in respect of different parts of any periods during which any licence or registration remains in force;
 - (b) it 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) it 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 Committee may refuse to do anything for which it is payable until it is paid (without prejudice to the right of the Committee 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 Committee 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) The Subordinate Legislation (Jersey) Law 1960^[9] shall apply to Orders made under this Law.
- (4) The powers of the Superior Number of the Royal Court to make rules under the Royal Court (Jersey) Law 1948^[10] 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 the Island, or the regulation of the transboundary movement of wastes, and is applicable to or binding on the Island.

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 Committee, 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 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 Her Majesty in her private capacity.

112 Transitional provisions

This Law shall have effect subject to the transitional provisions set out in Schedules 10 and 11.

113 Citation and commencement

- (1) This Law may be cited as the Waste Management (Jersey) Law 200.
- (2) This Law shall come into force on such day or days as the States may by Act appoint, and different

days may be appointed for different provisions.

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 – Recovery operations

- R1 Use as a fuel (other than in direct incineration) or other means to generate energy.
- 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 congener of polychlorinated dibenzo-furan;
- Y44 any congener 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

<i>UN Class*</i>	<i>Code</i>	<i>Characteristics</i>
1	H1	<u>Explosive substances or wastes</u> 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	<u>Flammable liquids</u> 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	<u>Flammable solids</u> 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	<u>Substances or wastes liable to spontaneous combustion</u> 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	<u>Substances or wastes that, in contact with water, emit flammable gases</u> 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	<u>Oxidizing substances or wastes</u> 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	<u>Organic peroxides or wastes</u> Organic substances or wastes that contain the bivalent-O-O- structure and are thermally unstable substances that may undergo exothermic self-accelerating decomposition.
6.1	H6.1	<u>Poisonous substances or wastes</u> 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	<u>Infectious substances</u> Substances or wastes containing viable micro-organisms or their toxins that are known or suspected to cause disease in animals or humans.
9	H8	<u>Corrosives</u> Substances or wastes that, by chemical action, will cause severe damage when in contact

* 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).

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 – 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 (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 a 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 in concentrations sufficient to exhibit characteristics described in Section B of Part 1 of Schedule (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 pyrolytic treatment of organic materials
- 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 the 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 congener of polychlorinated dibenzo-furan
 - Any congener 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 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 characteristic 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 – 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
- 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
- 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 characteristic⁽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 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⁽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 extent that they exhibit hazard characteristics described in Section B of Part 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
Praseodymium		Neodymium
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 TiO₂ 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
- 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 A206C 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)

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)
- polyvinylidene fluoride (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

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

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 Base 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 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 – 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 E 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

AC020 Bituminous materials (asphalt waste) not elsewhere specified or included

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
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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 and Metal-Alloy Wastes in Metallic, Non-Dispersible* Form

GA300 ex 811220 Chromium waste and scrap

* Non-dispersible” does not include any wastes in the form of powder, sludge, dust or solid items containing encased hazardous waste liquids.

Metal Bearing Wastes Arising from Melting, Smelting and Refining of Metals

GB040 7112 Slags from precious metals and copper processing for further
262030 refining
262090

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

GC040 ex 8701-05 Motor vehicle wrecks, drained of liquids
ex 8709-11

GC050 Spent Fluid Catalytic Cracking (FCC) Catalysts (e.g.: aluminium oxide, zeolites)

The following metal and metal alloy wastes in metallic dispersible form:

GC090 Molybdenum

GC100 Tungsten

GC110 Tantalum

GC120 Titanium

GC130 Niobium

GC140 Rhenium

Glass Waste in Non-dispersible Form

GE020 ex 7001 Glass Fibre Waste
ex 701939

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

GG160 Bituminous materials (asphalt waste) from road construction and maintenance, not containing tar

Solid Plastic Wastes

GH013 391530 Polymers of vinyl chloride
ex 390410-40

Textile Wastes

GJ140 ex 6310 Waste textile floor coverings, carpets

Wastes Arising from Agro-Food Industries

GM140 ex 1500 Waste edible fats and oils of animal or vegetable origin (e.g.

frying oils)

Wastes Arising from Tanning and Fellingmongery 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 Committee 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 Committee 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 Committee by a person who was not under a legal obligation to do so;
- (h) if the Committee, 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); 71(1))

CONTROL PROCEDURES FOR THE MOVEMENT OF WASTE

Introduction:

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 the Island may only be obtained from the Committee, and a consignment note for any other transboundary movement may only be obtained from the Committee 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 Committee, 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. He is then to return one of his copies, showing the full history of the movement, to the authority by which the movement was approved. He 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 Committee 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 Committee gives its consent or, if the Committee specifies a shorter period in its consent, that shorter period; or
 - (b) if the consent relates to repeated consignments, the period of 12 months following the day or which the Committee gives its consent or, if the Committee specifies a shorter period in its consent, that shorter period.
- (2) Any consent or agreement to proceed that is given or may be taken to have been given by the Committee 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 is given in writing, the period of 12 months following the date or

- 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) he shall deliver the consignment note, as so signed, to the Committee.

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 Committee 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 Committee on receiving notice of proposed movement

- (1) When the Committee receives a consignment note in accordance with paragraph 1, it shall within 5 working days take one of the following steps in accordance with this Law –
- (a) it shall return the consignment note to the consignor, endorsed with the Committee's unconditional consent to the movement or movements;
- (b) it shall return the consignment note to the consignor, endorsed with the Committee's consent to the movement or movements upon conditions specified in the endorsement;
- (c) it shall return the consignment note to the consignor, endorsed with the Committee's refusal to consent to the movement or movements; or
- (d) it shall by a notice in writing request the consignor to clarify the information provided by him, or request further information from him, to enable it to decide whether or not to consent.
- (2) If the Committee returns the consignment note to the consignor, the Committee shall itself retain one copy of the note as endorsed by it.

4. Cases in which Committee may withhold decision

- (1) The Committee may withhold its decision in respect of a movement as long as it reasonably requires clarification of any information given by the consignor, or any more information from him, in order to enable it to discharge its functions under this Law.
- (2) For the purposes of this paragraph, the Committee 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 Committee obtains such clarification or additional information; or

- (b) it does not reasonably require clarification or additional information, the Committee 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 Committee must refuse consent to movement

The Committee shall under paragraph 3 refuse its consent to a movement that would be in contravention of this Law.

6. Cases in which Committee may refuse consent to movement

- (1) The Committee may under paragraph 3 refuse to consent to more than one movement under a single notification made in accordance with paragraph 2.
- (2) The Committee may under paragraph 3 refuse to consent to a movement—
 - (a) if it considers on reasonable grounds that the movement is unnecessary; or
 - (b) if it considers on reasonable grounds that the movement is undesirable because it would give rise to a serious risk of pollution.
- (3) If the Committee refuses to consent to a movement, but subsequently considers that the reasons for its refusal no longer apply, it may in accordance with paragraph 3 consent to the movement unconditionally or conditionally.

7. Cases in which Committee must consent to movement

The Committee shall consent under paragraph 3 to a movement unless—

- (a) it is required under paragraph 5 to refuse its consent;
- (b) it may under paragraph 6 refuse its consent; or
- (c) it has under paragraph 3(1)(d) requested the clarification of information, or additional information and it is entitled for the time being under paragraph 4 to withhold its decision.

8. Conditions of consent

- (1) The Committee 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 Committee subsequently considers that the reasons for a condition no longer apply, it may revoke that condition.
- (3) If the Committee under sub-paragraph (2) revokes a condition—
 - (a) the Committee 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 Committee consents under paragraph 3 (whether unconditionally or conditionally) to a movement or movements, its 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 Committee'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 Committee 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 Committee as soon as he 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 him 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 he 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 Committee 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 refusal; and
 - (b) the consignee shall within 3 working days confirm in writing to the Committee, that he has refused acceptance of the consignment and the reasons for his 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 Committee, for the purpose of ensuring that the consignment is returned to the consignor safely or, if the Committee 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 Committee 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 Committee; 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 – 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 Committee has not decided in accordance with Article 66 to undertake itself 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 Committee;
 - (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 the Island.
- (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 the Island for recovery but cannot be recovered in the Island 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 the Island; and
 - (b) a movement to which the OECD Amber control procedure applies, where the waste has been imported into the Island 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 the Island.
- (4) If the Committee 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 Committee.

2. Acknowledgement of receipt of consignment note

- (1) Within the appropriate time limit in sub-paragraph (2) or sub-paragraph (3), the Committee 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 Committee 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 Committee may require under paragraph 3 have been provided to the Committee.
- (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 Committee.

3. Further information

If at any time the Committee reasonably requires –

- (a) the clarification of any information given by the consignor; or
- (b) more information regarding the proposed export,

in order to enable it to discharge its functions properly under this Law, the Committee may require the consignor to provide that clarification or information before the Committee proceeds to deal further with the matter.

4. Cases in which the Committee must object to the movement

(1) The Committee 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 Committee is not satisfied that the movement would comply with this Law;
- (c) if, in any case, the Committee 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 Committee considers that the waste can be disposed of within the Island in a manner that is effective and environmentally sound.

(2) However, the Committee's duty to object to a movement on the ground set out in sub-paragraph (1) (a) is subject to its discretion under paragraph 3 to require the consignor to provide additional information.

5. Cases in which the Committee may object to the movement

The Committee 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 Committee considers that it should object to the movement in order to implement any of the principles of proximity, priority for recovery and self-sufficiency to which Article 4.3 of the European Regulation refers, in accordance with Council Directive 75/442/EEC of 15th July 1975 on waste (O. J. No. L 194 25.7.75), as amended;
- (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 Committee must agree to the movement

(1) If the Committee does not have an objection under paragraph 4 or paragraph 5 to the movement, the Committee shall agree to the movement.

- (2) If the Committee agrees to the movement, it may do so either unconditionally or on such conditions as it 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 Committee has in writing acknowledged, to the competent authority of the country of destination, receipt of the Committee's copy of the consignment note; and
 - (c) the Committee has not, within 30 days after so acknowledging receipt, objected to the movement,the Committee 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 Committee is the appropriate competent authority to issue to the consignor an authorization to proceed, the Committee 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 Committee if it objects to the movement

- (1) This paragraph applies in every case in which the Committee objects under paragraph 4 or paragraph 5 to the movement.
- (2) If the Committee has not decided in accordance with Article 66 to undertake the onward transmission of the documents, it 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 Committee objects to the movement.
- (3) If the Committee has decided in accordance with Article 66 to undertake the onward transmission of the documents –
 - (a) it shall in writing, within the appropriate time limit in sub-paragraph (4), notify the consignor that it objects to the movement; and
 - (b) having notified him, it 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 Committee 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 a Member State of the European Union and the Committee 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 Committee acknowledges

receipt of the consignment note, if the movement is one to which the OECD Amber control procedure applies, the country of destination is a Member State of the European Union and the Committee 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 Committee receives the consignment note, in any other case.

(4) In every case, the notification shall state the Committee's reasons for the objection.

9. Written notification of the Committee'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 Committee agrees unconditionally or conditionally to the movement,

the Committee may in writing, within the time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of destination that it 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 Committee's agreement may be assumed).

10. Notification of the Committee's agreement to a European Union movement

(1) If –

(a) the movement is not one to which the OECD Amber control movement applies;

(b) the country of destination is a Member State of the European Union; and

(c) the Committee agrees unconditionally or conditionally to the movement,

the Committee 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 it 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 Committee receives the consignment note, if the Committee 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 Committee receives the consignment note, if the Committee is the appropriate competent authority to issue to the consignor an authorization to proceed.

11. Notification of the Committee'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 not a Member State of the European Union; and

(c) the Committee agrees unconditionally or conditionally to the movement,

the Committee 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 it 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 Committee receives the

- consignment note, if the Committee 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 Committee receives the consignment note, if the Committee is the appropriate competent authority to issue to the consignor an authorization to proceed.

12. Action by the Committee if it 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 Committee is the appropriate competent authority to issue to the consignor an authorization to proceed.
- (2) If the Committee does not object to the movement under paragraph 4 or paragraph 5, it shall issue a authorization to proceed if (but only if) –
- (a) it 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 Committee 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 Committee is satisfied that, as far as it is within the Committee's power to ensure compliance, those conditions have been or will be fulfilled.
- (3) The requirement in sub-paragraph (2) that the Committee 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 Committee shall –
- (a) issue the authorization to proceed to the consignor; and
- (b) notify each other competent authority concerned that it has done so,
- before the expiry of the period of 70 days following the date on which the Committee receives the consignment note.

13. Review of decisions

- (1) The Committee 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 Committee withdraws an objection or condition, it shall in writing notify each person to whom it 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 Committee;
 - (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 Committee 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 Committee and that competent authority have agreed that the latter shall issue to the consignor an authorization to proceed;
 - (b) the Committee, if the Committee and that competent authority have agreed that the Committee shall issue to the consignor an authorization to proceed; or
 - (c) the Committee, if the Committee 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 Committee 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) he sends copies of the consignment note (as so signed) to the Committee and to the competent authority of each other country concerned.
- (2) On making the shipment –
- (a) the consignor and the carrier to whom he 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 the Island –
- (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 the Island shall retain one copy of the consignment note.

17. Retention of documents

The consignor, and each carrier by whom the consignment is carried within the Island, 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 – 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 the Island –

- (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 Committee (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 Committee shall send to –
 - (a) the consignor;
 - (b) the competent authority of the country of dispatch;
 - (c) if the importing of the waste into the Island will involve movement through a country of transit, the competent authority of that country; and
 - (d) the consignee,an acknowledgement in writing that the Committee 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 Committee may require under paragraph 3 have been provided to the Committee.
- (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 Committee.

3. Further information

If at any time the Committee reasonably requires –

- (a) the clarification of any information given by the consignor; or
- (b) more information regarding the proposed import,

in order to enable it to discharge its functions properly under this Law, the Committee may require the consignor to provide that clarification or information before the Committee proceeds to deal further with the matter.

4. Cases in which Committee must object to the movement

- (1) The Committee 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 Committee 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 the Island 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 Committee 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 Committee 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 Committee's duty to object to a movement on the ground set out in sub-paragraph (1) (a) is subject to its discretion under paragraph 3 to require the consignor to provide additional information.

5. Cases in which Committee may object to the movement

The Committee 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 the Island is such that its acceptance of the waste might prejudice the ability of the facility to accept and deal with wastes, from locations within the Island, that the Committee considers should have priority of treatment;
- (e) if, in the case of a movement for disposal, the Committee considers that it should object to the movement in order to implement any of the principles of proximity, priority for recovery and self-sufficiency to which Article 4.3 of the European Regulation refers, in accordance with Council Directive 75/442/EEC of 15th July 1975 on waste (O.J. No. L 194 25.7.75), as amended;
- (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 Committee must agree to the movement

- (1) If the Committee does not have an objection under paragraph 4 or paragraph 5 to the movement, the Committee shall agree to the movement.
- (2) If the Committee agrees to the movement, it may do so either unconditionally or on such conditions as it 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 Committee has in writing acknowledged, to the competent authority of the country of dispatch, receipt of the Committee's copy of the consignment note; and
 - (c) the Committee has not, within 30 days after so acknowledging receipt, objected to the movement,the Committee 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 Committee is the appropriate competent authority to issue to the consignor an authorization to proceed, the Committee 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 Committee if it objects to the movement

- (1) This paragraph applies in every case in which the Committee objects under paragraph 4 or paragraph 5 to the movement.
- (2) The Committee 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 Committee 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 Committee 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 Committee 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 a Member State of the European Union and the Committee 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 Committee acknowledges receipt of the consignment note, if the movement is one to which the OECD Amber control procedure applies, the country of dispatch is a Member State of the European Union and the Committee 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 Committee receives the consignment note, in any other case.
- (5) In every case, the notification shall state the Committee's reasons for the objection.

9. Written notification of the Committee'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 Committee agrees unconditionally or conditionally to the movement,the Committee may in writing, within the time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of dispatch that it 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 Committee acknowledges receipt of the consignment note.
- (3) Sub-paragraph (1) is without prejudice to paragraph 7(1) (which relates to cases in which the Committee's agreement may be assumed).

10. Notification of the Committee's agreement to a European Union movement

- (1) If –
 - (a) the movement is not one to which the OECD Amber control movement applies;
 - (b) the country of dispatch is a Member State of the European Union; and
 - (c) the Committee agrees unconditionally or conditionally to the movement,the Committee 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 it 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 Committee receives the consignment note, if the Committee 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 Committee receives the consignment note, if the Committee is the appropriate competent authority to issue to the consignor an authorization to proceed.

11. Notification of the Committee'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 not a Member State of the European Union; and
 - (c) the Committee agrees unconditionally or conditionally to the movement,the Committee 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 it 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 Committee receives the consignment note, if the Committee 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 Committee receives the consignment note, if the Committee is the appropriate competent authority to issue to the consignor an authorization to proceed.

12. Action by the Committee if it is the appropriate authority to issue an authorization to proceed

- (1) This paragraph applies only if the case is one to which the OECD Amber control procedure applies, and if the Committee is the appropriate competent authority to issue to the consignor an authorization to proceed.
- (2) If the Committee does not object to the movement under paragraph 4 or paragraph 5, it shall issue a authorization to proceed if (but only if) –
 - (a) it 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 Committee 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 Committee is satisfied that, as far as it is within the Committee's power to ensure compliance, those conditions have been or will be fulfilled.
- (3) The requirement in sub-paragraph (2) that the Committee 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 Committee shall –
 - (a) issue the authorization to proceed to the consignor; and
 - (b) notify each other competent authority concerned that it has done so,before the expiry of the period of 70 days following the date on which the Committee receives the consignment note.

13. Review of decisions

- (1) The Committee 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 Committee withdraws an objection or condition, it shall in writing notify each person to whom it 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 the Island may commence if (but only if) –
 - (a) the Committee;
 - (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 the Island.
- (2) If the movement is not one to which the OECD Amber control procedure applies, the importing of the waste into the Island may commence if (but only if) –

- (a) the Committee 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 the Island; 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 Committee and that competent authority have agreed that the latter shall issue to the consignor an authorization to proceed;
 - (b) the Committee, if the Committee and that competent authority have agreed that the Committee shall issue to the consignor an authorization to proceed; or
 - (c) the Committee, if the Committee 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 Committee 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 the Island 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 Committee.
- (2) At the time when the waste is imported into the Island –
- (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 the Island or any subsequent carrier within the Island delivers the consignment to any other carrier within the Island 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 Committee;
 - (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 him 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 him 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 him, is unable to dispose of or recover it, he shall immediately inform the Committee in writing.
- (3) If the waste is disposed of or recovered, the consignee shall deliver to the Committee and each other competent authority concerned, within the appropriate time limit in subparagraph (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 the Island,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 him, 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 him, 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 the Island, 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 Committee and each other competent authority concerned as soon as possible but in any case within one year after he has delivered the waste to that operator.

20. Retention of documents

- (1) The consignee, and each carrier by whom the consignment is carried within the Island, 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 – 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 the Island, the consignor or the competent authority of the country of dispatch must have sent to the Committee 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 Committee 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 Committee 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 Committee may require under paragraph 3 have been provided to the Committee.
- (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 Committee.

3. Further information

If at any time the Committee 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 Committee may require the consignor to provide that clarification or information before the Committee proceeds to deal further with the matter.

4. Cases in which Committee must object to the movement

- (1) The Committee 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 Committee is not satisfied that the movement would comply with this Law.
- (2) However, the Committee's duty to object to a movement on the ground set out in sub-paragraph (1) (a) is subject to its discretion under paragraph 3 to require the consignor to provide additional information.

5. Cases in which Committee may object to the movement

The Committee 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 Committee must agree to the movement

- (1) If the Committee does not have an objection under paragraph 4 or paragraph 5 to the movement, the Committee shall agree to the movement.
- (2) If the Committee agrees to the movement, it may do so either unconditionally or on such conditions as it 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 Committee has in writing acknowledged, to the competent authority of the country of dispatch, receipt of the Committee's copy of the consignment note; and
 - (c) the Committee has not, within 30 days after so acknowledging receipt, objected to the movement,the Committee may be taken to agree unconditionally to the movement.
- (2) In any other case in which –
 - (a) the Committee has previously indicated that its consent may be presumed if no objection has been received from it within 60 days after it receives its copy of the consignment note;
 - (b) the Committee has in writing acknowledged receipt of that copy; and

- (c) no such objection has been received from it,
the Committee may be taken to agree unconditionally to the movement.

8. Action by Committee if it objects to the movement

- (1) This paragraph applies in every case in which the Committee objects under paragraph 4 or paragraph 5 to the movement.
- (2) The Committee 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 Committee 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 Committee 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 a Member State of the European Union; and
 - (c) the expiry of the period of 60 days following the date on which the Committee receives the consignment note, in any other case.
- (4) In every case, the notification shall state the Committee's reasons for the objection.

9. Written notification of the Committee'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 Committee agrees unconditionally or conditionally to the movement,the Committee may in writing, within the time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of destination that it 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 Committee's agreement may be assumed).

10. Notification of the Committee's agreement to a European Union movement

- (1) If –
 - (a) the movement is not one to which the OECD Amber control procedure applies;
 - (b) the country of destination is a Member State of the European Union; and
 - (c) the Committee agrees unconditionally or conditionally to the movement,the Committee shall in writing, within the time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of destination that it 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 Committee receives the consignment note.

- (3) Sub-paragraph (1) is without prejudice to paragraph 7 (which relates to cases in which the Committee's agreement may be assumed).

11. Notification of the Committee'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 not a Member State of the European Union; and
 - (c) the Committee agrees unconditionally or conditionally to the movement,the Committee shall in writing, within the time limit in sub-paragraph (2), notify the consignor and the competent authority of the country of destination that it 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 Committee receives the consignment note.
- (3) Sub-paragraph (1) is without prejudice to paragraph 7 (which relates to cases in which the Committee's agreement may be assumed).

12. Review of decisions

- (1) The Committee 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 Committee withdraws an objection or condition, it shall in writing notify each person to whom it 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 the Island if (but only if) –
 - (a) the Committee;
 - (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 the Island if (but only if) –
 - (a) the Committee 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 Committee has agreed to the movement on conditions, the movement in transit through the Island may only proceed in accordance with those conditions.

15. Record of movement in transit

- (1) The movement in transit through the Island 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 Committee.
- (2) At all times when the waste is being moved in transit through the Island –
 - (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 the Island, 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 the Island shall retain his 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 Committee's agreement to the movement of waste in transit through the Island 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 the Island in the course of a return of the consignment to the consignor.
- (2) However, if the Committee 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 Committee 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 him, as if he 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 he 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,he may continue to carry on the business until the application is determined, as if he 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

(Article 112)

OPERATIONS BY ENVIRONMENT AND PUBLIC SERVICES COMMITTEE

1. Interpretation of Schedule

- (1) In this Schedule, references to the Environment and Public Services Committee as the regulator are references to it in its capacity as the Committee responsible for exercising and performing the functions, powers and duties that are for the time being conferred and imposed on the Environment and Public Services Committee 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 Committee 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 Committee is the regulator; and
 - (b) it is also charged with the administration (otherwise than as the regulator) of public services that involve its 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 Committee, but this Schedule shall apply instead.
- (2) If the Committee ceases to be the regulator, this Schedule shall expire.

3. Restrictions on operations by Committee

- (1) The Committee shall not carry on otherwise than as the regulator an activity to which Article 23 applies unless it is acting in accordance with a waste management certificate that is issued by it under this Schedule and is for the time being in effect.
- (2) If the Committee contravenes sub-paragraph (1), it shall be guilty of an offence.
- (3) If the Committee contravenes any condition of a waste management certificate, it shall be guilty of an offence.
- (4) If the Committee commits an offence under sub-paragraph (2) or sub-paragraph (3), it shall be liable to a fine.

4. Consultation and public notice

- (1) Before issuing, varying or revoking a waste management certificate, the Committee shall comply with Articles 16(1) and 17(1) as if its 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

- (1) If the Committee issues a waste management certificate, it shall specify in the certificate –
 - (a) the activity that is to be carried on by it 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) The following are conditions of every waste management certificate –
 - (a) that the Committee shall not carry on the activity to which the certificate relates on any land that it may not lawfully use for that purpose;
 - (b) that, if the States do not own the land, the owner shall have given the Committee a written undertaking (in a form that is and remains legally binding on him and his successors in title) to allow the Committee to carry out such future works on the land as are reasonably necessary for the avoidance of pollution arising from the activity to which the certificate relates or for the protection of the environment; and
 - (c) that if the States do own the land the Committee shall ensure that, before the States dispose of their interest in the land, the Committee obtains from the States' successor in title an undertaking, in the terms described in clause (b), to allow the Committee to carry out the future works to which that clause refers.
- (2) If the Committee issues a waste management certificate, it 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 him.

7. Variation of waste management certificate

Subject to the other provisions of this Schedule, the Committee 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 Committee (being not sooner than 21 days after the Committee complies with paragraph 9 in respect of its decision).
- (2) The Committee shall not –
 - (a) issue a waste management certificate for a term exceeding 10 years from the date of its 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 its decision to vary the certificate,unless there are exceptional circumstances.

9. Revocation of waste management certificate

- (1) The Committee 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 Committee 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 Committee makes any decision under this Schedule in respect of a waste management certificate, it shall serve a written copy of the decision within 14 days on each of the following persons –

- (a) the Health and Social Services Committee and the Employment and Social Security Committee; 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 the Island.

11. Review of Committee's decision

- (1) If the Committee 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 it proposal to do so; and
 - (b) has provided an address for service within the Island,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 Committee's decision (or within such further time as the Royal Court may allow); and
 - (b) on notice to the Committee.
- (3) If the Committee issues, varies or revokes a waste management certificate, the Attorney General may apply to the Royal Court at any time, on notice to the Committee, 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 Committee; 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 Committee under Article 6 shall include proposals for and the issue, variation, suspension and revocation of waste management certificates.

13. General duty of Committee 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 Committee shall for its 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 Committee who carry on activities of that kind.

14. Duties of Committee in respect of its waste-carrying activities

- (1) The Committee shall establish and maintain a record of all motor vehicles that it 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 Committee shall ensure that its employees are suitably trained;
 - (b) it shall ensure that any motor vehicle or other equipment that is used is appropriately designed and maintained;
 - (c) it shall comply with any prescribed conditions in respect of registered waste carriers carrying on an activity of that kind; and
 - (d) it 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 Committee or to deliver any document to it).

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 Committee commits an offence under sub-paragraph (1), it shall be liable to a fine.
- (3) If any person other than the Committee commits an offence under sub-paragraph (1), he shall be liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

16. Transitional arrangements if Committees ceases to be the regulator

Notwithstanding paragraph 2(2), on and after the day on which the Committee 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.

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- [1] *Volume 1961-1962, page 164.*
- [2] *Tome VIII, page 584 and R&O 9294.*
- [3] *Volume 1992-1993, page 437.*
- [4] *Volume 1961-1962, page 395 and Volume 1994-1995, page 69.*
- [5] *Volume 1961-1962, pages 396 and 401, Volume 1963-1965, page 172, Volume 1970-1972, page 179, Volume 1979-1981, page 374 and Volume 1990-1991, page 852.*
- [6] *Volume 1961-1962, pages 397 to 400 and Volume 1994-1995, page 69.*
- [7] *Volume 1961-1962, page 397 and Volume 1979-1981, page 375.*
- [8] *Tome VIII, page 381.*
- [9] *Tome VIII, page 849, Volume 2001, pages 3 and 4 and Volume 2003, page 159.*
- [10] *Tome VII, page 502, Volume 1979-1981, page 195, Volume 1984-1985, page 175, Volume 1990-1991, pages 113 and 855, Volume 1992-1993, page 461, Volume 1996-1997, pages 147 and 667, Volume 1998, page 659 and Volume 2001, page 7.*