

Product Eco-responsibility Bill

Examples of Overseas Legislative Provisions for the Reference of the Bills Committee

(A) Purposes or Objects Clause

- Section 1 of the Waste Reduction and Prevention Act 1990 of Manitoba, Canada (Appendix I)
- Section 10 of the Environment Protection Act 1993 of South Australia, Australia (Appendix II)

(B) Definition / Elaboration of Specific Terms

(a) "**Waste**", "**Waste reduction and prevention**", "**recycle**", "**recycling**", "**disposal**", "**recovery**", "**producer**"

- Section 2 of the Waste Reduction and Prevention Act 1990 of Manitoba, Canada (Appendix I)
- Section 3(1) of the Environment Protection Act 1993 of South Australia, Australia (Appendix II)
- Section 1(2) of the Environment Act 1987 of Manitoba, Canada (Appendix III)
- Sections 4 and 5(1) of the Waste Management Act 1996 of Ireland (Appendix IV)

(b) "**Producer responsibility**", "**Producer responsibility obligation**"

- Section 93 of the Environment Act 1995 of the UK (Appendix V)

Prepared by

Kitty Cheng
Assistant Legal Adviser
Legislative Council Secretariat
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The Waste Reduction and Prevention Act 1990 of Manitoba, Canada

C.C.S.M. c. W40

THE WASTE REDUCTION AND PREVENTION ACT

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Regulations

(Assented to March 15, 1990)

WHEREAS the volume of waste generated in Manitoba is a threat to the environment;

AND WHEREAS action is required to reduce and prevent waste;

AND WHEREAS governments, government agencies and all members of society are responsible for reducing and preventing waste;

AND WHEREAS that responsibility includes contributing toward the cost of waste reduction and prevention;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Purpose

1(1) The purpose of this Act is to reduce and prevent the production and disposal of waste in the province consistent with the principles of sustainable development and to this end

(a) to encourage consumers, manufacturers, distributors, retailers, governments, government agencies and other persons to develop and adopt practices and programs for the reduction and prevention of waste;

(b) to enhance public awareness of the detrimental effect of waste on the environment and the natural resources of the province; and

(c) to ensure the use of resources and the environment today meet the needs of the present without compromising the ability of future generations to meet their own needs.

Principles of sustainable development

1(2) For the purpose of subsection (1) the principles of sustainable development include the following:

(a) that government, manufacturers, distributors and retailers acknowledge their stewardship for wastes generated;

(b) that sustaining a healthy environment and sound economy requires all Manitobans to acknowledge responsibility for both the environment and the economy, by reducing and preventing the production and disposal of waste;

(c) that waste minimization through reducing and recycling, including reuse and recovery, be encouraged and promoted;

(d) that scientific research and technological innovations respecting waste reduction and prevention be encouraged with a view to preventing and reducing adverse impact on the environment and economy;

(e) that decisions respecting waste management be made with due regard for their impact on the environment, including human health, and that waste management programs and initiatives be instituted with due regard for their economic impact;

(f) that waste management policies, programs and decisions anticipate, prevent or mitigate adverse environmental and economic impacts;

(g) that government, manufacturers, distributors and retailers assist in the maintenance of ecological processes and the biological diversity of the province, ensure that the management of renewable resources is based on a sustained yield and make decisions that reflect wise and efficient use of renewable and non-renewable resources;

(h) that all Manitobans have a role in enhancing the long term productive capability, quality and capacity of our natural ecosystems;

(i) that policies, programs and decisions take into account the need to rehabilitate any part of the environment that is damaged or degraded as a result of waste disposal and management;

(j) that the ecological interdependence of the provinces and territories of Canada and of the nations of the world be recognized.

S.M. 1994, c. 22, s. 2.

Definitions

2 In this Act,

"additional WRAP levy" means an additional levy for waste reduction and prevention as provided in the regulations; (« cotisation RVPD supplémentaire »)

"designated material" means a designated material within the meaning of the regulations; (« matériau désigné »)

"environment officer" means a person appointed as an environment officer under subsection 7(2); (« agent de l'environnement »)

"industry operated WRAP fund" means a waste reduction and prevention fund within the meaning of the regulations; (« fonds RVPD géré par une industrie »)

"minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act; (« ministre »)

"recycle" means to do anything, including reuse or recover, that results in providing a use for a thing that otherwise would be disposed of or dealt with as waste, including collecting, transporting, handling, storing, sorting, separating, and processing the thing, but does not include the disposal of waste in land, the use of a thermal destruction process or any other activity prescribed by regulation; (« recyclage »)

"retailer" means a retailer within the meaning of the regulations; (« détaillant »)

"waste" means waste within the meaning of *The Environment Act*; (« déchets »)

"waste reduction and prevention" includes recycling; (« réduction du volume et de la production des déchets »)

"WRAP levy" means a levy for waste reduction and prevention as provided in the regulations. (« cotisation RVPD »)

S.M. 1994, c. 22, s. 3.

Powers of minister

- 3 To carry out the purpose of this Act, the minister may
- (a) consult with manufacturers, distributors, retailers, consumers, governments, government agencies and other persons and make recommendations with respect to improving waste reduction and prevention programs and practices;
 - (b) encourage manufacturers, distributors, retailers, consumers, governments, government agencies and other persons to implement programs and practices to reduce and prevent waste;
 - (c) monitor the waste reduction and prevention programs and practices of manufacturers, distributors, retailers, consumers, governments and government agencies;
 - (d) undertake, or by means of grants or other assistance, support and encourage programs or research in the field of waste reduction and prevention;
 - (e) cause the preparation and publication of educational materials pertaining to waste reduction and prevention;
 - (f) enter into any agreements respecting waste reduction and prevention that the minister considers advisable; and
 - (g) generally, do any acts the minister considers necessary to carry out the purpose of this Act.

S.M. 1994, c. 22, s. 4.

WRAP Strategy Report by minister

- 4 The minister shall cause to be prepared within six months from the date of the coming into force of this section and annually thereafter, a "Waste Reduction and Prevention Strategy Report" which includes the following information:
- (a) a statement of specific goals relating to waste reduction and prevention;
 - (b) a plan setting out the means of achieving these goals; and
 - (c) a report on waste reduction and prevention activities in the province.

Tabling of report

- 5 The minister shall lay the report referred to in section 4 before the Legislative Assembly immediately if the Legislative Assembly is in session, or, if the Legislative Assembly is not in session, the minister shall
- (a) without delay, provide a copy of the report to each member of the Legislative Assembly;
 - (b) make copies of the report available to the public; and
 - (c) lay the report before the Legislative Assembly within 15 days of the beginning of the next ensuing session.

Advisory committee

- 6(1) The minister shall establish an advisory committee for the purpose of providing advice and assistance in carrying out the purpose of this Act.

The Environment Protection Act 1993 of South Australia, Australia10.12.2007—Environment Protection Act 1993
Preliminary—Part 1

The Parliament of South Australia enacts as follows:

Part 1—Preliminary**1—Short title**

This Act may be cited as the *Environment Protection Act 1993*.

3—Interpretation

(1) In this Act, unless the contrary intention appears—

activity includes the storage or possession of a pollutant;

administering agency—see Division 1A of Part 3;

air includes any layer of the atmosphere;

amenity value of an area includes any quality or condition of the area that conduces to its enjoyment;

appointed member, in relation to the Board, means a member appointed by the Governor;

associate—see subsection (2);

authorised officer means a person appointed to be an authorised officer under Division 1 of Part 10;

the Authority means the Environment Protection Authority established under Division 1 of Part 3;

background concentrations, in relation to chemical substances on a site or below its surface, means results obtained from carrying out assessments of the presence of the substances in the vicinity of the site in accordance with guidelines from time to time issued by the Authority;

beverage container approval means an approval for the purposes of Division 2 of Part 8;

Board means the Board of the Environment Protection Authority established as the governing body of the Authority under Division 1 of Part 3;

business includes a business not carried on for profit or gain and any activity undertaken by government or a public authority;

chemical substance means any organic or inorganic substance, whether a solid, liquid or gas (or combination thereof), and includes waste;

Chief Executive of the Authority means the person for the time being holding or acting in the office of Chief Executive of the Authority under Division 1 of Part 3;

clean-up authorisation means a clean-up authorisation issued under Division 4 of Part 10;

clean-up order means a clean-up order issued under Division 4 of Part 10;

coastal waters of the State means any part of the sea that is from time to time included in the coastal waters of the State by virtue of the *Coastal Waters (State Powers) Act 1980* of the Commonwealth;

condition includes a limitation;

contravene includes fail to comply with;

council means a council within the meaning of the *Local Government Act 1999*;

director of a body corporate includes a person occupying or acting in the position of a director or member of the governing body of the body corporate, by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position, and includes any person in accordance with whose directions or instructions the directors or members of the governing body are accustomed to act;

document means a paper or record of any kind, including a disk, tape or other article from which information is capable of being reproduced (with or without the aid of another article or device);

domestic activity means an activity other than an activity undertaken in the course of a business;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

environment means land, air, water, organisms and ecosystems, and includes—

- (a) human-made or modified structures or areas; and
- (b) the amenity values of an area;

environmental authorisation means a works approval, licence or exemption;

environmental harm—see section 5;

environmental nuisance means—

- (a) any adverse effect on an amenity value of an area that—
 - (i) is caused by pollution; and
 - (ii) unreasonably interferes with or is likely to interfere unreasonably with the enjoyment of the area by persons occupying a place within, or lawfully resorting to, the area; or
- (b) any unsightly or offensive condition caused by pollution;

environment performance agreement means an environment performance agreement entered into under Part 7;

environment protection order means an environment protection order issued under Division 2 of Part 10;

environment protection policy means an environment protection policy made under Part 5;

the Environment, Resources and Development Court means the Court of that name established under the *Environment, Resources and Development Court Act 1993*;

exemption means an exemption under Part 6 from the application of a specified provision of this Act;

the general environmental duty means the duty under Part 4;

information discovery order means an information discovery order issued under Division 3 of Part 10;

site contamination consultant means a person other than a site contamination auditor who, for fee or reward, assesses the existence or nature or extent of site contamination;

spouse—a person is the spouse of another if they are legally married;

undertake an activity includes commence or proceed with an activity or cause, suffer or permit an activity to be commenced or to proceed;

vehicle includes any vessel or aircraft;

waste means—

- (a) any discarded, rejected, abandoned, unwanted or surplus matter, whether or not intended for sale or for recycling, reprocessing, recovery or purification by a separate operation from that which produced the matter; or
- (b) anything declared by regulation (after consultation under section 5A) or by an environment protection policy to be waste,

whether of value or not;

water means—

- (a) water occurring naturally above or under the ground; or
- (b) water introduced to an aquifer or other area under the ground; or
- (c) an artificially created body of water or stream that is for public use or enjoyment;

works approval means a works approval under Part 6 to carry out works in respect of a building, structure, plant or equipment for use for a prescribed activity of environmental significance.

- (2) For the purposes of this Act, a person is an *associate* of another if—
 - (a) they are partners; or
 - (b) one is a spouse, domestic partner, parent or child of another; or
 - (c) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust; or
 - (d) one is a body corporate or other entity (whether inside or outside Australia) and the other is a director or member of the governing body of the body corporate or other entity; or
 - (e) one is a body corporate or other entity (whether inside or outside Australia) and the other is a person who has a legal or equitable interest in five per cent or more of the share capital of the body corporate or other entity; or
 - (f) they are related bodies corporate; or
 - (g) a relationship of a prescribed kind exists between them; or
 - (h) a chain of relationships can be traced between them under any one or more of the above paragraphs.
- (3) For the purposes of subsection (2), a *beneficiary* of a trust includes an object of a discretionary trust.

Part 2—Objects of Act

10—Objects of Act

- (1) The objects of this Act are—
- (a) to promote the following principles (*principles of ecologically sustainable development*):
 - (i) that the use, development and protection of the environment should be managed in a way, and at a rate, that will enable people and communities to provide for their economic, social and physical well-being and for their health and safety while—
 - (A) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
 - (B) safeguarding the life-supporting capacity of air, water, land and ecosystems; and
 - (C) avoiding, remedying or mitigating any adverse effects of activities on the environment;
 - (ii) that proper weight should be given to both long and short term economic, environmental, social and equity considerations in deciding all matters relating to environmental protection, restoration and enhancement; and
 - (b) to ensure that all reasonable and practicable measures are taken to protect, restore and enhance the quality of the environment having regard to the principles of ecologically sustainable development, and—
 - (i) to prevent, reduce, minimise and, where practicable, eliminate harm to the environment—
 - (A) by programmes to encourage and assist action by industry, public authorities and the community aimed at pollution prevention, clean production and technologies, reduction, re-use and recycling of material and natural resources, and waste minimisation; and
 - (B) by regulating, in an integrated, systematic and cost-effective manner—
 - activities, products, substances and services that, through pollution or production of waste, cause environmental harm; and
 - the generation, storage, transportation, treatment and disposal of waste; and
 - (ii) to co-ordinate activities, policies and programmes necessary to prevent, reduce, minimise or eliminate environmental harm and ensure effective environmental protection, restoration and enhancement; and

- (iii) to facilitate the adoption and implementation of environment protection measures agreed on by the State under intergovernmental arrangements for greater uniformity and effectiveness in environment protection; and
 - (iv) to apply a precautionary approach to the assessment of risk of environmental harm and ensure that all aspects of environmental quality affected by pollution and waste (including ecosystem sustainability and valued environmental attributes) are considered in decisions relating to the environment; and
 - (v) to require persons engaged in polluting activities to progressively make environmental improvements (including reduction of pollution and waste at source) as such improvements become practicable through technological and economic developments; and
 - (vi) to allocate the costs of environment protection and restoration equitably and in a manner that encourages responsible use of, and reduced harm to, the environment with polluters bearing an appropriate share of the costs that arise from their activities, products, substances and services; and
 - (vii) to provide for monitoring and reporting on environmental quality on a regular basis to ensure compliance with statutory requirements and the maintenance of a record of trends in environmental quality; and
 - (viii) to provide for reporting on the state of the environment on a periodic basis; and
 - (ix) to promote—
 - (A) industry and community education and involvement in decisions about the protection, restoration and enhancement of the environment; and
 - (B) disclosure of, and public access to, information about significant environmental incidents and hazards.
- (2) The Minister, the Authority and all other administering agencies and persons involved in the administration of this Act must have regard to, and seek to further, the objects of this Act.

10A—Objects of *River Murray Act 2003*

The Minister, the Authority and all other bodies and persons involved in the administration of this Act must, if or when taking any action under this Act within, or in relation to, any part of the Murray-Darling Basin within the meaning of the *Murray-Darling Basin Act 1993*, take into account, and seek to further—

- (a) the objects of the *River Murray Act 2003*; and
- (b) the *Objectives for a Healthy River Murray* under that Act, (insofar as they may be relevant).

Appendix IIIThe Environment Act 1987 of Manitoba, Canada

C.C.S.M. c. E125

The Environment Act

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Regulations

(Assented to July 17, 1987)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Intent and purposes

1(1) The intent of this Act is to develop and maintain an environmental management system in Manitoba which will ensure that the environment is maintained in such a manner as to sustain a high quality of life, including social and economic development, recreation and leisure for this and future generations, and in this regard, this Act

(a) is complementary to, and support for, existing and future provincial planning and policy mechanisms;

(b) provides for the environmental assessment of projects which are likely to have significant effects on the environment;

(c) provides for the recognition and utilization of existing effective review processes that adequately address environmental issues; and

(d) provides for public consultation in environmental decision making while recognizing the responsibility of elected government including municipal governments as decision makers.

Definitions

1(2) In this Act,

"**abatement project**" means a project for the abatement of an undesirable environmental condition affecting premises by

(a) the removal and relocation of the development causing the condition; or

(b) the removal and relocation of the premises affected by the condition; (« opération de dépollution »)

"**air**" means the atmosphere, but does not include the atmosphere within a mine or within a building other than any building designated by the minister; (« air »)

"**alter**" means to change a development or a proposal or to close, shut down or terminate a development where the alteration causes or is likely to cause a significant change in the effects of the development on the environment; (« changer »)

"**analyst**" means a government employee so appointed by the minister; (« analyste »)

"**assessment**" means an evaluation of a proposal to ensure that appropriate environmental management practices are incorporated into all components of the life cycle of a development; (« évaluation »)

"**class 1 development**" means any development that is consistent with the examples or the criteria or both set out in the regulations for class 1 developments, and the effects of which are primarily the discharge of pollutants; (« exploitation de catégorie 1 »)

"**class 2 development**" means any development that is consistent with the examples or the criteria or both set out in the regulations for class 2 developments and the effects of which are primarily unrelated to pollution or are in addition to pollution; (« exploitation de catégorie 2 »)

"**class 3 development**" means any development that is consistent with the examples or the criteria or both set out in the regulations for class 3 developments and the effects of which are of such a magnitude or which generate such a number of environment issues that it is as an exceptional project; (« exploitation de catégorie 3 »)

"**commission**" means the Clean Environment Commission established under this Act; (« Commission »)

"**corporation**" means a body corporate heretofore or hereafter incorporated and carrying on business or operating within Manitoba; (« corporation »)

"**department**" means the department of government over which the minister presides and through which this Act is administered; (« ministère »)

"**development**" means any project, industry, operation or activity, or any alteration or expansion of any project, industry, operation or activity which causes or is likely to cause

- (a) the emission or discharge of any pollutant into the environment, or
- (b) an effect on any unique, rare, or endangered feature of the environment, or
- (c) the creation of by-products, residual or waste products not regulated by *The Dangerous Goods Handling and Transportation Act*, or
- (d) a substantial utilization or alteration of any natural resource in such a way as to preempt or interfere with the use or potential use of that resource for any other purpose, or
- (e) a substantial utilization or alteration of any natural resource in such a way as to have an adverse impact on another resource, or
- (f) the utilization of a technology that is concerned with resource utilization and that may induce environmental damage, or
- (g) a significant effect on the environment or will likely lead to a further development which is likely to have a significant effect on the environment, or
- (h) a significant effect on the social, economic, environmental health and cultural conditions that influence the lives of people or a community in so far as they are caused by environmental effects; (« exploitation »)

"director" means except where the context otherwise requires, an employee of the department appointed as such by the minister; (« directeur »)

"documents" means data and information, whether maintained and stored as printed material or in computer files or discs; (« documents »)

"environment" means

- (a) air, land, and water, or
- (b) plant and animal life, including humans; (« environnement »)

"environment officer" means a person or a member of a class of persons appointed under subsection 3(2); (« agent de l'environnement »)

"environmental health" means those aspects of human health that are or can be affected by pollutants or changes in the environment; (« salubrité de l'environnement »)

"Interdepartmental Planning Board" means the board appointed pursuant to *The Planning Act*; (« Conseil interministériel d'aménagement »)

"land" includes soil, earth and terrain; (« bien-fonds »)

"medical officer of health" means a person so appointed pursuant to *The Public Health Act*; (« médecin hygiéniste »)

"minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act; (« ministre »)

"municipality" means any locality, the inhabitants of which are incorporated and continued under the authority of *The Municipal Act*, *The Local Governments District Act* or any other Act of the Legislature and includes the City of Winnipeg, a rural municipality, an incorporated city, town or village, and a local government district; (« municipalité »)

"pollutant" means any solid, liquid, gas, smoke, waste, odour, heat, sound, vibration, radiation, or a combination of any of them that is foreign to or in excess of the natural constituents of the environment, and

- (a) affects the natural, physical, chemical, or biological quality of the environment, or
- (b) is or is likely to be injurious to the health or safety of persons, or injurious or damaging to property or to plant or animal life, or
- (c) interferes with or is likely to interfere with the comfort, well being, livelihood or enjoyment of life by a person; (« pollutant »)

"proponent" means a person who is undertaking, or proposes to undertake a development, or who has been designated by a person or group of persons to undertake a development in Manitoba on behalf of that person or group of persons; (« promoteur »)

"proprietary information" means information or data provided to the department on a confidential basis, the criteria for which is outlined in the regulations or any Act of the Legislature, or is negotiated between the department and the provider of the information; (« renseignements privés »)

"public registry" means a file of information as established under this Act and accessible to the public; (« registre public »)

"waste" includes rubbish, litter, junk, or junked obsolete or derelict motor vehicles, or obsolete or derelict equipment, appliances or machinery; slimes, tailings, fumes, waste of domestic, municipal, mining, factory or industrial origin; effluent or sewage; human or animal wastes; solid or liquid manure; or waste products of any kind whatsoever or the run-off from such wastes; (« déchets »)

"water" includes flowing or standing water on or below the surface of the earth, and ice formed

The Waste Management Act 1996 of Ireland

(b) sewage and sewage effluent (other than sludge from a facility for the treatment of sewage);

(c) the treatment of effluent or the discharge thereof to waters, other than the treatment of effluent at, or its discharge from, a facility for the holding, recovery or disposal of waste;

(d) the dumping of waste at sea; or

(e) a radioactive substance within the meaning of the Radiological Protection Act, 1991 (including a radioactive waste product).

(2) "Dumping" in *paragraph (d)* of subsection (1) has the meaning assigned to it by the Dumping at Sea Act, 1981.

Definitions of
"waste",
"hazardous
waste",
"disposal",
"recovery".

4.—(1) (a) In this Act, "waste" means any substance or object belonging to a category of waste specified in the *First Schedule* or for the time being included in the European Waste Catalogue which the holder discards or intends or is required to discard, and anything which is discarded or otherwise dealt with as if it were waste shall be presumed to be waste until the contrary is proved.

(b) A reference in this Act to waste shall be construed as including a reference to hazardous waste unless the contrary intention appears.

(2) (a) In this Act, "hazardous waste" means—

(i) hazardous waste for the time being mentioned in the list prepared pursuant to Article 1 (4) of Council Directive 91/689/EEC of 12 December, 1991 ¹, being either—

(I) Category I waste that has any of the properties specified in *Part III* of the *Second Schedule*, or

(II) Category II waste that—

(A) contains any of the constituents specified in *Part II* of the *Second Schedule*, and

(B) has any of the properties specified in *Part III* of the said *Schedule*,

(ii) such other waste, having any of the properties specified in *Part III* of the *Second Schedule*, as may be prescribed for the purposes of this definition.

(b) For the purposes of the definition in this subsection—

"Category I waste" means waste specified in any of the following paragraphs of *Part I* of the *Second Schedule*,

namely *paragraphs 1 to 18*;

"Category II waste" means waste specified in any of the following paragraphs of the said *Part I*, namely *paragraphs 19 to 40*.

(3) In this Act, "disposal", in relation to waste, includes any of the activities specified in the *Third Schedule*, and "waste disposal activity" shall be construed accordingly.

(4) In this Act, "recovery", in relation to waste, means any activity carried on for the purposes of reclaiming, recycling or re-using, in whole or in part, the waste and any activities related to such reclamation, recycling or re-use, including any of the activities specified in the *Fourth Schedule*, and "waste recovery activity" shall be construed accordingly.

(5) The Minister may make regulations varying the *First Schedule* or the *Second Schedule* by adding or deleting anything to or from either of the said Schedules.

Interpretation
generally.

5.—(1) In this Act, save where the context otherwise requires—"the Act of 1963" means the Local Government (Planning and Development) Act, 1963 ;

"the Act of 1987" means the Air Pollution Act, 1987 ;

"the Act of 1992" means the Environmental Protection Agency Act, 1992 ;

"aftercare" means, in relation to a facility which has been used for the purpose of waste recovery or disposal, any measures that are necessary to be taken in relation to the facility for the purpose of preventing environmental pollution following the cessation of the activity in question at the facility;

"the Agency" means the Environmental Protection Agency established under section 19 of the Act of 1992;

"any Minister of the Government concerned" means any Minister of the Government (other than the Minister) who, having regard to the functions vested in him or her, in the opinion of the Minister might be concerned with or interested in the matter in question;

"authorised person" means a person who is appointed in writing by the Minister, a local authority, the Agency or such other person as may be prescribed to be an authorised person for the purposes of this Act or any Part or section thereof;

"authorised waste collector" means a holder of a waste collection permit that is in force;

"broker" means, in relation to waste, any person who on behalf of or as a service to any other person buys, sells or arranges for the purchase, sale or transfer from one person to another of waste or for the collection, recovery or disposal of waste;

"collection" means, in relation to waste, the gathering, sorting or mixing of waste for the purpose of its being transported, and includes the

transport of waste and the acceptance of control of waste;

"commercial waste" means waste from premises used wholly or mainly for the purposes of a trade or business or for the purposes of sport, recreation, education or entertainment but does not include household, agricultural or industrial waste;

"Community act" means an act adopted by an institution of the European Communities;

"contravention" includes, in relation to any provision, a failure or refusal to comply with that provision, and "contravene" shall be construed accordingly;

"dealer" means, in relation to waste, any person who buys or sells waste on his or her own behalf or arranges on behalf of or as a service to any other person for the purchase, sale or transfer from one person to another of waste or for the collection, recovery or disposal of waste;

"emission" has the meaning assigned to it by the Act of 1992;

"emission into the atmosphere" means the emission of a pollutant, within the meaning of the Act of 1987, into the atmosphere;

"environmental impact statement" means a statement prepared under and in accordance with a requirement of, or made pursuant to, regulations under section 25 (as amended by the European Communities (Environmental Impact Assessment) Regulations, 1989 and 1994) of the Act of 1963 or regulations under *section 45*, of the effects, if any, which proposed development, if carried out, would have on the environment;

"environmental medium" has the meaning assigned to it by the Act of 1992;

"environmental pollution" means, in relation to waste, the holding, transport, recovery or disposal of waste in a manner which would, to a significant extent, endanger human health or harm the environment, and in particular—

(a) create a risk to waters, the atmosphere, land, soil, plants or animals,

(b) create a nuisance through noise, odours or litter, or

(c) adversely affect the countryside or places of special interest;

"established activity" means—

(a) in relation to an activity the carrying on of which requires a waste licence, an activity—

(i) in respect of which a permission under Part IV of the Act of 1963 is granted before the date prescribed under *section 39 (1)* in respect of that activity ("the relevant date") and which permission on that date has not ceased to have effect in accordance with the provisions of sections 2 and 4 of the Local Government (Planning and Development) Act, 1982,

or

(ii) which is, immediately before the relevant date, being carried on or was, at any time during the period of 12 months ending on the said date, carried on, other than an activity which involves or is associated with an unauthorised structure or an unauthorised use within the meaning of the Act of 1963, and

(b) in any other case, an activity which was being lawfully carried on immediately before the commencement of the provision concerned of this Act that requires the use of the best available technology not entailing excessive costs;

"European Communities" has the meaning assigned to it by the European Communities Act, 1972 ;

"European Waste Catalogue" means the list of waste set out in Commission Decision 94/3/EC of 20 December, 1993 ¹, (made pursuant to Article 1 (a) of Council Directive 75/442/EEC ² on waste) and includes such list as amended from time to time;

"facility" means, in relation to the recovery or disposal of waste, any site or premises used for such purpose;

"functions" includes powers and duties and references to the performance of functions include, as respects powers and duties, references to the exercise of the powers and the carrying out of the duties;

"holder" means, in relation to waste, the owner, person in charge, or any other person having, for the time being, possession or control, of the waste;

"household waste" means waste produced within the curtilage of a building or self-contained part of a building used for the purposes of living accommodation;

"industrial waste" includes waste produced or arising from manufacturing or industrial activities or processes;

"land" includes any subsoil thereunder and structure thereon and land covered with water (whether inland or coastal);

"landfill" means a waste disposal facility used for the deposit of waste onto or under land;

"leachate" means any liquid percolating through deposited waste and emitted from or contained within a landfill;

"local authority" means—

(a) in the case of a county borough, the corporation of the county borough, and

(b) in the case of any other administrative county, the council of the county,

and references to the functional area of a local authority shall be construed accordingly;

"the Minister" means the Minister for the Environment;

"monitoring" includes the inspection, measurement, sampling or analysis, whether periodically or continuously, for the purpose of this Act, of waste, a premises at which waste is produced, or a facility at which waste is held, recovered or disposed of, and of any emissions therefrom, or any environmental medium which is affected by or which, in the opinion of the local authority concerned or the Agency may be affected by, such emissions;

"municipal waste" means household waste as well as commercial and other waste which, because of its nature or composition, is similar to household waste;

"occupier" includes, in relation to any premises, the owner, a lessee, any person entitled to occupy the premises and any other person having, for the time being, control of the premises;

"packaging" means any material, container or wrapping, used for or in connection with the containment, transport, handling, protection, promotion, marketing or sale of any product or substance, including such packaging as may be prescribed;

"person in charge" includes, in relation to any premises, the occupier of the premises or a manager, supervisor or operator of an activity relating to the holding, disposal or recovery of waste which is carried on at the premises;

"planning authority" has the meaning assigned to it by the Act of 1963;

"plant" includes any equipment, appliance, apparatus, machinery, vehicle, skip, works, building or other structure used for the purposes of, or the provision of which is incidental to, the holding, disposal or recovery of waste;

"the polluter pays principle" means the principle set out in Council Recommendation 75/436/Euratom, ECSC, EEC of 3 March, 1975¹ regarding cost allocation and action by public authorities on environmental matters;

"premises" includes any messuage, building, vessel, structure or land (whether or not there are structures on the land and whether or not the land is covered with water), and any plant or vehicles on such land, or any hereditament of any tenure, together with any out-buildings and curtilage;

"prescribed" means prescribed by regulations made by the Minister under this Act;

"producer" means, in relation to waste, any person whose activities produce waste or who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of waste;

"product" includes any naturally occurring or manufactured thing;

"public authority" means—

(a) a Minister of the Government,

(b) the Commissioners of Public Works in Ireland,

(c) a local authority for the purposes of the Local Government Act, 1941 ,

(d) a harbour authority within the meaning of the Harbours Act, 1946 ,

(e) a health board established under the Health Act, 1970 ,

(f) a board or other body established by or under statute,

(g) a company in which all the shares are held by, or on behalf of, or by directors appointed by, a Minister of the Government, or

(h) a company in which all the shares are held by a board, company, or other body referred to in *paragraph (f)* or *(g)* of this definition;

"recycling" means, in relation to waste, the subjection of waste to any process or treatment to make it re-usable in whole or in part;

"reserved function" means—

(a) in relation to the council of a county, a reserved function for the purposes of the County Management Acts, 1940 to 1994,

(b) in relation to the corporation of a county borough, a reserved function for the purposes of the Acts relating to the management of the county borough;

"service station" means any installation where fuel is capable of being dispensed to motor vehicle fuel tanks from stationary storage tanks;

"sewage" and "sewage effluent" have the meanings assigned to them by the Local Government (Water Pollution) Act, 1977 ;

"scheduled activity" means any process, development or operation for the time being specified in the First Schedule to the Act of 1992;

"structure" means any building, erection, structure, excavation, or other thing, constructed, erected, or made on, in or under land, or any part of a structure so defined, and, where the context so admits, includes the land on, in, or under which the structure is situate;

"temporary storage of waste" shall be construed in accordance with *subsection (3)*;

"transport" includes, in relation to waste, the movement of waste by road, rail, air, sea or inland waterway but does not include the movement of waste from one place to another—

(a) by means of any pipe or similar apparatus which joins those

two places, or

(*b*) on and within the site at which the waste is held for the time being;

"treatment" includes, in relation to waste, any thermal, physical, chemical or biological processes that change the characteristics of waste in order to reduce its volume or hazardous nature or facilitate its handling, disposal or recovery;

"vehicle" includes—

(*a*) part of a vehicle,

(*b*) an article designed as a vehicle but not capable of functioning as a vehicle,

(*c*) a skip designed or used for carriage on a vehicle,

(*d*) a load on a vehicle;

"waste collection permit" has the meaning assigned to it by *section 34*;

"waste licence" shall be construed in accordance with *section 37*;

"waters" has the meaning assigned to it by the Local Government (Water Pollution) Act, 1977 .

(2) (*a*) A reference in this Act to the use of the best available technology not entailing excessive costs to prevent or eliminate, or where that is not practicable, to limit, abate or reduce an emission from an activity, shall be construed as a reference to the provision and proper maintenance, use, operation and supervision of facilities which, having regard to all the circumstances, are the most suitable for the purposes.

(*b*) For the purposes of this subsection, regard shall be had to—

(i) in the case of an activity other than an established activity—

(I) the current state of technical knowledge,

(II) the requirements of environmental protection, and

(III) the application of measures for these purposes, which do not entail excessive costs, having regard to the risk of environmental pollution that, in the opinion of the Agency, or the local authority concerned, exists;

(ii) in any other case, in addition to the matters aforesaid—

(6) A vehicle to which *subsection (5)* applies shall be given to a person claiming the vehicle if, but only if, he or she makes a declaration in such form as may be specified by the local authority concerned or in a form to the like effect, stating that he or she is the owner of the vehicle or is authorised by its owner to claim it, and pays to the local authority the amount of the expenditure reasonably incurred by the local authority in respect of the removal and storage of the vehicle.

(7) Where a vehicle is removed from land by a local authority under *subsection (4)*, and—

(a) *subsection (5) (a)* does not apply in respect of the vehicle, or

(b) the name and address of the owner of the vehicle cannot be ascertained by the local authority by reasonable inquiry, or

(c) the said owner fails to claim the vehicle and remove it from the place where it is stored within 4 weeks of the date on which a notice under *subsection (5)* has been served on him or her,

the vehicle shall become the property of the local authority.

(8) No action shall lie in respect of anything done in good faith and without negligence in the course of the removal or storage of a vehicle under this section.

(9) A person who makes a declaration under *subsection (6)* which to his or her knowledge is false or misleading in a material respect shall be guilty of an offence.

(10) For the purposes of this section—

"abandoned", in relation to a vehicle, includes left in such circumstances or for such period that it is reasonable to assume that the vehicle has been abandoned, and cognate words shall be construed accordingly;

"local authority" includes the corporation of a borough of any kind and the council of an urban district;

"registered owner" has the meaning assigned to it by the Road Traffic Act, 1961.

FIRST SCHEDULE

CATEGORIES OF WASTE

1. Production or consumption residues not otherwise specified in this Schedule.
2. Products which have not been manufactured in accordance with the specifications relating to them.
3. Products whose date for appropriate use has expired.

4. Materials spilled, lost or which have undergone any other mishap (including any materials contaminated as a result of any such mishap).
5. Materials contaminated or soiled as a result of planned actions.
6. Unusable parts.
7. Substances which no longer perform satisfactorily.
8. Residues of industrial processes.
9. Residues from pollution abatement processes.
10. Machining or finishing residues.
11. Residues from the extraction and processing of raw materials.
12. Adulterated materials.
13. Any materials, substances or products whose use is prohibited by or under any enactment.
14. Products for which the holder has no further use.
15. Contaminated materials, substances or products resulting from any remedial action taken with respect to land.
16. Any materials, substances or products which are not otherwise specified in this Schedule.

SECOND SCHEDULE

HAZARDOUS WASTE

PART I

Categories or Generic Types of Hazardous Waste

Category I Waste

1. Anatomical substances, hospital or other clinical waste.
2. Pharmaceutical, medicinal or veterinary compounds.
3. Wood preservatives.
4. Biocides or phyto-pharmaceutical substances.
5. Residue from substances employed as solvents.
6. Halogenated organic substances not employed as solvents, excluding inert polymerized materials.

(b) substances or preparations capable by any means, after being disposed of, of yielding another substance which possesses any property referred to in this or any other paragraph of this Part.

THIRD SCHEDULE

WASTE DISPOSAL ACTIVITIES

1. Deposit on, in or under land.
2. Land treatment, including biodegradation of liquid or sludge discards in soils.
3. Deep injection of the soil, including injection of pumpable discards into wells, salt domes or naturally occurring repositories.
4. Surface impoundment, including placement of liquid or sludge discards into pits, ponds or lagoons.
5. Specially engineered landfill, including placement into lined discrete cells which are capped and isolated from one another and the environment.
6. Biological treatment not referred to elsewhere in this Schedule which results in final compounds or mixtures which are disposed of by means of any activity referred to in this Schedule.
7. Physico-chemical treatment not referred to elsewhere in this Schedule which results in final compounds or mixtures which are disposed of by means of any activity referred to in this Schedule.
8. Incineration on land or at sea.
9. Permanent storage, including emplacement of containers in a mine.
10. Release of waste into a water body (including a seabed insertion).
11. Blending or mixture prior to submission to any activity referred to in this Schedule.
12. Repackaging prior to submission to any activity referred to in this Schedule.
13. Storage prior to submission to any activity referred to in this Schedule, other than temporary storage, pending collection, on the premises where the waste concerned is produced.

Section 4 (4).

FOURTH SCHEDULE

WASTE RECOVERY ACTIVITIES

1. Solvent reclamation or regeneration.
2. Recycling or reclamation of organic substances which are not used as solvents.
3. Recycling or reclamation of metals and metal compounds.
4. Recycling or reclamation of other inorganic materials.
5. Regeneration of acids or bases.
6. Recovery of components used for pollution abatement.
7. Recovery of components from catalysts.
8. Oil re-refining or other re-uses of oil.
9. Use of any waste principally as a fuel or other means to generate energy.
10. Spreading of any waste on land with a consequential benefit for an agricultural activity or ecological system, including composting and other biological transformation processes.
11. Use of waste obtained from any activity referred to in a preceding paragraph of this Schedule.
12. Exchange of waste for submission to any activity referred to in a preceding paragraph of this Schedule.
13. Storage of waste intended for submission to any activity referred to in a preceding paragraph of this Schedule, other than temporary storage, pending collection, on the premises where such waste is produced.

Section 6.

FIFTH SCHEDULE

REPEALS AND REVOCATIONS

PART I

Enactments Repealed

Session and Chapter or Number and Year	Short Title	Extent of Repeal
(1)	(2)	(3)
41 and 42 Vict., c.52	Public Health (Ireland) Act, 1878	Sections 28, 35, 36, 37, 37A, 52, 53, 54, 55, 60

The Environment Act 1995 of the UK

- (b) make its findings available to those authorities.
- (8) In this section—
 "planning authority" means an authority within the meaning of section 172 of the [1973 c. 65.] Local Government (Scotland) Act 1973;
 "strategy" includes the strategy as modified from time to time and "statement" shall be construed accordingly.
- (9) This section makes provision for the purpose of implementing Article 7 of the [91/692/EEC.] directive of the Council of the European Communities dated 15th July 1975 on waste, as amended by—
 (a) the [91/156/EEC.] directive of that Council dated 18th March 1991 amending directive 75/442/EEC on waste; and
 (b) the [75/442/EEC.] directive of that Council dated 23rd December 1991 standardising and rationalising reports on the implementation of certain Directives relating to the environment."
- (2) After Schedule 2 to that Act there shall be inserted the Schedule set out in Schedule 12 to this Act.

93 Producer responsibility: general

- (1) For the purpose of promoting or securing an increase in the re-use, recovery or recycling of products or materials, the Secretary of State may by regulations make provision for imposing producer responsibility obligations on such persons, and in respect of such products or materials, as may be prescribed.
- (2) The power of the Secretary of State to make regulations shall be exercisable only after consultation with bodies or persons appearing to him to be representative of bodies or persons whose interests are, or are likely to be, substantially affected by the regulations which he proposes to make.
- (3) Except in the case of regulations for the implementation of—
 (a) any obligations of the United Kingdom under the Community Treaties, or
 (b) any international agreement to which the United Kingdom is for the time being a party,
 the power to make regulations shall be exercisable only where the Secretary of State, after such consultation as is required by subsection (2) above, is satisfied as to the matters specified in subsection (6) below.
- (4) The powers conferred by subsection (1) above shall also be exercisable, in a case falling within paragraph (a) or (b) of subsection (3) above, for the purpose of sustaining at least a minimum level of (rather than promoting or securing an increase in) re-use, recovery or recycling of products or materials.
- (5) In making regulations by virtue of paragraph (a) or (b) of subsection (3) above, the Secretary of State shall have regard to the matters specified in subsection (6) below; and in its application in relation to the power conferred by virtue of subsection (4) above, subsection (6) below shall have effect as if—
 (a) any reference to an increase in the re-use, recovery or recycling of products or materials were a reference to the sustaining of at least a minimum level of re-use, recovery or recycling of the products or materials in question, and
 (b) any reference to the production of environmental or economic benefits included a reference to the sustaining of at least a minimum level of any such existing benefits,
 and any reference in this section or section 94 below to securing or achieving any such benefits shall accordingly include a reference to sustaining at least a minimum level of any such existing benefits.
- (6) The matters mentioned in subsections (3) and (5) above are—
 (a) that the proposed exercise of the power would be likely to result in an increase in the re-use, recovery or recycling of the products or materials in question;
 (b) that any such increase would produce environmental or economic benefits;
 (c) that those benefits are significant as against the likely costs resulting from the imposition of the proposed producer responsibility obligation;
 (d) that the burdens imposed on businesses by the regulations are the minimum necessary to secure those benefits; and

- (e) that those burdens are imposed on persons most able to make a contribution to the achievement of the relevant targets—
- (i) having regard to the desirability of acting fairly between persons who manufacture, process, distribute or supply products or materials; and
 - (ii) taking account of the need to ensure that the proposed producer responsibility obligation is so framed as to be effective in achieving the purposes for which it is to be imposed;

but nothing in sub-paragraph (i) of paragraph (e) above shall be taken to prevent regulations imposing a producer responsibility obligation on any class or description of person to the exclusion of any others.

- (7) The Secretary of State shall have a duty to exercise the power to make regulations in the manner which he considers best calculated to secure that the exercise does not have the effect of restricting, distorting or preventing competition or, if it is likely to have any such effect, that the effect is no greater than is necessary for achieving the environmental or economic benefits mentioned in subsection (6) above.

- (8) In this section—

"prescribed" means prescribed in regulations;

"product" and "material" include a reference to any product or material (as the case may be) at a time when it becomes, or has become, waste;

"producer responsibility obligation" means the steps which are required to be taken by relevant persons of the classes or descriptions to which the regulations in question apply in order to secure attainment of the targets specified or described in the regulations;

"recovery", in relation to products or materials, includes—

- (a) composting, or any other form of transformation by biological processes, of products or materials; or
- (b) the obtaining, by any means, of energy from products or materials;

"regulations" means regulations under this section;

"relevant persons", in the case of any regulations or any producer responsibility obligation, means persons of the class or description to which the producer responsibility obligation imposed by the regulations applies;

"relevant targets" means the targets specified or described in the regulations imposing the producer responsibility obligation in question;

and regulations may prescribe, in relation to prescribed products or materials, activities, or the activities, which are to be regarded for the purposes of this section and sections 94 and 95 below or any regulations as re-use, recovery or recycling of those products or materials.

- (9) The power to make regulations shall be exercisable by statutory instrument.
- (10) Subject to the following provisions of this section, a statutory instrument containing regulations shall not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (11) Subsection (10) above shall not apply to a statutory instrument by reason only that it contains regulations varying any relevant targets.
- (12) A statutory instrument which, by virtue of subsection (11) above, is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament shall be subject to annulment in pursuance of a resolution of either House of Parliament.

94 **Producer responsibility: supplementary provisions**

- (1) Without prejudice to the generality of section 93 above, regulations may, in particular, make provision for or with respect to—
- (a) the classes or descriptions of person to whom the producer responsibility obligation imposed by the regulations applies;
 - (b) the classes or descriptions of products or materials in respect of which the obligation applies;
 - (c) the targets which are to be achieved with respect to the proportion (whether by weight, volume or otherwise) of the products or materials in question which are to be re-used, recovered or recycled, whether generally or in any prescribed way;