Comhshaol, Oidhreacht agus Rialtas Áitiúil
Environment, Heritage and Local Government

Waste Management (Batteries and Accumulators) Regulations 2008 (S.I. No. 268 of 2008)

Screening Regulatory Impact Analysis (RIA)

Department of the Environment, Heritage and Local Government

July 2008

1. Background and Policy Objective

1.1 European Parliament and Council Directive 2006/66/EC[1] on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EC[2], which is being fully transposed by these regulations, is aimed primarily at tackling this problematic waste stream by minimising negative impacts on the environment.

1.2 It is the latest of a suite of successfully implemented Directives aimed at the electrical and electronic equipment (EEE) sector. This includes restricting specified hazardous substances in EEE (RoHS), the environmentally sound management of waste electrical and electronic equipment (WEEE) and the framework for establishing eco-design requirements for energy using products (EuP).

It follows other Directives dealing with individual waste streams, such as packaging waste, and end-of-like vehicles, which have already been transposed into Irish law and implemented and which introduced producer responsibility obligations based on the *polluter pays* principle.

Taken with the continued implementation of the WEEE and RoHS Directives, transposition of the new Batteries Directive will complete a comprehensive corpus of EU and national legislation for the EEE sector. The Directive will facilitate the effective environmental management of waste batteries and waste rechargeable batteries, otherwise known as accumulators.

2. Environmental Concerns

2.1 The environmental concerns related to batteries and accumulators are linked to the hazardous substances they contain. This is particularly the case for mercury, lead and cadmium.

2.2 Commission Decision 2000/532/EC, establishing a European list of wastes, distinguishes between non-hazardous and hazardous batteries. Waste batteries containing lead, cadmium or mercury classified as hazardous. Non-hazardous waste batteries mixed with hazardous batteries are also classed as hazardous. Furthermore, separately collected electrolyte from batteries and accumulators is also classified as hazardous.

Mercury is known for a variety of documented, significant adverse impacts on human health and the environment. Mercury and its compounds are highly toxic, especially to the developing central nervous system. Despite the restriction of the use of mercury in batteries and accumulators[3], it has been reported that batteries and accumulators containing mercury produced before this restriction are still on the market and that a minority of batteries produced

[1] O.J. No. L266, 26.9.2006, p.1 as amended by corrigendum (O.J. No L311, 10.11.2006, p. 58).
[2] O.J. No. L78, 26.3.1991, p. 38 as amended by Commission Directive 98/101/EC (O.J. No L1, 5.1.1999, p.1).
[3] Established by Directive 98/101/EC, amending Directive 91/157/EEC, O.J. L 1/1 of 5.1.1999.

by factories in South-East Asia and imported into the EU still contain certain amounts of mercury [4].

Cadmium is a known toxic and carcinogenic substance. Cadmium also bio-accumulates. The principal route which humans are exposed is through the food chain (agricultural crops where cadmium is present in the soil). Batteries have the highest concentration of cadmium compared to the other typical metal concentration of Municipal Solid Waste constituents. Portable nickel cadmium (NiCd) batteries and accumulators are reported to contain on average 13% of cadmium by weight and industrial NiCd batteries and accumulators 8% by weight.

Lead, above certain concentrations, is toxic to humans. Continued or acute overexposure to lead can cause severe and cumulative health problems. Lead can have adverse effects on the ecosystem, including interference with growth and productivity of marine life, and toxicity of fish. The main concern in regard to the presence of lead in landfills is the potential for the lead to leach and contaminate drinking water supplies. Lead-acid batteries and accumulators are the largest users of global lead production, accounting for 73% of total production in 1997.

Other metals used in batteries, such as zinc, copper, manganese, lithium and nickel may also pose an environmental risk when they accumulate in the environment after disposal operations.

2.3 The main disposal route for spent portable batteries is landfilling. It is estimated that 75% of the disposed spent batteries in the EU are landfilled. The main environmental concerns associated with the landfilling of batteries are related to the generation and eventual discharges of leachate into the environment.

2.4 In the absence of efficient and effective collection and recycling systems are not in place, an increasing amount of batteries risk ending up in landfills thus increasing the environmental and health risks connected with heavy metals used in batteries. This trend is not sustainable and needs to be reversed.

3. Scope

3.1 The Directive applies to all types of batteries and accumulators, regardless of their shape, volume, weight, material composition or use including those incorporated into electrical and electronic equipment (EEE) and vehicles with the exception of batteries and accumulators connected with the protection of Member States' essential security interests, arms, munitions and war material,

3.2 The Directive and the transposing Regulations define a –

[4] Commission Staff Working Paper, Directive of the European Parliament and of the Council on Batteries and Accumulators and Spent Batteries and Accumulators, *EXTENDED IMPACT ASSESSMENT* {COM(2003)723 final}

'battery' or 'accumulator' as "*any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (nonrechargeable) or consisting of one or more secondary battery cells (rechargeable)*".

"producer" is defined as "*any person in a Member State that, irrespective of the selling technique used, including by means of distance communication as defined in Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts, places batteries or accumulators, including those incorporated into appliances or vehicles, on the market for the first time within the territory of a Member State on a professional basis*".

3.3 Any further reference to battery in this document shall be construed as being a reference to battery and/or accumulator including those incorporated into EEE and battery packs.

4. Measures

4.1 The Directive sets out specific measures that must be put in place by Member States in relation to the collection, treatment, and recycling of waste batteries. Failure to implement any of these measures will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines. Details of these specific measures and their transposition are set out in **Annex A**.

4.2 The Directive sets out additional measures that may be put in place by Member States in relation to the collection, treatment, and recycling of waste batteries. They need not, however, be transposed as they are enabling provisions. Details of these additional measures and the question of their transposition are set out in **Annex B**.

4.3 The Directive also contains a number of *Single Market* provisions concerning the prohibition of hazardous substances, placing on the market and capacity labelling. These must be implemented as they are *Single Market* provisions. Details of these provisions and the question of their transposition are set out in **Annex C**.

5. Environmental Benefit

5.1 Prohibition of certain hazardous substances in batteries.

5.1.1 From 26 September 2008 onwards –

- batteries and/or accumulators that contain more than 0.0005% of mercury by weight,
- portable batteries and/or accumulators that contain more than 0.002% of cadmium by weight,

subject to certain exemptions, will be prohibited from being placed on the market of the European Community (e.g. manufactured, imported from a third country etc.).

5.1.2 The Environmental Protection Agency (EPA) will be empowered to order the withdrawal and recall of non-compliant batteries from the market and seek an injunction against a person failing to comply with a direction to withdraw or recall non-compliant batteries, in lieu of instigating summary proceedings. An appeals mechanism will, however, be available to effected producers.

5.2 Diversion of waste batteries from landfill

5.2.1 In order to calculate waste arisings, all battery producers, through their representative associations were requested to provide data on the quantities of batteries placed on the market in the State. The quantities reported as being placed on the market are as follows –

Placed on the Market in Ireland (including Incorporated in Other products)	
Type	**Weight (Tonnes)**
Portable Batteries and Button Cells excluding NiCd	684.8
Portable NiCd Batteries	3.8
Lead Acid Automotive and Industrial	8,410.2
Total	**9,098.8**

Some producers failed to submit information citing reasons of commercial confidentiality. Therefore quantities, particularly of portable batteries, placed on the market are understated.

5.2.2 A Department of Environment, Food, and Rural Affairs (DEFRA) commissioned report into a life-cycle assessment for separately collecting and recycling portable batteries in the UK according to the requirements of the new Batteries Directive estimated 24,850 tonnes of portable batteries were placed on the UK market in 2003[1]. The population in the UK in 2003 was 59.554 million. In Ireland the population in 2003 was 3.979 million. Due to similarities in the Irish and UK markets extrapolation is a reasonable method of calculating the quantities of batteries placed on the market. Such an extrapolation would suggest 1,660 tonnes of portable batteries were placed on the Irish market in 2003.

5.2.3 Producers of portable batteries are required to achieve collection rates of 25% by 26 September 2012 and 45% by 26 September 2016.

Based on the limited information provided by producers regarding quantities placed on the market and the achievement of these mandatory targets and incremental progress leading up to and following the achievement of those

[1] Defra, Battery Waste Management Life Cycle Assessment, Final Report for Publication, 18 October 2006, Prepared by: Karen Fisher, Erika Wallén, Pieter Paul Laenen and Michael Collins, Environmental Resources Management (ERM)

targets quantities of portable batteries diverted from landfill would be as follows –

12 Months Ending 25 September	**Collection Rate**	**Tonnes Diverted from Landfill**
2009	10%	69
2010	15%	103
2011	20%	138
2012	25%	172
2013	30%	207
2014	35%	241
2015	40%	275
2016	45%	310
2017	50%	344
2018	55%	379
Total 10 Years		**2,238**

Based on an estimate extrapolated from the aforementioned DEFRA report and the achievement of these mandatory targets and incremental progress leading up to and following the achievement of those targets quantities of portable batteries diverted from landfill would be as follows –

12 Months Ending 25 September	**Collection Rate**	**Tonnes Diverted from Landfill**
2009	10%	166
2010	15%	249
2011	20%	332
2012	25%	415
2013	30%	498
2014	35%	581
2015	40%	664
2016	45%	747
2017	50%	830
2018	55%	913
Total 10 Years		**5,396**

5.2.3 The achievement of targets would have a positive effect in diverting large quantities of portable batteries from landfill and will fulfil the environmental objectives set out in this important Directive.

5.2.4 There is an implied target of 100% for waste lead acid batteries and with the high positive value likely to continue well into the future there should be no significant issue as regards this waste ending up in landfill.

5.2.5 Details of the proposed waste management system are set out in **Annex D**.

6. Costs

6.1 Cost to Businesses

6.1.1 It is estimated that producer costs for the environmentally sound management of waste portable batteries and button cells following the achievement of mandatory targets and incremental progress leading up to and following the achievement of those targets will range from €3.8 million to €9.2 million over a 10 year period, ranging from €118,000 to €294,000 in the first year and €648,000 to €1.6 million in the tenth year of operation, details of which are set out in **Annex E**.

6.1.2 Waste lead acid batteries (e.g. automotive and industrial) have a positive value at present.

7.2 Cost to Local Authorities

7.2.1 Local authorities have indicated that that costs associated with managing waste batteries deposited at civic amenity facilities is minimal. From data submitted, and extrapolating it by head of population, it is estimated that these costs currently amount to €140,000, ranging from €950 to €16,700. It is not envisaged that these costs will increase as retail outlets will be more convenient for members of the public depositing waste batteries at collection points.

7.2.2 As nearly all portable batteries that are exported for treatment / recycling are managed by local authorities, they will have savings of approximately €160,000 per annum as they will no longer have to procure the collection and recycling services.

7.2.3 On the other hand, local authorities will have costs enforcing the Regulations. Any additional costs, given synergies with the existing WEEE system, should be minimal.

8. Minimisation of Impact on Businesses

8.1 Batteries are not manufactured in Ireland.

8.2 In order to minimise the impact implementation of the Directive will have on businesses, the Regulations specifically provide for –

- an exemption for retailers from having to have a valid waste collection permit and valid waste permit,
- permitting EEE and battery retailers to use composite point of sale / display signage.
- producers having the option to establish and maintain their own registration system, and
- the removal of the burden for individual compliance by permitting producers to participate in collective compliance schemes.

9. Competition

9.1 The Regulations implement the Directive in a balanced manner. They apply equally to all producers placing batteries on the market in Ireland and all retailers distributing them.

9.2 The prohibition on un-registered producers placing batteries on the market will enhance competition. Non-compliant producers placing goods on the market have lower costs compared to those fulfilling their producer obligations.

Furthermore, experience of implementing the WEEE Directive has proven that the prohibition on retailers on selling batteries placed on the market by an un-registered producer and the requirement on retailers that do so to take on producer obligations will act as an incentive on producers intending to 'free ride' to become fully compliant.

10. Consultation

10.1 A working group, including representatives of the battery industry, retailers, manufacturers, IBEC, SIMI, the waste management sector, local authorities, the EPA was established in July 2006.

10.2 The work of this group led into the development of the Regulations. A public consultation was undertaken. Submissions received in the public consultation fed into the final regulations.

10.3 All representative bodies on the working group are content with the Regulations.

11. Effects on Society

11.1 The right to free take of waste batteries will apply equally to people living in urban and rural communities. When operational, the waste battery recovery scheme will provide a network of authorised collection facilities spread throughout the country, thereby providing local access to waste battery take back arrangements.

11.2 The proposed free take-back of waste batteries will facilitate persons on low income in disposing of this waste stream.

12. Synergies with the WEEE Recycling Scheme

12.1 In order to maximise synergies between the Waste Battery and WEEE Recycling Schemes, it is also proposed to amend the –

- Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) or WEEE Regulations, and
- Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 341 of 2005) or RoHS Regulations.

Theses are for the most part technical amendments to facilitate smoother implementation of the WEEE Recycling System.

12.2 The proposed amendments to the WEEE Regulations (S.I. No. 340 of 2005) will –

- provide clarification –
  - of the record keeping obligations of producers who are in membership of an approved body established in accordance with the provisions of Part IV of S.I. No. 340 of 2005,
  - of the reporting obligations of such an approved body,
  - that distributors may only source electrical and electronic equipment from producers with a valid "Certificate of Registration", and
  - of the powers of enforcement authorities,
- prohibit –
  - producers from displaying "registration numbers" that are no longer valid, and
  - distributors from requiring consumer to sign document stating that an item of waste electrical and electronic equipment (WEEE) is not available for collection,
- provide for the –
  - organisers of trade shows and exhibitions to ensure that exhibitors fulfil their producer and distributor obligations, and
  - identification of producer throughout the business to business supply chain,
- require distributors –
  - to take back spare parts of electrical and electronic equipment, and
  - of business to business (B2B) electrical and electronic equipment to provide information to B2B customers.
- simplify –
  - the provisions for displaying environmental management costs, and
  - point of sale signage,
- enable –
  - alternative systems for the registration of distributors,
  - adoption of technical changes to Annexes II and III, concerning the treatment and storage of WEEE, of European Parliament and Council Directive 2002/96/EC on waste electrical and electronic equipment as amended by European Parliament and Council Directive 2003/108/EC of 8 December 2003 amending Directive 2002/96/EC on waste electrical and electronic equipment without the need for amending Regulations.
- place obligations on undertakings managing WEEE outside of the systems approved bodies established in accordance with the provisions of Part IV of S.I. No. 340 of 2005 or self complying producers to account for its treatment and the achievement of material and component recovery targets,
- confirm the principal of individual producer responsibility, and
- facilitate reuse.

12.3 The proposed amendment to the RoHS Regulations (S.I. No. 341 of 2005) will clarify that producers must have access in the State to any records that certify that electrical and electronic equipment which or she has placed on the market is in compliance with the Regulations.

Annex A

SPECIFIC MEASURES TO BE PUT IN PLACE IN RELATION TO THE COLLECTION, TREATMENT, AND RECYCLING OF WASTE BATTERIES

A.1 Each Member State, which has manufacturers established on its territory, is required to promote –

- research and encourage improvements in the overall environmental performance of batteries throughout their entire life cycle;
- the marketing of batteries which contain smaller quantities of dangerous substances or which contain less polluting substances, in particular as substitutes for mercury, cadmium and lead.

Options

Do nothing	Failure to implement any of these requirements will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provisions	Each producer in the State engaged in the manufacture of batteries shall be required to consider the – ▪ promotion of research and encourage improvements in the overall environmental performance of batteries throughout their entire life cycle, and ▪ development and marketing of batteries which contain smaller quantities of dangerous substances or which contain less polluting substances, in particular as substitutes for mercury, cadmium and lead. Furthermore any undertaking supported by public funds that assists or intends to assist a manufacturer of batteries shall consult with the Minister concerning the manufacture's proposals in respect of the above.

A.2 Each Member State is required to –

- prohibit the disposal in landfills or by incineration of waste industrial and automotive batteries,
- maximise the separate collection of waste batteries, and
- minimise the disposal of batteries as mixed municipal waste

in order to achieve a high level of recycling for all waste batteries and accumulators.

Options

Do nothing	Failure to implement any of these requirements will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provisions	Batteries, other than residues left following treatment, will be prohibited from landfill and incineration.

A.3 Each Member State must ensure that appropriate collection schemes are in place for waste portable batteries including –

- the provision of accessible collection points, and
- the availability of one-for-zero (.i.e. no purchase necessary) take back at retail outlets.

Options

Do nothing	Failure to implement any of these requirements will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provisions	Retails outlets and local authority civic amenity facilities will be obliged to take back waste batteries free of charge. Members of the public will not be obliged to purchase any product when depositing waste batteries at a retail outlet. These premises will be designated as collection points. Schools and workplaces, subject to the agreement of the management of schools and workplaces concerned. may also be designated as collection points.

A.4 Each Member State must ensure that collection points for waste portable batteries shall not be subject to the registration or permit requirements of Directive 2006/12/EC or Council Directive 91/689/EEC of 12 December 1991 on hazardous waste.

Option

Do nothing	Failure to implement this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provision	Collection points (e.g. retail outlets, workplaces, schools etc.) catering for portable batteries and accumulators will be exempt from having to register with local authorities in lieu of possessing a waste permit.

A.5 Each Member State must ensure that producers of industrial batteries do not refuse to take back waste industrial batteries from end-users, regardless of chemical composition and origin.

Option

Do nothing	Failure to implement this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provision	Producers of industrial batteries will be prohibited from refusing to take back waste industrial batteries from end-users, regardless of chemical composition and origin

A.6 Each Member State must –

- monitor collection rates and submit annual reports to the European Commission a report on –
  - on the levels of recycling achieved in each calendar year and whether the prescribed treatment efficiencies have been met.
  - the implementation of this Directive every three years.
  - any measures that they take to encourage developments affecting the impact of batteries and accumulators on the environment.
- calculate the collection rate for waste portable batteries & accumulators for the first time by 2011.

Options

Do nothing	Failure to comply with these requirements will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Implement Provisions	While transposition is not required, the Regulations, however, require producers to provide details of batteries placed and the market to the 'Registration Body' and waste batteries collected when submitting waste management reports.

A.7 Each Member State must ensure the achievement of minimum collection rates of –

- 25% by 26 September 2012, and
- 45% by 26 September 2016

in respect of waste portable batteries & accumulators

UOptions

Do nothing	Failure to comply with this requirement will result in Ireland being in breech of the Directive, leaving Ireland

open to infringement proceedings with a risk of penalties and/or fines.

Implement Provisions: In order to ensure that Ireland meets its prescribed minimum collection rates the Regulations require producers to achieve collection rates in respect of all waste portable batteries of

- 25% by 26 September 2012, and
- 45% by 26 September 2016,

based on quantities placed on the market.

A.8 Each Member State must ensure that manufacturers design appliances in such a way that waste batteries can be readily removed.

Option

Do nothing: Failure to implement any of this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.

Transpose Provision: Each person in the State engaged in the manufacture of appliances containing batteries shall be required to design the appliances concerned in such a way that waste batteries can be readily removed

A.9 Appliances into which batteries and accumulators are incorporated must be accompanied by instructions showing how they can be removed safely and, where appropriate, informing the end-user of the type of the incorporated batteries and accumulators.

Option

Do nothing: Failure to implement any of this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.

Transpose Provision: Each producer that supplies an appliance with a battery incorporated into it must inform the end user –

- of the type of any battery that is incorporated, and
- how to safely remove a battery from the appliance concerned

A.10 Each Member State must ensure that producers establish systems to ensure recycling operation use best available techniques and meet minimum treatment standards.

Option

Do nothing	Failure to implement any of this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provision	Each producer and/or collective scheme shall ensure that treatment shall, as a minimum, meets the requirements set out in Part A of Annex III of the Directive,

A.11 Where batteries are collected together with WEEE, batteries must be removed from the collected WEEE concerned

Option

Do nothing	Failure to implement any of this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provision	The transposing regulations require that any battery that is collected with WEEE in accordance with the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) must be removed from the WEEE concerned prior to its environmentally sound management

A.12 Recycling processes will be obligated achieve minimum recycling efficiencies and meet prescribed treatment standards

Options

Do nothing	Failure to implement any of these requirements will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provisions	Producers, collective schemes, business end users who avail of alternative financial arrangements and waste collectors who collect industrial batteries independently of a producer or a collective scheme will be obliged to ensure that minimum recycling efficiencies and prescribed treatment standards are met.

A.13 Each Member State must encourage –

- the development of new recycling and treatment technologies, and promote research into environmentally friendly and cost-effective recycling methods.
- treatment facilities to introduce certified environmental management schemes.

Options

Do nothing — Failure to implement any of these requirements will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.

Transpose Provisions — Each facility in the State engaged in the recycling of waste batteries shall be required to consider the –

- development new recycling and treatment technologies,
- promotion of research into environmentally friendly and cost effective recycling methods for all types of batteries, and
- introduction of certified environmental management schemes.

Furthermore the EPA and/or any local authority shall be required to encourage an applicant, seeking a permit or a licence or the renewal of a permit or a licence to operate a facility for the recycling of waste batteries, to submit proposals in respect of the above.

A.14 Treatment and recycling may be undertaken outside the Member State concerned or outside the Community, but must comply with Transfrontier Shipment (TFS) Regulations and be treated in accordance with prescribed standards.

Options

Do nothing — Failure to implement any of these requirements will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.

Transpose Provisions — The transposing regulations require that any waste batteries exported from Ireland must be transported in accordance the TFS Regulations and must be treated in accordance with the standards prescribed in the Directive.

A.15 Each Member State must ensure that producers finance any net costs arising from –

- the collection, treatment and recycling of –
  - waste portable batteries,
  - waste industrial, and
  - and waste automotive batteries.

- public information campaigns on the collection, treatment and recycling of all waste portable batteries.

Options

Do nothing — Failure to implement any of these requirements will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.

Transpose Provisions — Producers –

- will be obligated to finance any net costs relating to –
  - the collection, storage, treatment and recovery and/or disposal of waste batteries deposited at collection points and civic amenity facilities,
  - the collection from endusers and environmentally sound management of waste industrial batteries, and
- any public information campaign on the collection, storage, treatment and recycling and/or disposal of portable batteries.

A.16 Each Member State must ensure that producers do not pay multiple costs on account of batteries placed on the market passing through a supply chain in two or more member states

Option

Do nothing — Failure to implement any of this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.

Transpose Provisions — Producers shall not have an obligation in the State to finance the environmentally sound management of waste batteries that arise and are collected under any scheme set up in accordance with the Directive or the WEEE Directive in another member state.

A.17 The costs of collection, treatment and recycling of waste batteries shall not be shown separately to end-users at the time of sale of new portable batteries and accumulators.

Option

Do nothing — Failure to implement any of this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.

Transpose Provisions The display of costs in respect of the collection, treatment and recycling of waste batteries is prohibited in the transposing regulations.

A.18 Each Member State must ensure that each producer is registered.

Option

Do nothing Failure to implement any of these requirements will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.

Transpose Provision The Regulations empower the Minister to perform, or approve any person, association or corporate body to perform, some or all of the registration functions. This will enable producers to establish and maintain a registration system similar or complementary to the national WEEE Register.

All producers will be obligated to register.

In order to inhibit 'free riders' from distorting the market and gain an unfair competitive advantage over compliant producers –

- any producer who fails to register will be prohibited from placing batteries on the market,
- transport companies conveying batteries on behalf of a producer will be obliged to ensure that the producer concerned is registered,
- organisers of trade shows / exhibitions will be required to ensure that exhibitors placing batteries on the market fulfil their producer and retailer obligations, and
- retailers will be prohibited from selling batteries placed on the market by an un-registered producer.

A.19 Each Member State must ensure that members of the public are made aware of –

- the potential effects on the environment and human health of the substances used in batteries.
- the desirability of not disposing of waste batteries as unsorted municipal waste and of participating in their separate collection so as to facilitate treatment and recycling.
- the collection and recycling schemes available to them.
- their role in contributing to the recycling of waste batteries.
- the meaning of the symbol of the crossed-out wheeled bin and the chemical symbols Hg, Cd and Pb.

Options

Do nothing — Failure to implement any of these requirements will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.

Transpose Provisions — Producers must make members of the public aware of –

- the potential effects on the environment and human health of the substances used in batteries and accumulators,
- the desirability of not disposing of waste batteries and accumulators as unsorted municipal waste and of participating in their separate collection so as to facilitate treatment and recycling,
- their role in contributing to the recycling of waste batteries and accumulators,
- the meaning of the symbol of the crossed-out wheeled bin shown in Annex II and the chemical symbols Hg, Cd and Pb,
- how to safely remove a battery and/or accumulator from EEE where a battery and/or accumulator is incorporated into the appliance concerned, and
- the type of any battery and/or accumulator that is incorporated into an appliance.

Retailers must make members of the public aware–

- of the return and collection systems available to them, and
- batteries are taken back free of charge through the display of a prescribed notice.

A.20 Each Member State must lay down rules on penalties applicable to infringements of national provisions.

Option

Do nothing — Failure to implement any of this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.

Transpose Provision — A person guilty of an offence under the Regulations shall be liable –

- on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 12 months, or to both such fine and such imprisonment, or

- on conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 3 years, or to both such fine and such imprisonment.

A.21 Each Member State must transpose and implement the Directive by 26 September 2008.

Option

Do nothing	Failure to implement any of this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provision	The regulations be made in the first half of 2008 in order to give stakeholders an adequate lead in time to set up take back and reporting systems to ensure full implementation of the Directive on 26 September 2008 when the Regulations come into effect.

Annex B

ADDITIONAL MEASURES THAT MAY BE PUT IN PLACE IN RELATION TO THE COLLECTION, TREATMENT, AND RECYCLING OF WASTE BATTERIES

B.1 Member states are empowered to require producers to set up collection schemes.

Option

Do nothing	This in an enabling provision. Therefore there is no obligation to transpose. Not providing for this provision could result in Ireland failing to fulfil its obligations to achieve prescribed collection targets and therefore being in breech of the Directive.
Transpose Provision	Producers have individual obligations under the Directive. These individual obligations have been inserted into the transposing Regulations. These include setting up collection systems. Notwithstanding this, producers have the option of participating in a collective compliance scheme. Any producers participating in an approved collective scheme will be exempt from some of the individual obligations.

B.2 Member states may permit collection schemes for the management of waste batteries to be run in conjunction with schemes for the management of WEEE.

Option

Do nothing	This in an enabling provision. Therefore there is no obligation to transpose. Not providing for this provision could result in economic operators enduring un-necessary administrative and financial burdens.
Transpose Provision	Provision has been made in the transposing regulations that would permit the WEEE Register to act as the "Registration Body" for battery producers. Collective compliance schemes approved to manage WEEE can apply to be approved as collective schemes for the purposes of managing waste batteries. Retailers who distribute batteries together with electrical and electronic equipment may display composite in-store signage.

B.3 Member states are empowered to require economic operators other than producers (e.g. any retailer, collector, recycler or other treatment operator) to participate in collection schemes.

Option

Do nothing	This in an enabling provision. Therefore there is no obligation to transpose. Not providing for this provision will have no impact on the efficiency of collection schemes.
Transpose Provision	There is no need to transpose as experience from implementation of the WEEE Directive have demonstrated that there is no need for economic operators other than producers to participate in a collection scheme. Furthermore, retailers have not sought the establishment of a such a scheme. Notwithstanding this, retailers, waste collectors and treatment facilities will be part of the battery collection system.

B.4 Member states may maintain existing schemes.

Option

Do nothing	This in an enabling provision. Therefore there is no obligation to transpose. Not providing for this provision will have no impact.
Transpose Provision	There is no need to transpose as Ireland does not have a collection scheme for managing waste batteries at present.

B.5 Member states may permit independent third parties to collect industrial batteries.

Option

Do nothing	This in an enabling provision. Therefore there is no obligation to transpose. Not providing for this provision could distort the current market in the collection of waste batteries.
Transpose Provision	Provision has been made to enable independent third parties collect industrial batteries. They must, however, account for all waste industrial batteries collected and ensure and demonstrate that they also achieve the recycling efficiencies prescribed for producers.

B.6 Member States may use economic instruments to promote the collection of waste batteries or to promote the use of batteries containing less polluting substances, for instance by adopting differential tax rates, provided such measures are notified to the EU Commission.

Option

Do nothing	This in an enabling provision. Therefore there is no obligation to transpose. Not providing for this provision will have no impact on the promotion of collection systems and the use of batteries containing less polluting substances as the transposing regulations place this obligations on producers.
Transpose Provision	Any legislation relating to differential tax rates is a matter for the Minister for Finance. Furthermore financing the promotion of the collection of waste batteries and the use of batteries less containing polluting substances is a producer responsibility.

B.7 Member States may, in accordance with the Treaty, dispose of collected portable batteries or accumulators containing cadmium, mercury or lead in landfills or underground storage when no viable end market is available.

Option

Do nothing	This in an enabling provision. Therefore there is no obligation to transpose. Providing for this provision would inhibit the diversion of waste batteries from landfill.
Transpose Provision	Transposition in this instance would run counter to the fundamental objectives of the Directive. Furthermore, stakeholder interests in Ireland have not advocated it.

B.8 Member States may dispose of collected portable batteries or accumulators containing cadmium, mercury or lead in landfills or underground storage as part of a strategy to phase out heavy metals which, on the basis of a detailed assessment of the environmental, economic, and social impacts, shows that this disposal option should be preferred over recycling provided such an assessment is published and is notified to the EU Commission.

Option

Do nothing	This in an enabling provision. Therefore there is no obligation to transpose. Providing for this provision would inhibit the diversion of waste batteries from landfill.

Transpose Provision	Transposition in this instance would run counter to the objectives of the Directive. Furthermore, it has not been advocated.

B.9 Member states may introduce de-minimus provisions provided that it does not impede the proper functioning of the battery collection and recycling scheme, that it does not constitute a means of arbitrary discrimination or a disguised restriction on trade between member states, that draft measures are published and notified to the EU Commission and subject to the approval of the EU Commission.

Option

Do nothing	This in an enabling provision. Therefore there is no obligation to transpose. Providing for this provision could inhibit the achievement of collection targets and the diversion of waste batteries from landfill.
Transpose Provision	Will not be transposed as those advocating the introduction of de-minimus provisions have provided no data to indicate that they would not impede the proper functioning of the battery collection and recycling scheme.

B.10 Producers and users of industrial and automotive batteries and accumulators may conclude agreements stipulating financing arrangements

Option

Do nothing	This in an enabling provision. Therefore there is no obligation to transpose. Not providing for this provision may impact on current commercial arrangement and on business end users with certifiable waste management systems (e.g. ISO 14001) who wish to maintain full control of their waste arisings.
Transpose Provision	The regulations provide for alternative financial arrangements. Business endusers must, however, be notified and agree to the waste management obligations they are taking on (e.g. account for arisings of waste batteries and ensure and demonstrate that they also achieve the recycling efficiencies prescribed for producers).

Annex C

SINGLE MARKET PROVISIONS RELATING TO THE PLACING OF BATTERIES ON THE MARKET

C.1 Each Member State is required to prohibit –

- batteries and/or accumulators that contain more than 0.0005% of mercury by weight,
- portable batteries and/or accumulators that contain more than 0.002% of cadmium by weight,

from being placed on the market of the European Community (e.g. manufactured, imported from a third country etc.) from 26 September 2008 onwards.

The –

- mercury prohibition prescribed in Article 5 shall not apply in respect of button cells with a mercury content of no more than 2% by weight,
- cadmium prohibition prescribed in Article 5 shall not apply in respect of portable batteries and/or accumulators intended for use in –
  - emergency and alarm systems, including emergency lighting,
  - medical equipment, or
  - cordless power tools.

Options

Do nothing	Failure to implement any of these requirements will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provisions	Such batteries, unless exempted, will be prohibited from being placed on the market 26 September 2008 onwards.

C.2 Each Member State is prohibited from impeding, prohibiting, or restricting the placing of batteries on the market in their territory that meet the requirements of the Directive.

Option

Do nothing	Failure to implement any of these requirements will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provision	There will be no prohibition on the placing of any battery that is placed on the market by a producer who is in compliance with the Directive.

C.3 Each Member State is required to take the necessary measures to ensure that batteries or accumulators that do not meet the requirements of the Directive are not placed on the market or are withdrawn from it,

Option

Do nothing	Failure to implement any of this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provision	Producers and/or retailers will be obliged to notify the EPA if they have placed prohibited batteries on the market. The EPA will be empowered to seek information, commission testing and direct the withdrawal of non-compliant batteries from the market.

C.4 Each Member State must ensure that all batteries including battery packs are marked with the crossed out wheeled bin symbol or if the symbol would be smaller than 0.5 × 0.5 cm that the packaging of the batteries or battery packs concerned are marked with the crossed out wheeled bin symbol

Option

Do nothing	Failure to implement any of this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provision	The Regulations require that the crossed out wheeled bin symbol is displayed on – • all batteries or battery packs, or • if the symbol would be smaller than 0.5 × 0.5 cm, on the packaging of the batteries or battery packs concerned.

C.5 Each Member State must ensure that the capacity of all portable and automotive batteries is displayed on such batteries placed on the market from 26 September 2009 onwards.

Option

Do nothing	Failure to implement any of this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.

Transpose Provision	The Regulations require that the capacity of all portable and automotive batteries be displayed on such batteries placed on the market from 26 September 2009 onwards.

C.6 Each Member State must ensure that Batteries and button cells containing more than –

- 0.,0005 % mercury shall be marked with the chemical symbol Hg,
- 0,002 % cadmium shall be marked with the chemical symbol Cd, or
- 0.004 % lead shall be marked with the chemical symbol Pb.

beneath the crossed out wheeled bin symbol.

Option

Do nothing	Failure to implement any of this requirement will result in Ireland being in breech of the Directive, leaving Ireland open to infringement proceedings with a risk of penalties and/or fines.
Transpose Provision	The Regulations require that the prescribed chemical symbol, where appropriate, is displayed beneath the crossed out wheeled bin symbol on all batteries and button cells or if the crossed out wheeled bin symbol would be smaller than 0.5 × 0.5 cm, beneath the crossed out wheeled bin symbol on the packaging of the batteries or battery packs concerned.

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Annex D

PROPOSED WASTE MANAGEMENT SYSTEM.

D Where possible synergies with the existing WEEE management system will be encouraged and utilised in order to ease any additional administrative burden and costs that may be imposed on economic stakeholders.

D.1 Registration of Producers

D.1.1 The Regulations empower the Minister perform, or approve any person, association or corporate body to perform, some or all of the registration functions. This will enable producers to establish and maintain a registration system similar or complementary to the national WEEE Register.

D.1.2 In order to inhibit 'free riders' from distorting the market and gain an unfair competitive advantage over compliant producers –

- any producer who fails to register will be prohibited from placing batteries on the market,
- organisers of trade shows / exhibitions will be required to ensure that exhibitors placing batteries on the market fulfil their producer and retailer obligations, and
- retailers will be prohibited from selling batteries placed on the market by an un-registered producer.

D.2 Exemption of Retailers from Waste Collection Permit and Waste Permit Requirements

D.2.1 Retailers of industrial and automotive batteries will be exempt from have to possess a valid waste collection permit and valid waste facility permit if registered with –

- a local authority for nominal fee amounting to €20, .
- a trade or representative association, or
- an approved collective compliance scheme, and

do not exceed prescribed storage thresholds.

D.2.2 Collection permits currently cost €1,000 in respect a permit covering one waste management region or €5,000 in respect a permit covering all waste management regions.

Waste facility permits are issued following an inspection process and cost €100 upwards per premises.

D.2.3 Collection points (e.g. retail outlets, workplaces, schools etc.) catering for portable batteries and accumulators will be exempt from having to register with local authorities, trade or representative associations or approved collective compliance schemes in lieu of possessing a waste collection or waste permit provided they do not exceed prescribed storage thresholds.

D.3 Financing

D.3.1 Producers –

- will be obligated to finance any net costs relating to –
    - the collection, storage, treatment and recovery and/or disposal of waste batteries deposited at collection points and civic amenity facilities,
    - the collection from endusers and environmentally sound management of waste industrial batteries, and
    - any public information campaign on the collection, storage, treatment and recovery and/or disposal of portable batteries.

- shall not have an obligation in the State to finance the environmentally sound management of waste batteries that arise and are collected under any scheme set up in accordance with the Directive or the WEEE Directive in another member state.

- and users of industrial and/or automotive batteries will be permitted to conclude agreements stipulating other financing methods provided that the waste is managed in an environmentally sound manner.

- will be obliged to –
    - prepare waste management plans and reports
    - maintain records on the quantities of batteries –
        - placed on the market
        - collected and recycled

- may be required to achieve interim collection rates.

D.3.2 In order to ensure that Ireland meets its prescribed minimum collection rates the Regulations require producers to achieve collection rates in respect of waste portable batteries of –

- 25% by 26 September 2012, and
- 45% by 26 September 2016,

based on quantities placed on the market.

D.3.3 Automotive and industrial batteries mostly consist of lead acid battering. Due to the current high value of lead there is an adequate incentive to ensure that all waste automotive and industrial batteries are recycled.

D.3.4 The display of waste management costs, incurred by battery producers, at any point in the supply chain will be prohibited.

D.4 Take Back Systems

D.4.1 All retail outlets that sell batteries and local authority civic amenity facilities and any premises where industrial batteries are used are designated in the Regulations as collection points. The Regulations also enable local authorities to designate schools and workplaces as collection points subject to the agreement of the management of each workplace or school concerned and where appropriate an approved collective compliance scheme.

D.4.2 Retailers will be obligated to take back waste batteries similar to the type they sell (e.g. a retailer who sells only portable batteries will not be obliged to take back a car battery) free of charge. Members of the public will not be obliged to purchase any product when returning waste batteries.

Retailers, however, will not be obliged to take back large quantities of waste batteries or batteries that are leaking.

D.4.3 Members of the public and retailers will be entitled to deposit waste batteries free of charge at local authority civic amenity facilities.

D.5 Collective Compliance Schemes

The Regulations provide producer the option of fulfilling some of their obligations (e.g. the preparation of waste management plans and reports, arranging for collections, meeting collection targets, meeting treatment standards, achieving prescribed recycling efficiencies) by participating satisfactorily in an approved collective compliance scheme who will procure the collection, treatment and recycling services on behalf of its members and submit reports on its activities to the EPA and the Minister.

D.6 Information to End Users

D.6.1 Producers must make members of the public aware of –

- the potential effects on the environment and human health of the substances used in batteries and accumulators,
- the desirability of not disposing of waste batteries and accumulators as unsorted municipal waste and of participating in their separate collection so as to facilitate treatment and recycling,
- their role in contributing to the recycling of waste batteries and accumulators,
- the meaning of the symbol of the crossed-out wheeled bin shown in Annex II and the chemical symbols Hg, Cd and Pb,
- how to safely remove a battery and/or accumulator from EEE where a battery and/or accumulator is incorporated into the appliance concerned, and
- the type of any battery and/or accumulator that is incorporated into an appliance.

D.6.2 Retailers must members of the public aware of –

- of the return and collection systems available to them, and
- batteries are taken back free of charge through the display of a prescribed notice.

Furthermore battery and EEE retailers will be permitted to use composite signage in order to comply with both the Regulations transposing the WEEE and Batteries Directives.

Annex E

ESTIMATED COST TO BUSINESS

E.1 Producers of portable batteries are required to achieve collection rates of 25% by 26 September 2012 and 45% by 26 September 2016. End users of batteries tend to hoard them instead of disposing of them. Consequently, these targets will present a considerable challenge for Ireland, as the targets will now be based on sales rather than waste arisings. For example, one Member State which has implemented a successful waste battery take back scheme is achieving a collection rate of 85% based on waste arisings; this equates to a collection rate of only 29% when calculated on the basis of the new sales methodology.

E.2 Reliable data is not available to accurately estimate the full cost implications of the new scheme in Ireland. This is due to a number of factors such as the deficiencies in information on sales, waste arisings etc. It has also proved difficult to get accurate information from the industry for reasons of commercial sensitivity. Thus, as with the WEEE scheme it will not be possible to garner accurate information on the quantities of batteries being place on the market and the cost of recycling waste batteries until the scheme is up and running and aggregate data becomes available from the black box system to be put in place under the proposed producer registration system.

E.3 Based on the limited information provided by producers regarding quantities placed on the market and by local authorities concerning costs of collecting waste batteries deposited at civic amenity facilities; it is estimated that producer costs for the environmentally sound management of waste portable batteries and button cells following the achievement of mandatory targets and incremental progress leading up to and following the achievement of those targets would be as follows –

12 Months Ending 25 September	*Collection Rate*	**Annual Cost**
2009	10%	€ 117,765.26
2010	15%	€ 176,647.89
2011	20%	€ 235,530.52
2012	25%	€ 294,413.15
2013	30%	€ 353,295.78
2014	35%	€ 412,178.41
2015	40%	€ 471,061.04
2016	45%	€ 529,943.67
2017	50%	€ 588,826.29
2018	55%	€ 647,708.92
Total 10 Years		**€3,827,370.92**

E.4 Based on an estimate extrapolated from the DEFRA report referred to in paragraph 5.2.2 of the RIA, however, and information provided by local authorities concerning costs incurred in having waste batteries deposited at civic amenity facilities collected; it is estimated that producer costs for the

environmentally sound management of waste portable batteries and button cells following the achievement of mandatory targets and incremental progress leading up to and following the achievement of those targets will be as follows –

12 Months Ending 25 September	Collection Rate	Annual Cost
2009	10%	€ 283,913.15
2010	15%	€ 425,869.72
2011	20%	€ 567,826.30
2012	25%	€ 709,782.87
2013	30%	€ 851,739.45
2014	35%	€ 993,696.02
2015	40%	€1,135,652.59
2016	45%	€1,277,609.17
2017	50%	€1,419,565.74
2018	55%	€1,561,522.32
Total 10 Years		**€9,227,177.33**

E.5 The wide variation in the estimated costs is reflective of the paucity of good information on which to base an accurate estimation; the range provides the best available estimate of the likely financial implications of the new Directive in Ireland.

E.6 In the event that collective compliance schemes, trade or representative associations fail to provide a retailer registration system, retailers of automotive and industrial batteries will be required to register with local authorities at a nominal rate of €20 per premises in lieu of possessing a waste collection or waste permit costs of which are indicated at paragraph D.2.2 of **Annex D** above.

E.7 Any additional costs incurred in registering with a registration body, given synergies with the existing WEEE system, should be minimal.